

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	NO. 51 C 1036
ALLIED FLORISTS ASSOCIATION)	
OF ILLINOIS ET AL.,)	
)	
Defendants.)	

FINAL JUDGMENT

The plaintiff, the United States of America, having filed its complaint herein on June 29, 1951, and the defendants having appeared and filed their answers to such complaint denying the substantive allegations thereof, and all of the parties hereto, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any defendant in respect of any such issue;

NOW, THEREFORE, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of all parties hereto, and without the consent of the parties or this Final Judgment being considered as an admission or adjudication that any of the defendants have performed any of the acts charged in said complaint, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter herein and of all the parties hereto. The complaint states a cause of action against the defendants under Sections 1 and 2 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) "Allied" shall mean the defendant the Allied Florists Association of Illinois;
- (b) "Association" shall mean the defendant the Chicago Wholesale Cut Flower Association;
- (c) "News" shall mean the defendant the Central Flower News, Inc.;
- (d) "Review" shall mean the defendant The Florist Publishing Company;
- (e) "Credit Association" shall mean the defendant the Chicago Association of Credit Men's Service Corporation;
- (f) "Person" shall mean any individual, firm, partnership, corporation or other legal entity;
- (g) "Cut flowers" shall mean those flowers which the grower has cut and shipped to a market for ultimate resale to the consumer;
- (h) "Grower" shall mean any person who grows, cuts and ships flowers to a market for ultimate resale to the consumer;
- (i) "Retail florist" shall mean any person engaged in the business of selling cut flowers to ultimate consumers;
- (j) "Wholesaler" shall mean any person engaged in the business of receiving cut flowers from growers and selling cut flowers to retail florists,
- (k) "Defendant wholesalers" shall mean each and all of the following:

Amling Company
Chicago Flower Growers, Incorporated
Louis Hoeckner Company
Eric Johnson, Incorporated
Kennicott Bros. Company
A. T. Pyfer & Company
George Reinberg Company
Peter Reinberg, Incorporated
San Lorenzo & King Co., Inc.
Joseph W. Smith
Agnes P. Smith
Myrtle M. Foerster
Emeline Foerster
Mrs. Helen Erne McSweeney

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its successors, subsidiaries, assigns, officers, directors, agents, and employees, and to all other persons acting or claiming to act under, through or for such defendant.

IV

Each of the defendants is enjoined and restrained from entering into, adhering to, maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program, directly or indirectly, with any other person which has the purpose or effect of:

(A) Prohibiting, restricting or interfering with, in any manner, the privilege of any person to advertise in the News or the Review or any other similar publication;

(B) Prohibiting, restricting or denying membership in or use of the credit facilities or services of the Credit Association to any wholesaler;

(C) Refusing to purchase cut flowers from, or to handle cut flowers on a consignment basis for, or discriminating against, any grower who has sold, does sell or intends to sell cut flowers directly to any retail florist

(D) Refusing to extend credit to any retail florist in connection with the purchase, sale or consignment of cut flowers.

V

Defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program, directly or indirectly, with any defendant or any other wholesaler which has the purpose or effect of:

(A) Coercing, persuading or inducing, or attempting to coerce, persuade or induce, any grower to refrain from shipping, selling or consigning cut flowers to any retail florist or any other person;

(B) Refusing to purchase or to handle cut flowers from any grower;

(C) Fixing, determining, establishing or inducing the adherence to prices of, or other terms or conditions of sale for, cut flowers sold to third persons;

(D) Fixing, determining or establishing terms or conditions of credit for the sale of cut flowers to retail florists;

(E) Fixing, determining or establishing commissions to be charged by wholesalers for the sale of cut flowers;

(F) Fixing, determining, or establishing the quantity of cut flowers to be sold or offered for sale;

(G) Allocating, restricting or dividing markets, territories or customers for the growing of flowers or the distribution or sale of cut flowers;

(H) Discriminating as to price, discount, or other term or condition of sale for cut flowers sold to any other wholesaler.

VI

The defendant wholesalers are jointly and severally enjoined and restrained from:

(A) Deducting after July 1, 1953, directly or indirectly, from any remittance made to any grower any portion of such remittance for advertising purposes, without first having notified such grower of this provision of this Final Judgment in a form first approved by the plaintiff,

and without having obtained, annually, the prior written consent of each grower to such deduction;

(B) Collecting or attempting to collect any overdue account from any retail florist for any other wholesaler;

(C) Fixing, determining or establishing prices or other terms or conditions for the resale of cut flowers to third persons.

VII

(A) Defendant Association is ordered and directed to cause, within thirty (30) days after the date of entry of this Final Judgment, the dissolution of the Association and, within sixty (60) days after the date of entry of this Final Judgment its officers and directors shall file an affidavit with this Court, and send a copy thereof to the plaintiff herein, setting forth the steps taken to comply with the above terms of this Section VII;

(B) The defendants are jointly and severally enjoined and restrained from organizing, becoming a member of, or participating in the activities of, directly or indirectly, any trade association or other organization, the activities of which violate or are inconsistent with any provision of this Final Judgment.

VIII

Defendant Allied is ordered and directed to:

(A) Admit to its membership any retail florist, grower or wholesaler on non-discriminatory terms and conditions, but defendant Allied may classify such members solely for the purposes of internal organization and assessing of dues;

(B) Allow each of its members to attend each and every meeting of Allied with the exception of meetings held by its officers and board of directors;

(C) Furnish a copy of this Final Judgment to each of its present members and to each of its future members on their admission to membership.

IX.

(A) The defendant Credit Association is hereby ordered and directed to admit to membership in its "Florist Wholesaler Credit Group" any wholesaler making a written request therefor and to make available its services and facilities to all wholesalers upon non-discriminatory terms and conditions

(B) At any time after one year following the date of entry of this Final Judgment plaintiff may apply to this Court for other and further relief with regard to the activities of any of the defendants relating to credit, and such relief may be granted upon proper showing but without the necessity of a showing by the plaintiff of any change of circumstances since the entry of this Final Judgment.

X

The defendants News and Review are jointly and severally enjoined and restrained from refusing to accept for publication or refusing to publish any advertisement, or discriminating as to price, space, arrangement, location, commencement or period of insertion or any terms or conditions of publication of advertisement or advertisements, where the reason for such refusal or discrimination is, in whole or in part, express or implied:

(A) That the grower submitting the advertisement or advertisements has sold, sells or offers to sell cut flowers directly to retail florists or to consumers;

(B) That the person submitting the advertisement or advertisements:

(1) Transacts or does business outside the Chicago area;

(2) Is not a member of or approved by any association or other organization.

XI

For the purpose of securing compliance with this Final Judgment, 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:

(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 of the 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 or employees of such defendant, who may have counsel present, regarding any such matters.

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department 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.

XII

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment 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 Final Judgment, for the

modification of any of the provisions thereof or for the enforcement of compliance therewith and the punishment of violations thereof.

Dated: February 13, 1953.

United States District Judge

We consent to the entry of the foregoing Final Judgment for the plaintiff.

s/ Edward P. Hodges

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