

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Produce Exchange of Los Angeles, et al., U.S. District Court, S.D. California, 1940-1943 Trade Cases ¶56,246, (Nov. 2, 1942)

[Click to open document in a browser](#)

United States v. Produce Exchange of Los Angeles, et al.

1940-1943 Trade Cases ¶56,246 U.S. District Court, S.D. California, Central Division. Civil Action No. 2539-Y(M). Dated November 2, 1942.

Dealers in eggs and butter are enjoined under a consent decree under the anti-trust laws from entering into or furthering any agreement to fix prices, limit the volume of buying or selling, adhere to prices established at the Exchange, or allocate quantities or grades to be stored or withdrawn from storage; from participating in meetings held for the purpose of any of the prohibited activities; and from exerting pressure upon competitors to prevent them from buying or selling at the Exchange. The Exchange is enjoined from enforcing one of its rules, from compiling rules governing quality which restrain trading, from prohibiting trading with the understanding that eggs will be returned to the seller, from adopting an inadequate trading period, and from limiting the use of containers. The Exchange is ordered to adopt rules and trading practices that will enable trading to be conducted on the basis of standards defined by the state, and to include in quotations the high and low sale, and the last bid, and the total quantity involved in sales. The Egg Council is ordered abolished

Judgment entered by Paul J. McCormick, U. S. District Judge.

For the Government: Thurman Arnold, Assistant Attorney General; Leo V. Silverstein, U. S. Attorney; Alfred C. Ackerson, Special Assistant to the Attorney General; Paul F. Myers, Special Attorney.

For defendants: Rose Sarah Phillips for Harry Phillips; Harold E. Prudhon for Southern California Poultry Co. and Louis Cesaretti; Myer B. Marion for Nate E. Rabinoff and Joe Feingold; Henry Haves for Carl Clavin; George Moncharsh by Harry Rabwin, and Peter T. Rice for Nye & Nissen and Frank Gartenberg; Harry Rabwin for Universal Marketing Co., Thomas Hoyle, Manus E. Fond, Mandell & Co., Inc., Isaac J. Mandell, Charles Weinberg, Sidney Feldstein, and E. S. Cohn; Bodkin, Breslin & Luddy by George M. Breslin for Youngs Market Co., W. G. Young, and Thomas B. Kimbley; Don S. Irwin for F. W. Getchell & Son, Inc., and Roy W. Getchell; Willis I. Morrison for Produce Exchange of Los Angeles, Southern California Egg Council, Challenge Cream and Butter Association, E. L. Thompson Co., Inc., Poultrymen's Cooperative Association of Southern California, Willardson Co., Inc., H. H. Hildreth, Dave Friedenberg, Henry W. Stanley, Disney Smith, F. M. Hudson, H. W. Amelung, and A. W. Willardson; Williamson, Hoge & Judson by Fulton W. Hoge for Lucerne Cream and Butter Co., D. K. Broadhead, H. Glenn Olson, West Coast Marketing Inc., and Russell M. Covey; Gibson Dunn & Crutcher by H. F. Prince for J. Hartley Taylor; Disney Smith by Ames Peterson.

Final Judgment

The complainant, United States of America, having filed its Complaint on November 2nd, 1942; all of the defendants having appeared and severally filed their answers to such Complaint denying the substantive allegations thereof; and all parties hereto, by their respective attorneys herein, having severally consented to the entry of this final decree herein without trial and without admission by any party in respect of any issue;

Now, therefore, before any testimony has been taken herein, and upon consent of all parties hereto, it is hereby Ordered and decreed as follows:

I.

[*Jurisdiction and Cause of Action*]

That the Court has jurisdiction of the subject matter hereof and of all the parties hereto; that the Complaint states a cause of action against the defendants under the Act of 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*]

That for the purposes of this decree:

- (a) "Commodities" shall include eggs, poultry, rabbits, butter, and any other product now or in the future sold or quoted on the defendant Exchange;
- (b) The term "dealer" shall be deemed to mean a person, including any producer, engaged as agent or otherwise in the business of purchasing, receiving, grading, processing, storing, or distributing any commodity and in selling and supplying any such commodity to others similarly engaged and to retail merchants and consumers, or engaged in any one or more of such activities;
- (c) The term "producer" shall be deemed to mean any person, including any dealer, producing any commodity;
- (d) The term "person" shall be deemed to include any individual, corporation, partnership, firm, cooperative or other association of persons.

III.

[*Agreements Enjoined*]

Each of the defendants including the Produce Exchange of Los Angeles (herein sometimes called the defendant Exchange) and each of their directors, officers, agents, employees and successors, and all persons acting, or claiming to act under, through or for them, or any of them, are hereby perpetually enjoined and restrained from formulating, entering into, maintaining or furthering any contract, agreement, understanding, plan, or program with any person to do, attempt to do, or induce others to do the following things or any of them:

- (a) fix, stabilize, maintain, control or adhere to prices to be paid to, or charged by, any other person for any commodity;
- (b) fix, manipulate, control, or determine quotations, discounts, price differentials; terms and conditions of sale by, or to, any other person for any commodity;
- (c) prevent, restrain or limit the volume of the selling or the buying of any commodity on the defendant Exchange by its members, whether by formulating, adopting or enforcing any trading rule, regulation or plan, or otherwise;
- (d) use or adhere to quotations resulting from bids, offers, or sales established by trading over the Board of the defendant Exchange at the basis for private trading with, or by, any other person;
- (e) determine, allocate, or adhere to quantities or grades, of any commodity to be placed in or withdrawn from storage, or determine, allocate or adhere to the time or times for the placing of any commodity in storage or the withdrawing of it therefrom.

IV.

[*Individual Activities Enjoined*]

Each of the defendants, and each of their directors, officers, agents, employees, and successors, and all persons acting, or claiming to act under, through, or from them or any of them, are hereby individually and perpetually enjoined and restrained from:

(a) sponsoring, calling, holding, or participating in any meeting or conference of dealers held for the purpose of fixing, establishing, maintaining, or securing adherence to prices, discounts, price differentials, or other terms and conditions of purchase or sale of any commodity, or for the purpose of maintaining or furthering any activity prohibited by Section III;

(b) exerting pressure, directly or indirectly, by acts, suggestions, or otherwise upon one or more competitors to prevent or restrain such competitor or competitors from selling or purchasing any commodity over the Board of the defendant Exchange.

V.

[*Activities of Exchange Enjoined*]

The defendant Exchange, its successor or successors, directors, officers, agents, and employees, and any of them, are perpetually enjoined and restrained from:

(a) continuing, using, or enforcing directly or Indirectly Rule Three of the defendant Exchange as now in effect ;

(b) compiling, formulating, or using any rules or regulations governing the quality or types of commodities which may be traded in over the Board of the defendant Exchange, which are designed to or have the effect of restraining or discouraging such trading ;

(c) prohibiting, preventing, or restraining trading of eggs over the Board of the defendant Exchange on the condition or with the understanding that the cases containing such eggs, or cases of similar quality, shall be returned to the seller ;

(d) adopting a call or trading period on the defendant Exchange that shall not at all times be adequate to accommodate trading requirements, provided, however, that this subdivision of this paragraph shall not prohibit the setting of a definite time for the opening and closing of trading;

(e) limiting the use of containers of eggs sold over the Board of defendant Exchange so as to exclude containers regularly used in the purchase and sale of eggs in private trading by Exchange members;

(f) formulating, entering into, maintaining, or furthering any contract, agreement, understanding, plan, or program to (1) fix, stabilize, maintain, control or adhere to prices for any commodity; (2) fix, manipulate, control, or determine quotations, discounts, or price differentials for any commodity; (3) prevent, restrain or limit the volume of the selling or the buying of any commodity on the defendant Exchange by its members, whether by formulating, adopting or enforcing any trading rule, regulation or plan, or otherwise; (4) use or adhere to quotations resulting from bids, offers, or sales established by trading over the Board of the defendant Exchange as the basis for private trading; (5) determine, allocate, or adhere to Quantities or grades of any commodity to be placed in or withdrawn from storage or determine, allocate, or adhere to the time or times for the placing of any commodity in storage or the withdrawing of it therefrom.

VI.

[*Activities of Exchange Required*]

It is hereby ordered that the defendant Exchange, its officers, agents, employees and sucesors shall

(a) adopt and follow such rules and regulations and trading practices as will enable trading in eggs over the Board of the defendant Exchange to be conducted on the basis of standards, grades and specifications for eggs established and defined by the State of California ;

(b) adopt and follow for any commodity, other than eggs, for which standards, grades, or specifications are or may be hereafter established and defined by the United States Department of Agriculture, such rules, regulations and trading practices as will enable trading in such commodity over the Board of the defendant Exchange to be conducted on the basis of the standards, grades and specifications so established and defined;

(c) include in any quotation or quotations for any commodity recorded, published or disseminated by the defendant Exchange, its officers, agents, employees, the high and low sale and the last bid, offer or sale for each trading period for any such commodity, and the total quantity of the commodity involved in such sales so recorded, published, or disseminated. For any commodity, other than eggs, for which standards, grades or specifications are or may be hereafter established and defined by the United States Department of Agriculture, such quotation or quotations shall be upon the basis of the standards, grades and specifications so established and defined. For eggs such quotation or quotations shall be upon the basis of the standards, grades and specifications established and defined by the State of California.

VII.

[*Council Abolished*]

It is hereby further ordered that the defendants and each of them shall forthwith take such steps as may be necessary to liquidate and abolish Southern California Egg Council.

VIII.

[*Access of Department of Justice to Records, Interviews and Reports*]

For the purpose of securing compliance with this decree, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, be permitted (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any matter contained in this decree; (2) without restraint or interference from the defendants to interview officers or employees of the defendants, who may have counsel present, regarding any such matters; and (3) to require the defendants, on such written request, to submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; provided, however, that 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 for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

IX.

[*Jurisdiction Retained*]

Jurisdiction of this cause 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 and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.