

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

GONNELLA BAKING CO. and
TORINO BAKING CO.,
Defendants.

)
)
) CIVIL ACTION
)

NO. 72 C 2484

Filed: August 20, 1974

Entered: September 19, 1974

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on October 4, 1972, and the plaintiff and the defendants, Gonnella Baking Co. and Torino Baking Co., by their respective attorneys each having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law herein and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto, and the complaint states claims upon which relief may be granted against the defendants and each of them under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies, commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, association, firm, or other business or legal entity;

(B) "Bread" means any Italian, French or Vienna style bread or other bread product by whatever name known or sold.

III

The provisions of this Final Judgment applicable to each of the defendants shall also apply to each of its officers, directors, agents, servants and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to activities between (i) a defendant, its officers, directors, agents, servants or employees and (ii) its subsidiaries or an affiliated corporation in which 50% or more of the voting stock of such defendant and such affiliated corporation are commonly owned.

IV

Each defendant is enjoined and restrained from entering into, adhering to, enforcing or claiming any rights under, maintaining or furthering any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, maintain or stabilize prices, discounts or other terms or conditions for the sale of bread to any third person;

(B) Divide, allocate or apportion markets, territories or customers, or refrain from soliciting or accepting bread business from customers doing business with any other person engaged in the baking or sale of bread;

V

Each defendant is enjoined and restrained from, directly or indirectly:

(A) Using threats, coercion or persuasion to prevent or to attempt to prevent any person engaged in the baking or sale of bread from soliciting any customer of another person engaged in the baking or sale of bread or from otherwise expanding its business;

(B) Using threats or coercion to prevent any person from discontinuing the purchase or use of bread of any person engaged in the baking or sale of bread;

(C) Using threats, coercion or persuasion to induce any person to adhere to or maintain any wholesale or retail bread price;

(D) Threatening to injure any person engaged in the baking or sale of bread or to put any such person out of business;

(E) Communicating to or exchanging with any other baker or seller of bread any actual or proposed price, price change, discount, or other term or condition of sale at or upon which bread is to be, or has been, sold to any third person prior to the communication of such information to the public or trade generally (except in the course of negotiating for, entering into, maintaining or carrying out bonafide purchase or sales transactions, subject to the prohibitions of Section IV(A) and (B) above).

(F) Joining, participating in, or belonging to any trade association, organization, or other baking industry group with knowledge that the activities, policies, or objectives of any such trade association, organization or baking industry group are inconsistent with any of the terms of this Final Judgment.

VI

Each defendant is ordered and directed to:

(A) Either distribute within sixty (60) days of the entry of this Final Judgment a conformed copy of this Final Judgment to each of its wholesale customers who has purchased bread from such defendant within the past twelve (12) months immediately preceding the entry of said Final Judgment; or publish within 30 days after the entry of this Final Judgment in one of the following newspapers, to wit, the Chicago Tribune, the Chicago Sun-Times, the Chicago Daily News or the Chicago Today, in a reasonably noticeable place, in the food advertisement section, in article size print, a summary of the substantive terms of this Final Judgment or the Final Judgment in its entirety. The above described summary of the substantive terms of the Final Judgment shall, in a form acceptable to the plaintiff, include the prohibitions and proscriptions of Sections IV and V of this Final Judgment.

(B) Within ninety (90) days after the entry of this Final Judgment, to file with this Court and with the Plaintiff an affidavit concerning the fact and manner of compliance with subsection (A) of this Section VI.

VII

Within ninety (90) days after the entry of this Final Judgment, each defendant is ordered to furnish a copy thereof to each of its officers and directors and to each of its plant managers, and to file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with this Section VII.

VIII

Each defendant is ordered to file with the plaintiff annually for a period of ten (10) years on the anniversary of the entry of this Final Judgment, a report setting forth the steps taken by it to advise its officers, directors, and employees of its and their obligation under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust

Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege (a) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of such defendant, who may have counsel present, regarding any such matters. Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

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

Dated: September 19, 1974

/s/ WILLIAM J. LYNCH
United States District Judge