

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Corn Derivatives Institute et al., U.S. District Court, N.D. Illinois, 1932-1939 Trade Cases ¶55,002, (Apr. 6, 1932)

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United States v. Corn Derivatives Institute et al.

U.S. District Court, N.D. Illinois. 1932-1939 Trade Cases ¶55,002. April 6, 1932.

**Consent decree entered ordering defendants to (1) dissolve the Corn Derivatives Institute, (2) discontinue use of the so-called basing point system in fixing prices, and (3) discontinue allotting customers.**

## Final Decree

This cause having come on to be heard at this term; upon consideration thereof and upon motion of the petitioner, by George E. Q. Johnson, United States Attorney for the Northern District of Illinois, John Lord O'Brian, The Assistant to the Attorney General, Russell Hardy and Walter L. Rice, Special Assistants to the Attorney General, for relief in accordance with the prayer of the petitioner, the answers of the several defendants having been filed, and no testimony or evidence having been taken but all of the defendants herein having duly appeared by their attorneys and having consented in open court to the entry of this decree; it is

ORDERED, ADJUDGED AND DECREED: 1. That the court has jurisdiction of the subject matter and of all persons and parties hereto; that the petition states a cause of action against the defendants under the Act of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies;" and that the "Reporting Plan," all agreements, understandings, concert of action, plans and the defendants' activities thereunder, as set forth in the petition, are declared illegal and in violation of said Act.

2. That the words "acting in concert" as used in this decree shall mean by-mutual agreement, understanding, plan, device, or contrivance entered into or employed by any two or more defendants and shall not be construed to include merely simultaneous or similar action independently taken on the part of two or more defendants. Corn Derivatives Institute shall be hereinafter referred to as the "Institute." The term "Manufacturer" will include any individual, corporation, or association engaged in the manufacture, sale and distribution of corn sugar, corn syrup, corn starch, or other products derived from corn. Corn sugar, corn syrup, corn starch, and other corn products will be hereinafter described collectively by the word "Products." The word "prices" when hereinafter used will include differentials in prices. The word "conditions," as used in this decree, shall mean the conditions of any transaction in the purchase or sale of products.

3. That the defendants and each of them, their members, officers, directors, managers, agents, servants, employees, and all persons acting or claiming to act under or in behalf of the defendants, or any of them, be and they hereby are, ordered and directed within thirty (30) days after the entry of this decree to dissolve and to forever discontinue the Institute, and they are perpetually enjoined from, either directly or indirectly, forming, participating in, or contracting with, any institute, association, bureau or other organization similar to the Institute in respect of the practices herein enjoined.

4. That the defendants and each of them, their members, officers, directors, managers, agents, servants, employees, and all persons acting or claiming to act under or in behalf of the defendants, or any of them, be, and they hereby are, permanently and perpetually enjoined and restrained:

(a) From in any way maintaining, continuing, or reviving, either directly or indirectly, in whole or in part, by any means whatsoever, the combination and conspiracy described in the petition, or from entering into or participating in any combination or conspiracy, similar to or having the same purpose and/or effect as said conspiracy.

(b) From arranging, agreeing, entering into any understanding or otherwise “acting in concert,” amongst themselves, with the Institute, with any one or more of its members or with any manufacturer—

(1) To fix or determine the prices, terms, conditions, concessions, exceptions or transportation charges in the purchase and sale of Products; or

(2) To maintain, adhere to, charge or allow uniform prices, terms, conditions, concessions in the purchase or sale of Products; or

(3) To cause uniform or substantially uniform and simultaneous changes in prices, terms, conditions, concessions in the purchase or sale of Products; or

(4) To prevent, obstruct, retard, or re strain any change in prices, terms, conditions, concessions in the purchase or sale of Products; or

(5) To refrain from competing with each other in the manufacture, sale, and distribution of Products; or

(6) To make any discrimination amongst purchasers in the price, terms, conditions, concessions or transportation charges in the purchase or sale of Products, for the purpose of eliminating competition in the manufacture, sale, or distribution of Products; or

(7) To cut or manipulate prices in the purchase or sale of Products, for the purpose of restraining competition or trade, or for the purpose of coercing or inducing any manufacturer to cooperate with the defendants or with others in any institute, bureau or association, or in any plan to limit production, maintain or enhance prices of Products; or

(8) To assign or allot any purchaser of Products as the exclusive customer of any of the defendants, or to regard or designate any purchaser who has been or is trading with any of the defendants as the exclusive customer of that defendant, or to limit or curtail production; or

(9) To obstruct or restrain, the manufacture, sale, or distribution of any Product, or prevent any individual, corporation or association from undertaking to manufacture, sell, or distribute Products; or

(10) To refuse to quote prices for products f.o.b. point of manufacture, or to refuse to sell products at prices to apply at the point of manufacture.

(11) To sponsor or encourage the accomplishment of any of the acts or purposes enjoined by clauses 1 to 10, inclusive, of this paragraph (b) of section 4 of this decree.

(c) From doing any of the following described acts or things, in pursuance of any arrangement, agreement, understanding, action in concert, or conspiracy described in the foregoing paragraph (b) hereof, or for the purpose of creating or carrying into effect any arrangement, agreement, concert of action, or conspiracy, similar to or having the same purpose and/or effect as said conspiracy.

(1) Making, disseminating or publishing any statements, facts, predictions, plans or reports, which cause uniform and simultaneous changes in prices, terms, conditions, concessions, exceptions or transportation charges in the purchase or sale of Products, or which prevent, obstruct, retard or restrain any change in prices, terms, conditions, concessions or transportation charges in the purchase or sale of Products; or

(2) Reporting, disseminating or exchanging amongst themselves, directly or indirectly, or through the instrumentality of the Institute, or otherwise, prices, terms, conditions, concessions, exceptions or transportation charges in any current or future purchase or sale of Products, or quotations of prices, terms and conditions, concessions and transportation charges in any future purchase or sale of Products; or

(3) Suggesting or indicating to any manufacturer or person affiliated with any manufacturer, the prices, terms, conditions, concessions, exceptions or transportation charges applying to any current, future or contemplated purchase or sale of Products; or

(4) Gathering, compiling, distributing or otherwise dealing with or using, figures, or other information relating to the cost of Products, for the purpose or with the effect of causing uniform, enhanced or more onerous prices, terms, conditions, concessions, exceptions or transportation charges in the purchase or sale of Products; or

(5) Investigating, inquiring into, discussing or obtaining disclosures, orally or in writing, pursuant to a reporting plan or otherwise, with regard to the prices, terms, conditions, concessions, exceptions or transportation charges made, or to be made, by any manufacturer in the sale of products, for the purpose or with the effect of influencing, coercing, intimidating any manufacturer with regard to prices, terms, conditions, concessions, exceptions or transportation charges made or to be made by him as aforesaid.

5. That nothing in this decree shall be construed—

(a) To prevent the defendant manufacturers or any of them from exchanging either directly or through a committee or other agency, information concerning the financial or moral responsibility of any manufacturer or dealer; always provided, that there shall not be made, in connection with or in supplement of such exchange of information, any comment in the nature of a recommendation as to any action to be taken thereon; or

(b) To prevent the defendant manufacturers or any of them from reporting any statistical information to any government or governmental agency requesting such information, or from compiling or publishing any statistical information for the purpose of making such a report; or from associating amongst themselves for the purpose of collecting, compiling or distributing statistical information as to production, stocks on hand, prices, terms, conditions, concessions, exceptions or transportation charges in purchases or sales which have been made, when not done in pursuance of or for the purpose of creating an agreement, combination or conspiracy to restrain trade or in violation of the aforesaid Act of July 2, 1890; or

(c) To prevent the defendant manufacturers or any of them from taking concerted action to revise the rates charged by common carriers for the transportation of products, or incidental to any proposed or actual proceeding before any governmental agency.

6. That jurisdiction of this cause be and it is hereby retained for the purpose of enforcing or modifying this decree upon application of the petitioner or any of the defendants.

7. That this decree shall not be construed as a contract between the parties hereto, but shall be construed in the same manner as a decree entered after full hearing by the court.

8. That the petitioner have and recover from the defendants the costs of this suit.

(Signed) *Charles E. Woodward*, United States District Judge.