

APPENDIX A
FINAL JUDGMENT

UNITED STATES v.
CONSOLIDATED PAPERS INC., *et al.*

Civil No.: 3563

Year Judgment Entered: 1963

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3563
)	
CONSOLIDATED PAPERS, INC.;)	
AMERICAN CAN COMPANY;)	
MOSINEE PAPER MILLS COMPANY;)	Filed February 7, 1963
NEKOOSA-EDWARDS PAPER COMPANY;)	
ST. REGIS PAPER COMPANY;)	
WAUSAU PAPER MILLS COMPANY;)	
GREEN BAY PAPER & PULP COMPANY;)	
KANSAS CITY STAR COMPANY;)	
CHARMIN PAPER PRODUCTS COMPANY;)	
and GEORGE BANZHAF & COMPANY,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 28, 1962, and each consenting defendant having appeared and filed an answer to the complaint denying the substantive allegations thereof, and plaintiff and consenting defendants having severally consented to the making and entry of this Final Judgment before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and without admission in respect to any issue, and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment as to all plaintiff's claims asserted in said complaint against each and every consenting defendant,

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against each defendant consenting hereto 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) "Pulpwood" shall mean any wood, felled or on the stump, of any species, in the form of either round wood or chips, that is used or intended for use in the manufacture in the United States of excelsior, of hardboard products, or of wood pulp for the production of paper, paperboard or pulp products;

(B) "Person" shall mean any individual, partnership, firm, corporation, association or any other business or legal entity;

(C) "Association" shall mean any formal or informal organization, the activities of which relate primarily or in substantial part to the production, sale or consumption of pulpwood;

(D) "Purchasing agent" shall mean with respect to any transaction a person who purchases pulpwood for a consumer thereof and who does not take title to the pulpwood so purchased.

III

The provisions of this Final Judgment applicable to any consenting defendant shall apply to such defendant, its officers, directors, agents, servants, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with such defendant who shall have received actual notice of the Final Judgment by personal service or otherwise. Each such defendant is ordered and directed to take such steps as are reasonably necessary to secure compliance by its officers, directors, agents, servants, employees and subsidiaries with the terms of this Final Judgment. Each such defendant and its officers, directors, agents, servants, employees and subsidiaries, shall be deemed to be one person.

IV

Each consenting defendant is enjoined and restrained from entering into, adhering to or enforcing any combination, agreement or understanding with any other consumer of pulpwood or pulpwood dealer to fix, establish, maintain, increase or decrease any price for the purchase or sale of pulpwood from or to any third person.

V

Each consenting defendant is enjoined and restrained from:

(A) Directly communicating to any defendant or other consumer of pulpwood the quantity of any pulpwood it is currently consuming, or plans to, or estimates it will, consume in any period, except such information as is essential to and given in connection with a bona fide transaction or proposed transaction of purchase or sale of pulpwood with such other defendant or consumer;

(B) Directly communicating to any defendant or other consumer of pulpwood any price it is paying to any other person for pulpwood, or plans to pay, or the terms or conditions therefor, except such price information as is essential to and given in connection with a bona fide transaction or proposed transaction of purchase or sale of pulpwood with such other defendant or consumer;

(C) Communicating to any defendant or other consumer of pulpwood information relating to the possible entry of any new pulp mill into the purchase of pulpwood before that information has been generally announced, or initiating the public dissemination of such information.

VI

Each consenting defendant is enjoined and restrained from:

(A) Soliciting assistance or information, directly or indirectly, from any defendant or other consumer of pulpwood in an attempt to prevent or to restrain, directly or indirectly, competition from any other person in the purchase of pulpwood;

(B) Using as a pulpwood purchasing agent any person who is also an agent for the purchase of the same species of pulpwood for any other consumer of pulpwood;

(C) Furnishing to any association information as to its current inventory of pulpwood or current consumption of pulpwood unless such association agrees not to release such information other than in the form of aggregate data for the entire United States or a geographical section thereof or in a form that cannot disclose such information as to any individual pulp mill or the pulp mills of the defendants; or furnishing such information to an association after having acquired knowledge that such association has broken such agreement, unless and until the Department of Justice consents that such information may be furnished to that association; or furnishing information to any association as to its current or future prices for pulpwood.

VII

(A) Nothing in this Final Judgment shall forbid or restrict any consenting defendant from publicizing any plans for, progress of, or completion of projects to increase or decrease its capacity for the purchase, sale or consumption of pulpwood or of any particular species thereof;

(B) Nothing in this Final Judgment shall forbid or restrict the furnishing by any consenting defendant of any information to any agency, division or department of any government (e.g., national, state, country, municipal and town) or to any institution or organization operated by, affiliated with, or sponsored by such government, or to any college or university;

(C) Nothing in this Final Judgment shall forbid or restrict defendant Mosinee Paper Mills Company and defendant Nekoosa-Edwards Paper Company from agreeing with each other and with Tomahawk Timber Company, a Minnesota corporation, upon the prices, quantities or terms

of purchase or sale of pulpwood by Tomahawk Timber Company, so long as it is owned 50 per cent by each said defendant.

VIII

Nothing in this Final Judgment shall forbid or restrict any consenting defendant from communicating the information described in subsection (A), (B) and (C) of Section V hereof to George Banzhaf & Company while said George Banzhaf & Company is acting on behalf of such defendant, either as an employee or as an independent contractor.

IX

Each consenting defendant is ordered and directed within sixty (60) days after the date of entry of this Final Judgment to furnish a true and complete copy of this Final Judgment to each association of which it is a member or to which it submits information relating to inventory or consumption of pulpwood.

X

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, 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 a consenting 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 the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, such consenting defendant shall submit such written reports with respect to any of the matters covered in this Final Judgment as from time to time may be reasonably necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section X 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 plaintiff except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

Notwithstanding the entry of this judgment and the termination of this proceeding as to some defendants herein, so long as this proceeding shall remain pending as to any defendant or defendants herein the United States shall continue to have all the rights to depositions and discovery provided by rules 26 through 37, inclusive, of the Federal Rules of Civil Procedure against each consenting defendant as though this judgment had not been entered and this proceeding had not been terminated as to each such defendant, and each such defendant shall be entitled to all rights and protection provided to parties pursuant to said rules.

XII

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 and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Dated: February 7, 1963

/s/ ROBERT E. TEHAN

United States District Judge

UNITED STATES v.
CONSOLIDATED PAPERS, INC., *et al.*

Civil No.: 3563

Year Judgment Modified: 1964

C O P Y

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 3563
)	
CONSOLIDATED PAPERS, INC.,)	
ET AL.,)	Filed: February 27, 1964
)	
Defendants.)	

AMENDMENT TO FINAL JUDGMENT

This Court having entered a final judgment herein on February 7, 1963 as to American Can Company and certain other consenting defendants, and the United States of America and American Can Company having consented to an amendment of said final judgment before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and without admission in respect to any issue,

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

The final judgment entered on February 7, 1963 is hereby amended by the insertion between Article VI and Article VII of said judgment a new Article VI-Y, reading as follows:

Sponsoring, financing, participating in or attending any meeting attended by any other consumer of pulpwood at which prices (in terms of money or levels or any other terms) or quantity of consumption of pulpwood, current or anticipated, are expected to be discussed or announced; or remaining in attendance at any meeting attended by any other consumer of pulpwood in the event and during the time that such discussions or announcements take place; if such expected or actual discussions or announcements relate to prices or quantity of consumption of pulpwood by any identifiable mill or group of mills which operate within, or obtain pulpwood from, the States of Wisconsin, Michigan or Minnesota.

Nothing contained in this article shall prohibit American Can Company from bona fide transactions of purchase or sale of pulpwood with any other consumer of pulpwood or from giving to or receiving from such consumer (but not in the presence or hearing of any other pulpwood consumer) such price and consumption information as is essential to and given in connection with such a bona fide transaction or proposed transaction of purchase or sale of pulpwood with any other consumer.

II

Article VI-Y shall not be applicable to any defendant other than American Can Company.

III

Except as modified by this amendment, said judgment entered February 7, 1963 shall remain in full force and effect against American Can Company.

Dated: February 27, 1964

/s/ DAVID RABINOWITZ
United States District Judge