

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. California Rice Industry, C. S. Morse, William Crawford, Rosenberg Bros. & Co., Rice Growers Association of California, C. E. Grosjean Rice Milling Co., Pacific Trading Company, Inc., Growers Rice Milling Co., Phillips Milling Co., Oscar F. Zebal, and George W. Brewer., U.S. District Court, N.D. California, 1940-1943 Trade Cases ¶56,168, (Oct. 4, 1941)

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United States of America v. California Rice Industry, C. S. Morse, William Crawford, Rosenberg Bros. & Co., Rice Growers Association of California, C. E. Grosjean Rice Milling Co., Pacific Trading Company, Inc., Growers Rice Milling Co., Phillips Milling Co., Oscar F. Zebal, and George W. Brewer.

1940-1943 Trade Cases ¶56,168. U.S. District Court, N.D. California, Southern Division. Civil Action No. 21990-S. July Term, 1941. Filed October 4, 1941.

Upon consent of all parties, a decree was entered in proceedings under the Sherman Anti-Trust Act, perpetually enjoining defendants from combining and conspiring among themselves to restrain interstate trade and commerce in the purchase and sale of paddy and milled rice. Among the activities forbidden are fixing prices; assigning purchase quotas; maintaining and enforcing price differentials, brokerage allowances, rates of discount and other terms of sale; compiling and disseminating statistical information relating to purchases, processing, sales, orders, shipments, deliveries and prices; auditing records to determine compliance with the unlawful activities; disclosing confidential information of an individual to his competitors; and sponsoring and conducting meetings for the purpose of fixing and maintaining prices, rates of discount and other terms of sale.

Thurman Arnold, Assistant Attorney General, Frank J. Hennessy, U. S. District Attorney, San Francisco, Calif., Tom C. Clark and Wallace Howland, Special Assistants to the Attorney General, and Joseph L. Alioto, Special Attorney, for plaintiff.

Harry M. Creech, San Francisco, Calif., for defendants.

Before St. Sure, District Judge.

Consent Decree

The complainant, United States of America, having filed its complaint herein on October 4, 1941; all of the defendants having appeared generally and having waived service of process; all parties hereto by their respective attorneys herein having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue; and the complainant having moved the Court for this decree;

Now, THEREFORE, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby

ORDERED, ADJUDGED, and DECREED:

I.

[*Jurisdiction*]

The Court has jurisdiction of the subject matter and of all the parties hereto; the complaint states a cause of action against the defendants under the Act or Congress of July 2, 1890 entitled, "An Act to Protect Trade and

Commerce Against Unlawful Restraints and Monopolies,” and the acts amendatory thereof and supplemental thereto.

II.

[*Definitions*]

For the purposes of this decree, the term “paddy rice” means Japan type rice in the raw state, and the term “milled rice” means Japan type rice after the same has been processed.

III.

[*Activities Enjoined*]

The defendants, their members, officers, directors, agents, and employees, their successors and all persons acting under, through, or for defendants or their successors, or any of them, be, and they hereby are, perpetually enjoined and restrained from agreeing, combining, or conspiring among themselves or with any other individual, association or corporation:

[*Fixing Quotas*]

(a) To limit, curtail, or determine by assignment of quota or otherwise the amount of paddy rice which may be acquired by any purchaser thereof, or the amount of paddy rice which may be milled by any processor thereof, or the amount of milled rice which may be sold or shipped by any seller thereof;

(b) To recommend by suggested quotas or otherwise a limitation in the amount of paddy rice to be acquired by purchasers thereof, or in the amount of paddy rice to be milled by processors thereof, or in the amount of milled rice to be sold or shipped by sellers thereof;

[*Price Fixing*]

(c) To raise, lower, fix, maintain, determine, or adhere to prices to be paid for paddy rice;

(d) To raise, lower, fix, maintain, determine, or adhere to prices of milled rice;

[*Maintaining Price Differentials*]

(e) To fix, maintain, determine or adhere to price differentials, rates of discount, brokerage allowance, or other terms of sale of milled rice;

[*Enforcing Price Differentials*]

(f) To adhere to, or to enforce through penalties or otherwise adherence to prices, price differentials, brokerage allowance, or rates of discount or other terms of sale of milled rice, posted or openly announced by any seller or sellers thereof;

[*Dissemination of Statistical Information*]

(g) To gather, compile, or disseminate information or statistics as to the volume of purchases of paddy rice, the production, sales, or shipments of milled rice, the prices paid for paddy rice or milled rice, stocks on hand, orders on hand, cost of transportation, or other statistics pertaining to the condition or operation of the rice industry in California; unless such information and statistics are readily, fully, and fairly made available at the time of their initial dissemination to growers of paddy rice, purchasers of milled rice, and the public generally and are in a form which is not forbidden by any other provision of this decree and which does not disclose to competitors invoices as to individual transactions, or any data as to individual sales to named customers, or information as to the amount of purchases of paddy rice by any individual purchaser; or as to the amount of paddy rice processed by any individual processor, or as to the amount of milled rice sold or shipped by any individual seller, or as to prices charged or paid by any individual seller or buyer.

IV.

[*Other Activities Restrained*]

The defendants, their members, officers, directors, agents, and employees, their successors and all persons acting under, through, or for defendants or their successors, or any of them, be, and they are, hereby individually and perpetually enjoined and restrained from engaging in any of the following specified acts and practices:

[*Compiling Sales, etc., Data*]

(a) Collecting, compiling, distributing, or utilizing data respecting purchases, processing, sales, orders, shipments, deliveries or prices for the purpose of violating any of the provisions of paragraph III hereof;

[*Distributing Data on Sales, etc.*]

(b) Distributing or disseminating any data, collected or compiled respecting purchases, processing, sales, orders, shipments, deliveries or prices for the purpose of indicating whether purchasers or processors of paddy rice or sellers of milled rice, or any of them are cooperating in carrying out any of the activities prohibited by paragraph III hereof;

[*Discussion of Sales, etc., Data*]

(c) Presenting or discussing at meetings or by correspondence, or otherwise, data relating to purchases, processing, sales, orders, shipments, deliveries or prices for the purpose of cooperating in carrying out any of the activities prohibited by paragraph III hereof;

[*Auditing Records*]

(d) Examining or auditing records or accounts of purchasers or processors of paddy rice or sellers of milled rice relating to purchases, processing, sales, orders, shipments, deliveries or prices for the purpose of determining whether purchasers or processors of paddy rice or sellers of milled rice, or any of them are cooperating in carrying out any of the activities prohibited by paragraph III hereof.

[*Conducting Meetings*]

(e) Sponsoring, calling, holding, or participating in any meeting or conference of competitors in the rice industry for the purpose of raising, lowering, fixing, maintaining, determining or adhering to the prices of paddy rice or milled rice, or rates of discount, or, other terms of sale of milled rice.

[*Suggesting Price Fixing, etc.*]

(f) Suggesting directly or indirectly to one or more competitors in the rice industry that they raise, lower, fix, maintain, or determine production, prices, price differentials, brokerage allowance, working charges, terms and conditions of sale or amounts to be included in or deducted from the price charged for paddy rice or milled rice, provided that this paragraph shall not prohibit legitimate bargaining negotiations between a seller and a purchaser, which does not involve any conduct or activity otherwise prohibited by this decree.

[*Disclosing Confidential Data of Individuals to Competitors*]

(g) Disclosing to competitors invoices as to individual transactions or any data as to individual sales to named customers or information as to the amount of purchases of paddy rice or production, sales, or shipments of milled rice or prices paid or charged by any individual processor or seller, provided that nothing herein shall be deemed to prohibit a defendant from any expression of prices or sales terms of rice for the purpose of effecting its current sale nor from any issuance or transmission of an invoice or statement for the purpose of effecting its collection or payment.

V.

[*Activities Excepted*]

Except as specifically provided in paragraph IV of this decree nothing contained herein shall be deemed to affect relations which otherwise are lawful between a defendant, its members, directors, officers, employees, principals, agents, or subsidiaries where such relations do not involve any agreements, combinations or conspiracies enjoined in this decree with any other defendant, its directors, officers, employees or agents. Nothing in this decree shall be deemed to prohibit the lawful conduct of any defendant, its members, directors, officers, employees, principals or agents with respect to the lawful operation of its business.

VI.

[*Examination of Records to Secure Compliance*]

For the purpose of securing compliance with this decree, authorized representatives of the Department of Justice, upon the written request of the Attorney General or an Assistant Attorney General, shall be permitted access, within the office hours of the defendants, and upon reasonable notice, to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or the control of the defendants, or any of them, relating to any of the matters contained in this decree. Any authorized representative of the Department of Justice, subject to the reasonable convenience of the defendants, shall be permitted to interview officers or employees of defendants without interference, restraint, or limitation by defendants; provided, however, that any such officer or employee may have counsel present at such interview. Defendants, upon the written request of the Attorney General or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this decree as from time to time appear to be reasonably necessary for the purpose of enforcement of this decree; provided, however, that the information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

VII.

[*Retention of Jurisdiction*]

Jurisdiction of this action is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders or directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.