U. S. v. WESTERN CANTALOUPE EXCHANGE ET AL

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Equity No. 5460.

UNITED STATES OF AMERICA

VS.

WESTERN CANTALOUPE EXCHANGE ET AL.

FINAL DECREE.

This cause having come on to be heard on this 9th day of November in the year nineteen hundred and eighteen, before the Honorable George A. Carpenter, District Judge; and the petitioner having appeared by Charles F. Clyne, United States Attorney in and for the Northern District of Illinois, and the several defendants having been duly served or having accepted service of process and appeared and filed answers to the petition, which answers are on file in the office of the Clerk of this court; and the defendants, The Western Cantaloupe Exchange, et al., having appeared by their counsel, and the court having heard and duly considered the pleadings and the statements of counsel for the respective parties, and it appearing to the court that it has jurisdiction of the subject matter alleged in the petition, and the petitioner having stated to the court, by its said attorney, that it consents to the entering of this decree, and the defendants by their counsel, before the taking of any testimony in this cause, having stated to the court that they consent that this decree be entered, and no testimony having been taken in this cause, the court finds:

That the defendants, The Western Cantaloupe Exchange, The Lyon Brothers Company, Arthur Miller, Cecil H. Cummings, M. O. Coggins Company, Clifford A. Coggins, C. Swift Bollens, Lyon-Coggins Company, Samuel Y. Free, Mutual Distributing Company, United Marketing Company, Charles E. Virden, Edward S. Armstrong, Arthur M. Blein, A. G. Kohnhorst, Fred Brennisen, Louis M. Spiegl, Frank E. Wagner, William L. Wagner, Charles H. Weaver, William F. Morpf, Ira Dodge Hale, Joseph Friedheim, James Stapleton Crutchfield, Robert B. Woolfolk, Stephen A. Gerrard, Virgil M. Gerrard, Peter P. Hovley, Duncan Campbell and A. W. Phelps, and their agents, made the contract bearing date April 19th, 1912, set forth in the petition herein, in restraint of the interstate trade and commerce in cantaloupes described in said petition, in violation of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and carried on their business in accordance with the terms of said contract.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

First. That the defendants and each of them and every and each of the directors, officers, managers and agents of the corporate defendants, be and they are hereby severally enjoined from making, entering into, carrying out, or in any way performing or cooperating in the performance of any combination, agreement, or understanding, oral or written, between the defendants, or any of them, and their or any of their directors, officers, managers, agents, or employees, or between either of the above described defendants or any of the members thereof, and any other corporation, copartnership, or person, to limit or regulate competition between the above described groups or between any of the defendants and the other defendants or any of them, in the interstate or foreign cantaloupe trade of the United States.

Second. That the defendants and their directors, officers, managers and agents, including the individual defendants be and they are hereby jointly and severally enjoined, restrained and forbidden from acquiring on or after the date of this decree, and from holding, directly or indirectly, any membership or other interest in the Western Cantaloupe Exchange.

Third. That the defendant corporations and partner-

ships, together with their directors, officers, managers, agents and employees, including the individual defendants while they are associated in business with, or employed by said corporations and partnerships, or any of them, and all persons authorized to act and acting for or in behalf of said corporations and partnerships or any of them, be and they are hereby jointly and severally enjoined as follows:

(a) From soliciting, making, ratifying, confirming, maintaining or carrying out any agreement or understanding of any kind or nature with any competitor in business as to the amounts of advances to be made to growers or shippers of cantaloupes, whether in money or any other thing of value, or as to the terms and conditions under which advances shall be made.

(b) From fixing, establishing, ratifying or confirming by agreement or understanding of any kind or nature with any competitor in business whether an individual, partnership or corporation, any terms or conditions of sale or credit in connection with or relating to the distribution, sale or shipment of cantaloupes in the United States.

(c) From making, ratifying, maintaining, confirming or carrying out any agreement or understanding of any kind or nature with any competitor in business in connection with or relating to the acreage of cantaloupes to be grown or limiting the quantities of cantaloupes to be shipped in interstate commerce or in connection with or relating to the discontinuing of shipments in interstate commerce of any kind or quality of cantaloupes under any circumstances whatsoever.

Fourth. That the defendants and each and every one of them, be and they hereby are perpetually enjoined and restrained from agreeing together or with one another, either expressly or impliedly, directly or indirectly, with respect to arbitrarily enhancing the price of cantaloupes in the markets of the United States, in the manner and by the means complained of in the bill of complaint or in any other manner or by any other means.

Fifth. That the said defendants and each and every one of them be and they hereby are perpetually enjoined and restrained from agreeing together or with one another, either expressly or impliedly, directly or indirectly, with respect to distribution of cantaloupes in violation of an Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," as complained of in said bill of complaint.

Sixth. Nothing in this decree shall be construed as preventing the petitioner in any other proceedings from questioning the legality under the aforesaid Act of July 2, 1890, or any other provisions of law, or any of the matters, things or transactions mentioned in the petition and not hereby specifically enjoined.

Seventh. That the defendants pay the costs of this suit to be taxed.

GEORGE A. CARPENTER,
Judge of United States District Court for the Northern District of Illinois.

Dated this 9th day of November A. D. 1918.