

IN THE DISTRICT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK.

In Equity No.7-8.

THE UNITED STATES OF AMERICA, PETITIONER,
VS.

THE AMERICAN SUGAR REFINING COMPANY,
THE NATIONAL SUGAR REFINING COMPANY OF
NEW JERSEY, ET AL., DEFENDANTS.

ORDER ON PETITION TO MODIFY FINAL DECREE.

This cause having come on for hearing before this Court consisting of three Circuit Judges of the Second Judicial Circuit sitting in the District Court under the provisions of the Act of Congress of February 11, 1903, known as the Expediting Act, on the final decree herein dated May 9, 1922, and upon the petition, verified February 19, 1927, of The National Sugar Refining Company of New Jersey and Warner Sugar Corporation for a modification of said final decree, the answer of The United States of America to said petition and the affidavits filed by said petitioners and by The United States of America in support respectively of the said petition and of the answer thereto, and said Warner Sugar Corporation having been, with the consent of The United States of America endorsed on said petition, permitted to intervene in this cause by an order filed herein on February 24, 1927; and the said final decree, petition, answer to the petition and affidavits having been duly considered by this Court, it is now on this 25th day of February, 1927, by said Court

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

First: That the carrying out according to its terms and provisions of the agreement in writing, dated January 24, 1927, between The National Sugar Refining Company of New Jersey and Warner Sugar Corporation for the purchase by the former of the latter of Warner Sugar Corporation's sugar refinery at Edgewater, New Jersey, and of the other property specified in said written agreement,

from agreeing, combining or conspiring together to fix or affect the price of refined sugar, or to impair or to in any way affect full and free competition between them therein."

(c) By inserting the following as subsections of said Section 2nd:

"2nd (b). The American Sugar Refining Company, its successors, subsidiaries, officers, directors, and other officials are hereby enjoined and restrained from:

1. Owning, having any interest in, or controlling, directly or indirectly, either through agents, trustees, representatives, nominees or otherwise, any of the capital stock, bonds or other evidences of indebtedness of The National Sugar Refining Company.

2. Electing, employing or retaining as an officer, director or other official any person who is an officer, director or other official of The National Sugar Refining Company.

3. Electing, employing or retaining as an officer, director or other official any person who is acting alone or in concert, agreement or understanding for or with any other person or any firm or corporation to establish a community of ownership or control of The National Sugar Refining Company and The American Sugar Refining Company.

4. Issuing or permitting to be transferred on its books any of its capital stock, bonds or other evidences of indebtedness to The National Sugar Refining Company or to any person who is an officer, director or other official of The National Sugar Refining Company.

5. Issuing or permitting to be transferred on its books any of its capital stock, bonds or other evidences of indebtedness to any person, firm or corporation who is known to be acting alone or in concert, agreement or understanding with

Jersey), having duly appeared by their respective attorneys and having consented in open court to the entry of this Order,

IT IS ORDERED, ADJUDGED, AND DECREED:

1. That the Court has jurisdiction of the subject matter and of the parties hereto.

2. That Section 2nd of said decree is hereby amended:

(a) By inserting "(a)" preceding the first sentence of such Section 2nd.

(b) By deleting from such Section 2nd the fifth sentence thereof which reads as follows:

"Therefore, while the American Sugar Refining Company is not required to dispose of the stock which it now holds in said National Sugar Refining Company of New Jersey, yet it is perpetually enjoined from acquiring directly or indirectly any greater proportion of the stock of said National Sugar Refining Company of New Jersey than it now owns, and from voting or in any way using the stock now held by it in such a way as to impair or restrain competition between it and the said National Sugar Refining Company of New Jersey, or otherwise restrain interstate and foreign commerce in refined sugar; and the National Sugar Refining Company of New Jersey is perpetually enjoined from issuing or permitting to be transferred upon its books any stock of The American Sugar Refining Company or any trustee for its use and benefit the effect of which would be to increase the proportion of stock of said National Sugar Refining Company of New Jersey owned by The American Sugar Refining Company, and from electing or appointing as a director or other official of its company any person who shall be at the same time an official of The American Sugar Refining Company; and both of said corporations and their officers and agents are perpetually enjoined

will not constitute a violation of any of the provisions of the final decree herein dated May 9, 1922.

Second: That the final decree herein dated May 9, 1922, be and the same hereby is modified by the addition of the following provision at the foot thereof:

Nothing in the above provisions of this decree contained shall be taken or construed to prohibit or enjoin the carrying out by The National Sugar Refining Company of New Jersey and Warner Sugar Corporation, or either of them, according to its terms and provisions, of the agreement in writing between them dated January 24, 1927, whereby Warner Sugar Corporation agreed to sell and The National Sugar Refining Company of New Jersey agreed to buy Warner Sugar Corporation's sugar refinery at Edgewater, New Jersey, together with certain other property described in said agreement.

(Signed) C. M. HOUGH,
MARTIN T. MANTON,
THOMAS W. SWAN,
Circuit Judges.

Entered February 25, 1927.