

Appendix A
Final Judgments

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Appendix A-1

United States v. Northern Securities Co., 120 F. 721, 731 (C.C.D. Minn 1903) (No. 789)

UNITED STATES v. NORTHERN SECURITIES CO.
IN THE CIRCUIT COURT OF THE UNITED STATES, FOR
THE DISTRICT OF MINNESOTA, THIRD DIVISION.

In Equity. No. 789

UNITED STATES OF AMERICA, COMPLAINANT,
vs.

THE NORTHERN SECURITIES COMPANY, THE NORTHERN
PACIFIC RAILWAY COMPANY, THE GREAT NORTHERN
RAILWAY COMPANY, JAMES J. HILL, WILLIAM P.
CLOUGH, D. WILLIS JAMES, JOHN S. KENNEDY, J. PIER-
PONT MORGAN, ROBERT BACON, GEORGE F. BAKER and
DANIEL LAMONT, DEFENDANTS.

DECREE.

This cause came on to be heard at this term and was argued by Counsel Hon. Philander C. Knox, the Attorney General, Mr. D. T. Watson, Special Counsel, Mr. James M. Beck and Mr. W. A. Day, Assistant Attorneys General and Mr. John M. Freeman, appearing for the United States, and Mr. George B. Young, Mr. John W. Griggs,

Mr. M. D. Grover, Mr. C. W. Bunn, Mr. Francis Lynde Stetson and Mr. David Willcox, appearing for the defendants; and thereupon, upon consideration of the evidence and the arguments,

IT WAS ORDERED, ADJUDGED AND DECREED as follows, to-wit: That the defendants above named have heretofore entered into a combination or conspiracy in restraint of trade and commerce among the several States, such as an Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" denounces as illegal; that all of the stock of the Northern Pacific Railway Company and all of the stock of The Great Northern Railway Company, now claimed to be held and owned by the defendant, The Northern Securities Company, was acquired and is now held by it in virtue of such combination or conspiracy in restraint of trade and commerce among the several states; that The Northern Securities Company, its officers, agents, servants and employees be and they are hereby enjoined from acquiring or attempting to acquire further stock of either of the aforesaid Railway Companies; that The Northern Securities Company be enjoined from voting the aforesaid stock which it now holds or may acquire and from attempting to vote it at any meeting of the stockholders of either of the aforesaid Railway Companies and from exercising or attempting to exercise any control, direction, supervision or influence whatsoever over the acts and doings of said Railway Companies or either of them by virtue of its holding such stock therein; that The Northern Pacific Railway Company and The Great Northern Railway Company, their officers, directors, servants and agents be and they are hereby respectively and collectively enjoined from permitting the stock aforesaid to be voted by The Northern Securities Company or in its behalf by its attorneys or agents at any corporate election for directors or officers of either of the aforesaid Railway Companies and that they, together with their officers, directors, servants and agents, be likewise enjoined and respectively restrained from paying any

dividends to The Northern Securities Company on account of stock in either of the aforesaid Railway Companies which it now claims to own and hold; and that the aforesaid Railway Companies, their officers, directors, servants and agents be enjoined from permitting or suffering The Northern Securities Company or any of its officers or agents, as such officers or agents, to exercise any control whatsoever over the corporate acts of either of the aforesaid Railway Companies. But nothing herein contained shall be construed as prohibiting The Northern Securities Company from returning and transferring to the stockholders of The Northern Pacific Railway Company and The Great Northern Railway Company respectively, any and all shares of stock in either of said Railway Companies which said The Northern Securities Company may have heretofore received from such stockholders in exchange for its own stock; and nothing herein contained shall be construed as prohibiting The Northern Securities Company from making such transfer and assignments of the stock aforesaid to such person or persons as may now be the holders and owners of its own stock originally issued in exchange or in payment for the stock claimed to have been acquired by it in the aforesaid Railway Companies.

IT IS FURTHER ORDERED AND ADJUDGED that the United States recover of and from the defendants, its costs herein expended, the same to be taxed by the Clerk of this Court, and have execution therefor.

HENRY C. CALDWELL,
Presiding Judge.
 WALTER H. SANBORN,
 AMOS M. THAYER,
Circuit Judges.

Filed April 9th, 1903.

Appendix A-2

United States v. Gen. Paper Co., No. 813 (C.C.D. Minn. 1906)

UNITED STATES v. GENERAL PAPER CO.
IN THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA. THIRD DIVISION.

Civil No. 813.

UNITED STATES OF AMERICA, COMPLAINANT,
VS.
GENERAL PAPER COMPANY ET AL., DEFENDANTS.

This cause this day coming to be heard before the United States Circuit Court for the District of Minnesota, Third Division, upon motion of the complainant for an injunction in accordance with the prayer of the bill of complaint heretofore filed herein, and the defendants, General Paper Company, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fiber and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water Power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Com-

pany, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, appearing by their solicitors, and the court being duly advised in the premises, it is ORDERED, ADJUDGED AND DECREED as follows:

1. That the defendants, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fiber and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-Power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, and the Rhinelander Paper Company, did, as alleged in the bill of complaint, in violation of the provisions of Sections 1 and 2 respectively, of the Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," enter into an agreement, combination and conspiracy with one another to restrain the trade and commerce among the several states, and to control, regulate and monopolize said trade and commerce in the manufacture of news print, manilla, fibre, and other papers, and in the distribution, sale and shipment thereof, among the several states, as is more particularly alleged in the bill of complaint, and that in pursuance of said combination and conspiracy in restraint of trade and to

monopolize said trade and commerce, as aforesaid, the said defendants caused to be organized under the laws of the state of Wisconsin a corporation, to wit: The General Paper Company, defendant, with a capital stock of \$100,000, divided into 1000 shares of \$100 each, which were, pursuant to said common understanding, distributed among the defendants upon a basis of the estimated relative productions of such kinds and grades of paper made by the respective defendants, and that the said stock was owned by said defendants respectively, and that each of said defendants by a contract created the said General Paper Company its exclusive selling agent for any and all box lining, hanging, novel, print and manilla paper manufactured by each of said defendants respectively, and conferred upon the said General Paper Company absolute power to control and restrict the output of each of them, and to fix the price at which all paper manufactured by said defendants should be sold throughout the states of Illinois, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Montana, Utah, Colorado, Kansas, Nebraska, and other states and to determine to whom, and the terms and conditions upon which said paper should be sold, into what states and places it should be shipped, and what publishers and other customers the mill of each of the said defendants should supply. That the said General Paper Company was and is controlled and governed by a board of directors, upon which board each of the defendants other than the General Paper Company was and is represented by one of its principal officers, and that the number of said board has been from time to time increased as new manufacturing corporations have entered into contracts with the General Paper Company making it their exclusive selling agent as aforesaid, so as to permit representation thereon by said new corporation. That the said combination is hereby adjudged and decreed to be unlawful and in derogation of the common rights of the people of the United States and in violation of the Act of Congress of July 2nd, 1890, as aforesaid; and that the said defendants and each and all

of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or in their behalf, or claiming so to act, be, and they and each of them are hereby perpetually enjoined, restrained and prohibited from doing any act in pursuance of or for the purpose of carrying out the said combination, conspiracy and agreement in restraint of trade and commerce, as aforesaid, and from monopolizing said trade and commerce as aforesaid.

2. That the defendant, the General Paper Company, its officers, agents, servants and employees be, and hereby are enjoined from acting as the sales agent of said defendants and from selling or fixing the price at which news print, manilla, fibre, and other papers, of the various defendant corporations shall be sold into what states it shall be shipped and sold, and all contracts, agreements and understandings by which the General Paper Company was and is acting as the general sales agent of the defendants and each and every of them be, and hereby are declared unlawful and cancelled, annulled, and set aside, and they and each of them are hereby enjoined and restrained from making executing or carrying out any such contract, agreement or understanding in the future.

3. That each and every of the defendants, their officers, agents, servants and employees be and hereby are jointly and severally restrained and enjoined from continuing the agreements made between each of the said defendants and the said General Paper Company, and all agreements heretofore made whereby the General Paper Company was and is constituted the sales agent of any and all news print, manilla, fibre, and other papers, and all contracts and agreements and understandings by which the said General Paper Company was and is so constituted the selling agent of the said defendants, are hereby declared to be unlawful and are hereby cancelled and annulled, and they and each of them are hereby enjoined and restrained from making, executing or carrying out any such contract, agreement or understanding in the future, and from

authorizing the said General Paper Company to sell, fix the price of, and terms of sale of the products of, or to control or regulate the output of, each of the defendants' mills and manufactories, or to dictate and determine the persons, corporations or newspapers to which it shall be sold, or the states into which the same shall be shipped and sold.

4. That the defendants and each of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or any of them, or in their behalf, or claiming so to act, be, and they and each of them are hereby enjoined, restrained and prohibited from entering into, taking part in, or performing any contract, combination or conspiracy, the purpose or effect of which will be, as to trade and commerce in news print, manilla, fibre and other papers manufactured by the defendants, between and among the several states and territories and the District of Columbia, a restraint of trade, or a monopolization of, or an attempt to monopolize trade, in violation of the provisions of the Act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against unlawful Restraints and Monopolies," and the acts amendatory thereof, either by agreeing or contracting together or with one another, expressly or impliedly, directly or indirectly, with respect to the manufacture, price, sale, shipment, and disposition of news print, manilla, fibre, and other papers manufactured, sold and distributed by the said defendants or any of them, or by contracting and agreeing together or with one another expressly or impliedly, directly or indirectly, as to the prices at which the said paper or any part or grade thereof shall be sold, as to the persons or corporations to whom it shall be sold, as to the territory in which any of such paper shall be shipped, sold, or otherwise disposed of, or as to the amount or quantity of such paper or any grade thereof which shall be manufactured, sold or distributed by the defendants or by any of them, or by agreeing or contracting together or with one another with a view to the imposition of any

burden or condition upon the manufacture, sale or disposition of such paper manufactured by the defendants or any of them.

5. It is further ordered, adjudged and decreed that a writ of Injunction issue out of this court, enjoining the said defendants, their directors, officers, agents, servants and employees, as hereinabove directed and stated.

6. It is further ordered, adjudged and decreed that the plaintiff have and recover of the defendants its costs and disbursements, to be fixed and allowed by the Clerk pursuant to the rules of equity.

WALTER H. SANDBORN,
U. S. Circuit Judge.

Filed June 16th, 1906.

Appendix A-3

United States v. Hollis, No. 1079 (D. Minn. 1917)

UNITED STATES v. HOLLIS ET AL.

**IN THE DISTRICT COURT OF THE UNITED STATES,
DISTRICT OF MINNESOTA, FOURTH DIVISION.**

In Equity No. 1079.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

WILLARD G. HOLLIS AND OTHERS, DEFENDANTS.

FINAL DECREE.

This cause came on to be heard before Wilbur F. Booth, United States district judge, United States of America appearing by G. Carroll Todd, Assistant to the Attorney General, and Blackburn Esterline, Special Assistant to the Attorney General, and defendants appearing by Lancaster, Simpson & Purdy, L. C. Boyle, and C. D. Joslyn, their solicitors, and the plaintiff having moved the court for an injunction in accordance with the prayer of the petition,

the same was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz:

I. Defendants W. R. Wood, residing at Parker, South Dakota, individually and as president; Charles Webster, residing at Waucoma, Iowa, individually and as vice president; Willard G. Hollis, residing at Minneapolis, Minn., individually and as secretary; George P. Thompson, residing at Minneapolis, Minn., individually and as treasurer of a voluntary membership association known as the Northwestern Lumbermen's Association; and the following individually and as directors in and as representatives of all the members of the last-named association: C. M. Porter, of Oskaloosa, Iowa, E. G. Flinn, of Minneapolis, Minn.; O. M. Botsford, of Winona, Minn.; W. H. Dav. jr., of Dubuque, Iowa; M. T. McMahon, of Farous Falls, Minn.; C. A. Finkbine, of Des Moines, Iowa; John W. Barry, of Cedar Rapids, Iowa; the Lumber Secretaries' Bureau of Information, a corporation of the State of Illinois, with its principal office and place of business at Chicago, Ill.; Luke W. Boyce, of Minneapolis, Minn., a duly licensed detective of said State, doing business under the trade name and style of Northern Information Bureau; Lumbermen Publishing Co., a corporation of the State of Minnesota, and owner and publisher of the publication known as Mississippi Valley Lumberman; and Platt B. Walker, residing at Minneapolis, Minn., individually and as manager of Lumberman Publishing Co., and as editor of Mississippi Valley Lumberman, were at the time of the filing of the petition engaged in a combination and conspiracy to restrict and restrain interstate trade and commerce in lumber and lumber products, in violation of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat. 209).

II. Prior to and at the time of filing the petition the lumber trade was, and it now is, divided into the following classes:

1. Manufacturers who operate at various points in the

United States receive logs from the forests, and saw them into various sizes and lengths of timber and lumber required by the trade for building and manufacturing purposes, and ship such products from the points of manufacture by railroad or steamship lines through and into the States of the United States to the various markets where such lumber products are required, and specifically through and into the States of Minnesota, North Dakota, South Dakota, Iowa, and Nebraska.

2. Wholesalers who deal in lumber and lumber products and are usually located at or near large markets or centers of trade. In some cases the wholesaler maintains a yard for receiving and storing the lumber purchased by him from the manufacturer; in other cases, the wholesaler does not maintain a yard, but handles the manufactured product through orders from customers transmitted by wholesaler to the manufacturer.

3. Retailers, located in towns and cities, who receive and store lumber purchased either from wholesaler or manufacturer, and sell for building or manufacturing purposes in the city or town where such retail yard is located.

4. Consumers, who are divided into various classes; generally as follows:

- (a) The constructing builder;
- (b) The converter or manufacturer;
- (c) The United States Government, and sometimes municipalities and railroads;
- (d) The small consumer of lumber for small building, construction, and repair work.

5. Mail-order houses, who buy from either whole-salers or manufacturers and sell to all classes of customers.

6. Cooperative associations, who buy for the benefit of their own members only (the latter classes are regarded by some as retailers, by others as consumers, and by still others as separate and distinct classes).

III. The objects of said combination and conspiracy,

which objects are hereby adjudged to be illegal and in violation of the act of Congress aforesaid, were and are—

1. To eliminate or unreasonably restrict competition (except as between retail yards) for the trade of—

- (a) Contractors and builders;
- (b) Mail-order houses;
- (c) Cooperative yards;
- (d) The ultimate consumer; except certain consumers, i. e., United States Government, railroads, elevators, and bridge builders.

2. To force the ultimate consumer to buy at retail prices from regularly established and recognized retail lumber merchants, operating in the vicinity where such lumber is to be used.

3. To prevent any wholesale dealer or manufacturer from quoting prices or selling and shipping to consumers.

To accomplish these ends various methods were devised and adopted:

- (a) Expulsion of members from membership of the association;
- (b) The issuance of black lists of offending wholesale dealers;
- (c) The imposition of fines and penalties for offending wholesalers and manufacturers;
- (d) Joint operation and cooperation with other similar associations and the exchange of black lists and other information;
- (e) Furnishing of information to lumber credit agencies touching the status of various persons, firms or corporations, whether they should be classed as retailers, cooperative yards, consumers, or otherwise;
- (f) Publication, alone or in cooperation with other similar associations, of a handbook for the lumber trade, containing among other things a list of manufacturers who sold to consumers direct, and other “unethical” dealers;

(g) Formation of the Lumber Secretaries' Bureau of Information for the purpose of cooperation between the different associations of retail lumber dealers, in carrying out the aims and purposes above enumerated.

IV. Northwestern Lumbermen's Association is a voluntary membership association having as members retail lumber dealers in Minnesota, Iowa, North Dakota, South Dakota, and Nebraska. Among its unlawful activities was the use of the "customer lists," a plan originating with the Secretaries' Bureau and adopted by them, as follows: Hollis, secretary, or any other secretary, would send a circular letter at the beginning of each year to all of the members of his association, asking for a list of wholesalers or manufacturers with whom the retailer dealt and in reference to whom the retailer desired to be kept informed. Upon receiving such lists the information was rearranged and compiled upon a card index, so as to show the customers of the various manufacturers and wholesalers in the territory covered by the association, and by exchange of lists of information upon this card index would be extended, so as to cover the territory of other associations. Information was then obtained by the secretary of the association as to irregular or unethical shipments of such wholesalers or manufacturers. The two principal sources of such information to the secretary were communications from the members of the association as to irregular or unethical sales which came to their notice in their vicinity and reports by detectives hired by the association from time to time to make investigation and report to the secretary. Upon receipt of such information, Hollis, secretary, would notify customers of the offending wholesaler or manufacturer in regard to the specific unethical or irregular sale. Whether such notice by the secretary should be sent to a few or to many of the customers of this offending wholesaler or manufacturer rested in the discretion of the secretary. In one extreme instance it was sent to 1,200 customers. The customers receiving such information would then at their own discretion take up the matter with the offending wholesaler or manufacturer,

protesting against such unethical or irregular shipments.

V. The Lumber Secretaries' Bureau of Information embraced a membership of the secretaries of the various retail lumber dealers associations (among them North-western Lumbermen's Association), who represented the associations. Its activities consisted of:

1. The publication of a bulletin, or report, containing information theretofore gathered and assembled with reference to manufacturers and wholesale dealers who were supplying the so-called "poachers," who were selling direct to consumers, and shipping to customers at points where the said poachers had no yards and who were considered as peddlers; and the manufacturers and wholesalers who shipped direct to consumers. The method of compilation and use of the bulletin or report was as follows: A retail lumber dealer learning of a sale by a wholesaler to a consumer, made complaint in writing to the secretary of the association to which the retailer belonged. The secretary thereupon investigated, ascertained the facts in regard to the complaint, and submitted his report to the board of directors of the Lumber Secretaries' Bureau of Information. The latter determined whether the matter should be reported in the next issue of the bulletin, and instructed the secretary accordingly. The bulletin when issued was distributed among all of the members of the several associations.

2. To cooperate with Eastern States Retail Dealers' Association, an eastern organization corresponding to Lumber Secretaries' Bureau of Information.

3. To approve and recommend to the several retail associations the plan of use of "customers' lists."

4. To recommend reciprocity agreements with the Sash & Door Manufacturers' Association and with National Lumber Manufacturers' Association.

VI. Lumberman Publishing Co. published, under the direction and control of defendant Platt B. Walker, the Mississippi Valley Lumberman, a lumber trade paper for many years generally circulated throughout the Middle

Western States and received and read by lumber dealers. It was adopted by Northwestern Lumbermen's Association as the official organ of the association and its members. Defendant Walker established the "Publicity department" in the Mississippi Valley Lumberman, in which notice was given to the lumber trade of sales by manufacturers and wholesale dealers to consumers and other unethical transactions. Defendant Hollis, as secretary of Northwestern Lumbermen's Association, from time to time furnished defendant Walker for publication in Mississippi Valley Lumberman various items of information showing shipments of lumber and lumber products from manufacturers and wholesale dealers to consumers, and defendant Walker published the same in Mississippi Valley Lumberman as items of interest to the subscribers.

VII. Luke W. Boyce, defendant, conducted a detective agency under the name of Northern Information Bureau. He was in the direct employ of Northwestern Lumbermen's Association. His compensation was paid by funds solicited, subscribed, and contributed by members of the association which were solicited by Boyce and defendant Hollis and other secretary members of Lumber Secretaries, Bureau of Information. With the aid and assistance of a corps of detectives, Boyce, by the means and practices usually employed by detectives, collected information respecting sales and shipments of lumber from manufacturers and wholesale dealers to consumers, which he furnished to Hollis and other secretary members of Lumber Secretaries' Bureau of Information, and was employed by and furnished information to defendant Walker, for the purpose of having the same published in Mississippi Valley Lumberman.

VIII. National Lumber Credit Manufacturers' Corporation, a corporation of Virginia, is owner and publisher of the "Blue Book." Lumbermen's Credit Association, a corporation of Illinois, is the owner and publisher of the "Red Book."

The Blue Book and the Red Book establish the credit rating, business standing, and classification of lumber

dealers for all the purposes of the lumber trade. The ratings contained in the Blue Book and the Red Book are fixed by designated officers of the respective owners and publishers thereof, who were in direct communication, by correspondence and otherwise, with the defendants Hollis and Walker, relative to the qualifications for listing as retail dealers in various parts of the territory covered by Northwestern Lumbermen's Association. In the publication of the said books the owners of the Red Book have sent advance printed proof sheets of parts of each new issue of the book to defendant Hollis and officers of other retail lumber dealers' associations, who, upon request, checked said proof sheets and suggested various changes in said credit books by way of eliminating the names of dealers whose business did not conform to the standards of classification recognized by the members of Northwestern Lumbermen's Association, the purpose and object of which was to make said rating books dependable correct lists of regular retail lumber dealers recognized by defendant Northwestern Lumbermen's Association.

IX. That said defendants, and each of them, and their officers, agents, servants, employees, and all persons acting under, through, by, or in behalf of them, or either of them, or claiming so to act, be perpetually enjoined, restrained, and prohibited, directly or indirectly, from engaging in or carrying into effect the said combination and conspiracy hereby adjudged illegal, and from engaging in or entering into any like combination or conspiracy, the effect of which would be to restrain trade or commerce in lumber or lumber products among the several States; and from making any express or implied agreement or arrangement together, or one with another, like that hereby adjudged illegal, the effect of which would be to prevent the free and unrestricted flow of interstate commerce in lumber and lumber products from the manufacturer or wholesale dealer to the consumer.

X. That said defendants, and each of them, and their directors, officers, agents, servants, and employees, and all persons acting under, through, by, or in behalf of them, or

either of them, or claiming so to act, be perpetually en-joined, restrained, and prohibited from combining, con-spiring, or confederating with each other or with others, expressly or impliedly, directly or indirectly—

1. To hinder or prevent manufacturers or wholesale dealers of lumber and lumber products from selling or shipping the same in interstate commerce to any person, firm, corporation, or other organization not a retail dealer of lumber or lumber products, or not classified or recog-nized as such retail dealer by the Northwestern Lumber-men's Association, or not listed as such retail dealer in the so-called Blue Book and Red Book, published by National Lumber Credit Manufacturers' Corporation and Lumbermen's Credit Association.

2. To hinder or prevent manufacturers or wholesale dealers of lumber and lumber products from selling or shipping the same in interstate commerce to mail-order houses, cooperative associations, consumers, or any other person or persons whomsoever desiring to purchase.

3. To hinder or prevent any person, firm, corporation, or other organization from buying lumber or lumber products directly from manufacturers and wholesale dealers.

4. To hinder or prevent any person, firm, corporation, or other organization from buying or selling lumber and lumber products from or to whomsoever he, they, or it may desire.

5. To hinder or prevent any person, firm, corporation, or other organization from purchasing lumber and lumber products from, or to favor with their custom and patron-age only those manufacturers or wholesale dealers who agree or who have agreed, directly or indirectly, or whose avowed policy it is, to sell, distribute, or market their products through the medium of the retail dealer only and not also directly to mail-order houses, cooperative associations, consumers, or any other person whomsoever.

XI. That said defendants, and each of them, and their agents, servants, and employees, and all other persons

acting under, through, by, or in behalf of them, or either of them, or claiming so to act, be perpetually enjoined, restrained, and prohibited from combining, conspiring, confederating, or agreeing with each other, or with others, expressly or impliedly, directly or indirectly—

1. To boycott or threaten with loss of custom or patronage any manufacturer or wholesale dealer engaged in interstate commerce of lumber and lumber products, for having sold or being about to sell lumber or lumber products to mail-order houses, cooperative associations, consumers, or to any other person, firm, or corporation not engaged in the business of retail dealing in lumber and lumber products, or to any other person, firm or corporation whomsoever.

2. To intimidate or coerce manufacturers or wholesale dealers of lumber and lumber products into selling only to such persons, firms, corporations, or other organizations as are classified or recognized by the Northwestern Lumbermen's Association as legitimate retail dealers.

3. To do, or to refrain from doing, anything the purpose or effect of which is to hinder or prevent, by intimidation, coercion or withdrawal, or threatened withdrawal, of patronage or custom, any person, firm, corporation, or other organization from buying or selling lumber or lumber products wherever, whenever, and from whomsoever, and at whatsoever prices may be agreed upon by the seller and purchaser.

XII. That said defendants, and each of them, and their directors, officers, agents, servants, and employees, and all other persons acting under, through, by, or in behalf of them, or either of them, or claiming so to act, be perpetually enjoined, restrained, and prohibited from publishing or distributing, or causing to be published or distributed, or aiding in the publication or distribution of—

1. The names of any manufacturers or wholesale dealers, or any list or lists of any manufacturers or wholesale dealers, designated as parties who agree or have agreed, expressly or impliedly, directly or indirectly, or

whose avowed policy it is, to confine sales of lumber and lumber products to persons, firms, corporations, or other organizations engaged in the business or retail dealing in lumber and lumber products, or who are listed in said Blue Book and said Red Book, or any book, pamphlet, or list of like character, as manufacturers or wholesale dealers, or who agree or have agreed, expressly or impliedly, directly or indirectly, or whose avowed policy it is not to sell lumber and lumber products to persons, firms, corporations, or other organizations who are not engaged in retailing lumber and lumber products.

2.The names of any retail dealers or any list or lists of retail dealers, designated as parties, who agree or have agreed, expressly or impliedly, directly or indirectly, to purchase lumber or lumber products from or favor with their patronage and custom only those manufacturers or wholesale dealers who agree or have agreed, expressly or impliedly, directly or indirectly, or whose avowed policy it is, to sell, distribute, or market their products through the medium of the retail dealers only, or who agree or have agreed, expressly or impliedly, directly or indirectly, or whose avowed policy it is, not to sell, distribute or market their products directly to mail-order houses, cooperative associations, consumers, or any other persons whomsoever.

3.The names of any manufacturers or wholesale dealers of lumber and lumber products designated as parties who have been or are selling or shipping lumber or lumber products to any person, firm, corporation, or other organization not classified or recognized by Northwestern Lumbermen's Association as legitimate retail dealers, or not listed in said Blue Book or said Red Book as retail dealers, or the names of any manufacturers or wholesale dealers from whom any such person, firm, corporation, or other organization has been, is, or is supposed to be receiving lumber or lumber products.

XIII.That said defendants and each of them, and their directors, officers, agents, servants, and employees, and all other persons acting under, through, by, or in behalf of them, or either of them, or claiming so to act, be perpetu-

ally enjoined, restrained, and prohibited from combining, conspiring, confederating, or agreeing with each other, or with others, expressly or impliedly, directly or indirectly—

To communicate, directly or indirectly, with any manufacturer, producer, or dealer, for the purpose of inducing such manufacturer, producer, or dealer not to sell lumber or lumber products to any person, firm, corporation, association, or other organization not classified or recognized as a manufacturer or wholesale dealer by said National Lumber Credit Manufacturers' Corporation and Lumbermen's Credit Association, or by any other body or person, or in said Blue Book or said Red Book.

XIV. That said Northwestern Lumbermen's Association, its officers and members, are not restrained from maintaining said organizations for social or other purposes not inconsistent with this decree and not in violation of law.

Without costs to either side.

Dated Minneapolis, August 10, 1917.

WILBUR F. BOOTH,
United States District Judge.

Appendix A-4

United States v. The Klearflax Linen Looms, Inc., No. 429 (D. Minn. 1945)

U. S. vs. THE KLEARFLAX LINEN LOOMS, INC.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA
FIFTH DIVISION

Civil No. 429.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

THE KLEARFLAX LINEN LOOMS, INC., DEFENDANT.

JUDGMENT

This cause coming on to be heard on the 2nd day of May, 1945, before the Honorable Gunnar H. Nordbye, United States District Judge, and the issues presented by the complaint filed November 24, 1944, having been duly tried and having been argued, and the Court having duly rendered and filed its opinion therein and having duly made and entered findings of fact and conclusions of law in accordance with Rule 52 of the Federal Rules of Civil Procedure for the District Courts of the United States;

Now, upon consideration thereof and upon motion of plaintiff by Wendell Berge, Assistant Attorney General, Melville C. Williams, Special Assistant to the Attorney General, and Victor E. Anderson, United States Attorney, for relief in accordance with the prayer of the complaint,

and defendant The Klearflax Linen Looms, Inc., having appeared by its attorneys Hunt, Palmer & Hood;

IT IS FOUND THAT: The Court has jurisdiction of the subject matter hereof and of the defendant; the complaint states a cause of action against the defendant under Section 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 Anti-trust Act; and the defendant has attempted to monopolize sales of linen rugs in interstate trade and commerce to the United States of America under General Schedule Contracts in violation of Section 2 of the Sherman Anti-trust Act.

IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. The defendant, its directors, officers, agents, representatives, employees, successors, subsidiaries, assignees, and any person or persons acting or claiming to act through or for the said defendant, be, and they hereby are, enjoined from:

(a) monopolizing, or attempting to monopolize, sales in interstate trade and commerce of linen rugs to the United States under General Schedule Contracts;

(b) refusing, or threatening to refuse, to sell linen rugs or linen rug material to any customer of said defendant, for the reason that the said customer has bid, attempted to bid, or plans to bid for a General Schedule Contract pertaining to linen rugs;

(c) discriminating, or threatening to discriminate, against any customer of said defendant by imposing more stringent credit requirements, by refusing to continue to sell direct, by increasing its selling price, or by any other means, for the reason that the customer has bid, attempted to bid, or plans to bid for a General Schedule Contract pertaining to linen rugs;

(d) agreeing, or attempting to agree, with any customer of said defendant that the said customer will re-frain from bidding, or will withdraw or modify any bid,

for a General Schedule Contract pertaining to linen rugs;
and

(e) agreeing, or attempting to agree, with any customer of said defendant upon any price the defendant or the said customer will submit in a bid for a General Schedule Contract pertaining to linen rugs.

2. The defendant, within sixty (60) days from the signing of this judgment, shall send to each of its distributors, jobbers, and "Class 1 retail store" customers, by registered mail, a true and complete copy of this judgment, and, within said sixty (60) day period, file with the Clerk of this Court its affidavit of mailing setting forth the names of the customers with their addresses to whom said copies were mailed.

3. For the purpose of securing compliance with this judgment, authorized representatives of the Department of Justice, upon the written request of the Attorney General or an Assistant Attorney General, shall be permitted access, within the office hours of said defendant and upon reasonable notice, to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or the control of the said defendant relating to any of the matters contained in this judgment, such access to be subject to any legally recognized privilege. Any authorized representative of the Department of Justice, subject to the reasonable convenience of the defendant, shall be permitted to interview officers or employees of the defendant regarding such matters without interference, restraint, or limitation by said defendant; provided, however, that any such officer or employee may have counsel present at such interview. The information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party, or as otherwise required by law.

4. Jurisdiction of this case is retained for the purpose of enabling any party to this 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 the carrying out of this judgment, for the modification or termination of any of the provisions thereof, for the enforcement thereof and compliance therewith and for the punishment of violations thereof, and for such further orders and directions as may be necessary or appropriate to dissipate the consequences of the defendant's unlawful attempt to monopolize.

5. All costs of this action shall be taxed, and charged to the defendant.

Dated this 14th day of November, 1945.

By the Court:

GUNNAR H.
NORDBYE *Judge*.

Appendix A-5

United States v. Investors Diversified Services, Inc., No. 3713 (D. Minn. 1954)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Investors Diversified Services, Inc.; Jefferson Mortgage Corporation; Northwest Mortgage Company (Oregon); Northwest Mortgage Company (Washington); Southland Mortgage Company; and Syndicate Mortgage Company., U.S. District Court, D. Minnesota, 1954 Trade Cases ¶67,799, (Jun. 30, 1954)

[Click to open document in a browser](#)

United States of America v. Investors Diversified Services, Inc.; Jefferson Mortgage Corporation; Northwest Mortgage Company (Oregon); Northwest Mortgage Company (Washington); Southland Mortgage Company; and Syndicate Mortgage Company.

1954 Trade Cases ¶67,799. U.S. District Court, D. Minnesota, Fourth Division. Civil No. 3713. Dated June 30, 1954. Case No. 1074 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Agreements Terminated—Hazard Insurance.—A mortgage loan company and five wholly-owned subsidiaries consented to the entry of a decree terminating, except as to certain specified rights, hazard insurance contracts insofar as any defendant as principal had the right under such contract to place or write hazard insurance on mortgaged property on behalf of the borrower.

Consent Decree—Types of Practices Enjoined—Placing of Hazard Insurance on Mortgaged Property.—A consent decree prohibited a mortgage loan company and five wholly-owned subsidiaries from (1) requiring mortgagors to buy or place hazard insurance required on the mortgaged property from or through any agent, broker, or company named by the defendants, (2) claiming, in behalf of a defendant, any right which prevented a borrower from placing insurance with anyone other than agents or insurers named by the defendants, (3) refusing to make a mortgage loan or discriminating in its terms, because the borrower would not accept or place insurance written by a defendant, and (4) entering into, adopting, or furthering any agreement for the purpose of, or which in effect, constitutes an act prohibited by clauses (1), (2), and (3). Additional terms of the decree required notice to be given to a borrower to inform him of his rights to select his own insurance company.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, W. D. Kilgore, Jr., Worth Rowley, Earl A. Jinkinson, Ralph M. McCareins, Max Freeman, Edwin C. Heininger.

For the defendants: G. Aaron Youngquist, Charles E. Phillips, and John R. Goetz.

For a prior opinion of the U. S. District Court, District of Minnesota, see [1952-1953 Trade Cases ¶ 67,220](#).

Final Judgment

GUNNAR H. NORDBYE, District Judge [*In full text*] : Plaintiff, United States of America, having filed its complaint herein on April 26, 1951; all the defendants having appeared and filed their answers to such complaint denying any violation of law and asserting affirmative defenses; and all parties having severally consented, by their attorneys, to the entry of this Final Judgment without trial or adjudication of any issue of fact or of law and without admission by any defendant in respect of any such issue;

Now, therefore, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties signatory hereto, it is hereby ordered and adjudged as follows:

I

[*Retention of Jurisdiction*]

The Court has jurisdiction of the subject matter of this action and of all parties thereto. The complaint states a claim against the defendants upon which relief may be granted 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," as amended, commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

- (a) "Defendant" shall mean any defendant and the term "defendants" refers to each and all of the defendants;
- (b) "Hazard insurance" shall mean a contract, usually termed a "policy", between an insurance company and one or more persons or "policy holders", whereby the insurance company, for a monetary consideration customarily called a "premium", agrees to indemnify a policy holder or policy holders, or others designated in said policy, for loss or damage to property by fire, storm, and other specified hazards;
- (c) "Place" or "placed" shall mean the selection or designation of an insurer by whom, or an agent through whom, a policy of insurance is to be written;
- (d) "Write" or "written", when used in connection with insurance, shall mean the issuance of a policy of insurance.
- (e) "Residential property" shall mean any building used primarily for dwelling purposes;
- (f) "Borrower" shall mean any applicant for a mortgage loan on residential property and any owner of mortgaged residential property whether or not such owner is the mortgagor;
- (g) "Contract regarding hazard insurance" shall mean any contract, or a provision in any contract, mortgage instrument, mortgage loan application form, or in any other instrument or form, whereby a borrower gives to any defendant the right or authority, not terminable by the borrower at will, to place or write hazard insurance required to be maintained by the mortgagor on mortgaged residential property;
- (h) "Serviced" shall mean the collection of the payments falling due on such loan and enforcement of the rights and performance of the obligations of the mortgagee under the terms of a mortgage on residential property, on behalf of an owner of the mortgage.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, agents, servants, employees and attorneys, and all other persons acting under, through, or for such defendant. No defendant shall cause or knowingly permit any subsidiary controlled by such defendant to perform any acts or engage in any course of conduct which such defendant is enjoined from performing or engaging in by this Final Judgment.

IV

[*Insurance Contracts Cancelled*]

All existing contracts regarding hazard insurance with respect to mortgage loans owned or serviced by defendants are, except as to rights described in paragraph VII (b) of this Final Judgment, hereby cancelled and annulled insofar as any defendant as principal has the right or authority under the terms of such contract to place or write hazard insurance on the mortgaged property in behalf of a borrower.

V

[*Insurance Practices Enjoined*]

The defendants are hereby jointly and severally enjoined and restrained from:

- (a) requiring a borrower to agree, as a condition to the making of a mortgage loan, to buy or place the hazard insurance, which is required to be maintained: by him on the mortgaged property, from or through any agent, broker or insurance company named or designated by defendants;
- (b) claiming, on behalf of any defendant, any right which prevents a borrower from placing hazard insurance with anyone other than agents or insurers selected by a defendant;
- (c) refusing to make a mortgage loan, or discriminating in the terms or conditions of any mortgage loan or in the application of any uniform procedure adopted by defendants, because the borrower will not purchase or accept hazard insurance placed or written by a defendant;
- (d) entering into, adopting, adhering to, of furthering any agreement or course of conduct for the purpose of, or which in effect constitutes, performance of an act enjoined and restrained by the provisions of subparagraphs (a), (b) and (c) of this paragraph V.

VI

[*Note to Be Given*]

(a) Defendants are ordered and directed to mail written notice to each borrower, as shown by defendants' records, at his address shown by such records, who has, or whose predecessor in interest has, entered into a contract regarding hazard insurance with any defendant, not more than sixty (60) days nor less than forty-five (45) days prior to the expiration date of hazard insurance upon the mortgaged property expiring more than four (4) months after the entry of this Final Judgment, in the form designated as Form A in the Appendix [*not reproduced*] to this Final Judgment if the mortgage is owned by any defendant, and in the form designated as Form B in the Appendix [*not reproduced*] to this Final Judgment if the mortgage is being serviced but is not owned by any defendant, on the date of the notice.

The Court by order, or the parties by an agreement in writing filed with the Clerk of this Court, may modify the text of such notice.

Such notice shall be given by the defendant which is servicing such mortgage or by defendant Investors Diversified Services, Inc., and shall not contain solicitation by or on behalf of a defendant for the placing or writing of hazard insurance.

[*Statement to Borrower*]

(b) It is ordered and directed that, beginning with the thirtieth day after the entry of this Final Judgment, each defendant making a residential mortgage loan shall take from the borrower an application or other appropriate form containing the following statement: "The hazard insurance to be maintained by the borrower as required by the security instrument may be obtained by the borrower through his own insurance agent or through the lender."

VII

[*Permissive Provisions*]

This Final Judgment shall not be construed to limit the right of any defendant:

- (a) to require that any hazard insurance policy tendered by a borrower contain an acceptable loss payable clause and be issued by an insurer approved by such defendant, provided that a defendant's standards for approval shall not be unreasonable, arbitrary or discriminatory;
- (b) to place or write hazard insurance on the mortgaged property whenever a borrower fails to tender a renewal policy, issued by an insurer approved by such defendant and containing an acceptable loss payable clause, within the time specified in the mortgage, but not more than thirty (30) days prior to the expiration date of the policy in force at the time, or by applicable state law or regulation, or in the absence of any such specification then at least thirty (30) days prior to such expiration date; and the right referred to in this paragraph shall not be limited or affected by any other provision of this Final Judgment;

(c) to solicit from any borrower, in free and open competition with others, the right or authority, terminable by the borrower at will, to place or write hazard insurance.

VIII

[*Inspection and Compliance*]

For the purpose of 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, 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 of the matters contained in this Final Judgment; and (b), subject to the reasonable convenience of such defendant and without restraint or interference by it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters. Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, on reasonable notice to defendants, defendants shall submit such written reports as may, from time to time, be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means specified in this paragraph VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, 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.

IX

[*Retention of Jurisdiction*]

Jurisdiction of this action is retained by this Court 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 or directions as may be necessary or appropriate for the construction or carrying out of its provisions, for its modification, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Appendix A-6

United States v. Minneapolis Elec. Contractors Ass'n, No. 3715 (D. Minn. 1953)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Minneapolis Electrical Contractors Association, et al., U.S. District Court, D. Minnesota, 1952-1953 Trade Cases ¶67,575, (Sept. 26, 1953)

[Click to open document in a browser](#)

United States v. Minneapolis Electrical Contractors Association, et al.

1952-1953 Trade Cases ¶67,575. U.S. District Court, D. Minnesota, Fourth Division. Civil Action No. 3715. Dated September 26, 1953. Case No. 1077 in the Antitrust Division of the Department of justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined—Participation in Trade Association Activities— Electrical Contractors, Jobbers, Association, and Union.—Electrical contractors, jobbers, trade associations, and a union were enjoined by a consent decree from organizing, participating in the activities of, or contributing anything of value to any trade association, knowing that the purposes or activities of such association are in any manner inconsistent with the provisions of the decree. However, it was provided that the provisions of the decree should not prohibit the defendants from engaging in activities related solely to a labor dispute or collective bargaining, otherwise legal under labor laws applicable to such defendants.

Consent Decree—Practices Enjoined—Channelization Programs.—Jobbers of electrical equipment were enjoined by a consent decree from (1) refusing to sell to any person where the reason for such refusal is because such person is not an electrical contractor or does not hold a master electrician's license, (2) refusing to buy from any manufacturer where the reason for such refusal is because such manufacturer has sold or intends to sell to any person or class of persons, and (3) urging any person to refuse to sell electrical equipment to, or install electrical equipment for, any person or class of persons, for the purpose of establishing or adhering to any channelization program. Electrical contractors were enjoined from doing specified acts for the purpose of establishing or adhering to any channelization program. The above defendants, including electrical contractors' associations, and a union, also were enjoined from entering into any plan to establish or adhere to any channelization program.

Consent Decree—Practices Enjoined—Union Activities.—A union was enjoined by a consent decree from (A) refusing to install electrical equipment because such equipment was not sold by an electrical contractor or was purchased directly from a jobber or manufacturer, and from (B) urging any person not to sell or install electrical equipment for the purpose of establishing or adhering to any channelization program.

Consent Decree—Practices Enjoined—Refusal To Sell—Permissive Provision—Credit Information.—An individual was enjoined by a consent decree from refusing to sell electrical equipment to any person because such person has sold or intends to sell electrical equipment to any third person and from urging any person not to sell such equipment to any third person. However, it was provided that the prohibitions should not be construed to prevent the exchange of credit information and financial information relating to credit between the individual and others.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Edward R. Kenney and John H. Waters, Trial Attorneys; and Edwin H. Pewett, William D. Kilgore, Jr., Charles F. B. McAleer, and Harry N. Burgess, Attorneys.

For the defendants: Dorsey, Colman, Barker, Scott and Barber, by Henry Halladay, Minneapolis, Minn., for Minneapolis Electrical Contractors Ass'n, Midwest Electric; Council, Inc., Skeldon & Green Electric, Inc., and Albert J. Fleming; Nichols, Mullin, Farnand and Lee, by Chester L. Nichols, Minneapolis, Minn., for Local Union No. 292, International Brotherhood of Electrical Workers; Leonard, Street and Deinard, by Benedict Deinard, Minneapolis, Minn., for Midwest Electric Co.; and Felhaber and Larson, by Gustav A. Larson, St. Paul, Minn., for St. Paul Electrical Contractors Association, Midwest Electric Council, Inc., Kehne Electric Co., Inc., and Tieso & Kostka Electric Co.

Final Judgment

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NORDBYE, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on April 30, 1951; and the defendants having appeared and filed their several answers to said complaint denying any violation of law; and the plaintiff and said defendants, 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 party in respect to any such issue; and the Court having considered the matter and being duly advised;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent, as aforesaid, of all the parties hereto,

It is hereby ordered, adjudged and decreed, as follows:

I

[*Sherman Act Action*]

This Court has jurisdiction of the subject matter hereof and of all parties hereto. The complaint states a cause of action against the defendants 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," as amended, commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

(A) Defendants shall mean: Minneapolis Electrical Contractors Association; St. Paul Electrical Contractors Association; Midwest Electric Council, Inc.; Midwest Electric Company; Kehne Electric Company, Inc.; Tieso & Kostka Electric Company; Skeldon & Green Electric, Inc.; Local Union #292, International Brotherhood of Electrical Workers; and Albert J. Fleming.

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

(C) "Electrical Equipment" shall mean all types and kinds of electrical equipment which are customarily affixed to or permanently installed in residential, commercial or other buildings by skilled labor, including but not limited to, electrical wiring, lighting fixtures, switches and switch boxes, fuse boxes, insulators, cable, conduits and other equipment used or required to provide a complete electrical lighting and power system in said buildings;

(D) "Contractors" shall mean those persons engaged in the business of installing, altering, or repairing electrical equipment and in the sale of electrical equipment to consumers;

(E) "Jobbers" shall mean those persons engaged in the business of purchasing electrical equipment from manufacturers and reselling said equipment to electrical contractors and others;

(F) "Union" shall mean Local Union #292, International Brotherhood of Electrical Workers;

(G) "Channelization Program" shall mean any plan, program or course of action the purpose or effect of which is to limit or restrict the sale or distribution of electrical equipment by manufacturers or jobbers thereof. Without in any manner limiting the generality of the foregoing, the term "channelization program" shall specifically include any plan, program or course of action the purpose or effect of which is to restrict the sale or distribution of electrical equipment by manufacturers thereof solely to jobbers and the sale or distribution of electrical equipment by jobbers thereof solely to electrical contractors, or any plan, program of course of action having a like or similar purpose or effect.

(H) "Labor dispute" shall mean any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking

to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to a defendant, shall apply only to such defendant, its or his officers, agents, servants, employees, and attorneys, and to those persons in active concert Or participation with them who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment a defendant and the respective officers, agents, servants, employees and attorneys thereof, shall be deemed to be one person.

IV

[*Trade Association Activities*]

(A) The defendants are jointly and Severally enjoined and restrained from organizing, forming, joining, belonging to, participating in the activities of, or contributing anything of value to any trade association of similar organization, knowing that the purposes or activities of said association or organization are in any manner inconsistent with any of the provisions of this Final Judgment.

(B) The provisions of this Final Judgment shall riot prohibit the defendants from engaging in activities related solely to a labor dispute or collective bargaining, otherwise legal under labor laws applicable to such defendants.

V

[*Channelization Programs Prohibited*]

The defendants are jointly and severally enjoined and restrained from entering into, maintaining, adhering to, or furthering, directly or indirectly, or claiming any rights under any provision of any contract, agreement, understanding, plan or program, with any other person to:

- (A) Establish, renew, maintain or adhere to any channelization program;
- (B) Hinder, restrict, limit or prevent the sale of electrical equipment to any person;
- (C) Hinder, restrict, limit or prevent any person from selling electrical equipment to or installing electrical equipment for any other person;
- (D) Refuse or threaten to refuse to sell electrical equipment to any person or class of persons;
- (E) Refuse, to buy or threaten to refuse to buy electrical equipment from any person;
- (F) Refuse or threaten to refuse to install electrical equipment for any person.

VI

The defendant jobbers are jointly and severally enjoined and restrained from doing any of the following acts for the purpose or with the effect of establishing, renewing, maintaining or adhering to any channelization program:

- (A) Refusing to sell or threatening to refuse to sell electrical equipment to any person where the reason for such refusal is, in whole or in part, because such person is not an electrical contractor, or does not hold a master electrician's license;
- (B) Refusing or threatening to refuse to buy electrical equipment from any manufacturer where the reason for such refusal is, in whole or in part, because such manufacturer has sold, does sell, or intends to sell electrical equipment to any person or class of persons;
- (C) Urging, influencing or requiring or attempting to urge, influence or require any other person to refuse to sell electrical equipment to, or install electrical equipment for, any person or class of persons.

VII

The defendant contractors are jointly and severally enjoined and restrained from doing any of the following acts for the purpose or with the effect of establishing, renewing, maintaining or adhering to any channelization program:

- (A) Establishing, maintaining or adhering to any plan or program or course of conduct to refuse to install electrical equipment purchased from some Other person or not purchased from such defendant;
- (B) Refusing or threatening to refuse to buy electrical equipment from any manufacturer or jobber where the reason for such refusal is, in whole or in part, because such manufacturer or jobber has sold, does sell, or intends to sell electrical equipment to any person or class of persons;
- (C) Urging, influencing or requiring or attempting to urge, influence or require any person not to sell electrical equipment to, or install electrical equipment for, any person.

VIII

[*Union Activity Enjoined*]

The Defendant Union is enjoined and restrained from:

- (A) Refusing to install electrical equipment because such equipment:
 - (1) was not sold by an electrical contractor, or
 - (2) was purchased directly from a jobber or manufacturer;
- (B) Urging, influencing or requiring or attempting to urge, influence or require any person not to sell or install electrical equipment for the purpose or with the effect of establishing, renewing, maintaining or adhering to any channelization program.

IX

[*Refusal To Sell*]

- (A) The defendant Albert J. Fleming is, enjoined and restrained from:
 - (1) Refusing or threatening to refuse to sell electrical equipment to any person because such person has sold, does sell or intends to sell electrical equipment to any third person;
 - (2) Urging, influencing or requiring or attempting to urge, influence or require any person not to sell electrical equipment to any third person.
- (B) The provisions of this Section IX shall not be construed to prevent the exchange of credit information and financial information relating to credit between defendant Albert J. Fleming and others.

X

[*Copies of Judgment*]

Each of the defendant Associations is ordered and directed to furnish to each of its present members and to each of its future members a copy of this Final Judgment, and to obtain and keep on file receipts showing delivery of said copies.

XI

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall, on 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 matters contained in this Final Judgment, and (B) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters, and (C) upon such request, the defendant shall submit any such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided 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 Retained]

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, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

Appendix A-7

United States v. Northland Milk & Ice Cream Co., No. 4631 (D. Minn. 1957)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Northland Milk & Ice Cream Company, et al., U.S. District Court, D. Minnesota, 1955 Trade Cases ¶68,091, (Jun. 23, 1955)

[Click to open document in a browser](#)

United States v. Northland Milk & Ice Cream Company, et al.

1955 Trade Cases ¶68,091. U.S. District Court, D. Minnesota, Fourth Division. Civil Action No. 4361. Dated June 23, 1955. Case No. 1147 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Milk Distributors and Trade Association.—Milk distributors and a trade association were prohibited by a consent decree from entering into any combination to fix or determine prices or other terms of sale, or to induce or coerce any store or distributor not to sell milk or cream at any price set by such store or distributor. They were ordered to eliminate from their contracts all references to the prices at which vendors buy or sell milk or cream; to refrain from distributing any resale price lists to any store containing suggested Out-of-store prices to be charged by any store; to refrain from compelling or requesting any store not to advertise its out-of-store price; and to refrain from suggesting to any store the price such store should charge.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Customers.—Milk distributors and a trade association were prohibited by a consent decree from entering, into any combination to allocate or divide customers for the purchase or sale of milk or cream.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Exclusion from Trade.—Milk distributors and a trade association were ordered by a consent decree to eliminate from their contracts all provisions, with the exception of the requirement of union membership, which restrict or curtail any person from becoming a vendor of milk or cream.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Trade Association Membership.—Milk distributors and certain of their officials were prohibited by a consent decree from organizing or becoming a member of any trade; association knowing that the purpose or activities of such association are contrary to any of the provisions of the decree.

Combinations and Conspiracies—Monopolies—Consent Decree—Practices Enjoined— Interlocking Directorates.—Individual milk distributors and certain officials of other milk distributors were prohibited by a consent decree from holding any office in, or acting as a director of, more than one distributor. After complying with another provision of the decree (providing for the disposal of stock), the defendants were prohibited from holding any office in, or acting as a director of, any distributor while owning or controlling any capital stock in any other distributor. The decree further provided that any defendant may hold office in, or act as a director of, two distributors having the relation of parent and subsidiary.

Combinations and Conspiracies—Monopolies—Consent Decree—Specific Relief—Disposal of Stock —Acquisitions of Assets or Stock Enjoined.—Milk distributors and certain individual defendants were each ordered by a consent decree to dispose of any stock owned by such defendant in more than one distributor. They were each enjoined from acquiring any stock in, or assets of, any other milk distributor or more than one distributor, except after showing that the effect of such acquisition may not be substantially to lessen competition or to tend to create a monopoly. Certain defendants were ordered to eliminate from a certain: option agreement an option to purchase an undivided one-half interest in the business of a specified dairy company, One defendant was permitted to retain her status as creditor for certain beneficiaries under a loan agreement.

Department of Justice Enforcement and Procedure—Consent Decrees—Permissive Provision;—Milk Marketing Orders.—A consent decree entered against milk distributors provided that nothing contained in a provision of the decree shall be construed as forbidding the distributors from complying with, the provisions of milk marketing orders issued by the Production and Marketing Administration of the United States Department of Agriculture or any similar governmental agency, whether state or federal.

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Department of Justice Enforcement and Procedure—Consent Decrees—Contingent Provision.—A consent decree entered against milk distributors provided that the refusal of any distributor to sell milk or cream to vendors in accordance with the requirements of a provision of an agreement between milk dealers and a labor union shall not be deemed a violation of the decree in the interval between the date of the entry of the decree and (1) the termination or expiration of the agreement or (2) the entry of a final decree against the defendant union, whichever period shall be the shorter; The consent decree further provided that nothing in the decree shall require any distributor to take any action with respect to another provision of the above agreement in the interval of time specified above.

Department of Justice Enforcement and Procedure—Consent Decrees—Scope of Decree—Admissibility of Evidence in Future Action.—In an action in which a consent decree was entered against all of the defendants except one, the decree provided that in any future proceeding wherein the Government is a party, the entry of the decree is not intended to operate as a “cut-off date” for the purpose of determining the admissibility of evidence.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; William Kilgore, Jr.; Charles F. B. McAleer; Earl A. Jinkinson, Special Assistant to the Attorney General; and James E. Mann Trial Attorney.

For the defendants: Raymond Scallen, Loring M. Staples, Armin M. Johnson, and Faegre & Benson for Northland Milk and Ice Cream Company, Ohleen Dairy Co., Minneapolis Milk Dealers Association, Edwin S. Elwell, Edwin S. Elwell, Jr., Margaret Cook, A. H. Heller, Jr., L. H. Heller, B. B. Nelson, B. B. Nelson, Jr., J. E. Hogander, Monne Roberts, Arop M. Berg, and A. R. Wolff, John D. Nelson for Clover Leaf Creamery Company, Raymond H. Nelson, Theodore L. Nelson, and Hjalmer Newline. David Shearer for Superior Dairies, Inc. R. H. Fryberger for Ewald Brothers Sanitary Dairy. Thomas O. Kachelmacher for Franklin: Co-Operative Creamery, Association. Henry E. Halladay for Norris Creameries, Inc. All of Minneapolis, Minn.

Final Judgment

DENNIS F. DONOVAN, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on November 24, 1952, and the defendants having appeared and filed their several answers to said complaint denying the substantive allegations therein and any violation of law; and the plaintiff and said defendants, with the exception of the defendant Union, 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 party in respect to any such issue; and the Court having considered the matter and being duly advised;

Now, therefore, without the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent, as aforesaid, of all the parties hereto, is hereby

Ordered, adjudged and decreed, as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of all 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

[*Definitions*]

As used in this Final Judgment:

(A) “Person” shall mean an individual, partnership, firm, corporation, association, trustee, cooperative or any other legal entity;

- (B) "Association" shall mean defendant Minneapolis Milk Dealers Association, an unincorporated trade association with its principal office at St. Paul, Minnesota;
- (C) "Union" shall mean defendant Milk Drivers and Dairy Employees Union, Local No. 471, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L.;
- (D) "Distributor defendants" shall mean each and all of the defendants Northland Milk and Ice Cream Company; Norris Creameries, Incorporated; Ohleen Dairy Co.; Clover Leaf Creamery Company; Franklin Cooperative Creamery Association; Superior Dairies, Incorporated; Ewald Brothers Sanitary Dairy, a limited partnership under the laws of the State of Minnesota; Raymond G. Ewald and Dewey S. Ewald, general partners; and Arop M. Berg and A. R. Wolff, co-partners doing business as Purity Dairy Company;
- (E) "Distributor" shall mean any person engaged in the business of processing and bottling milk or cream and selling or distributing such milk or cream to consumers or other purchasers;
- (F) "Milk" shall mean cow's milk sold for Human consumption in fluid form as whole milk, or as milk drinks, such as chocolate milk, buttermilk and skimmed milk;
- (G) "Cream" shall mean fluid cream removed or separated from cow's milk and sold for human consumption in fluid form, as cream;
- (H) "Vendor" shall mean any person (other than a store, restaurant or hotel). engaged primarily in the business of purchasing milk or cream from a distributor and reselling such milk or cream to consumers' or other purchasers, including stores, restaurants and hotels;
- (I) "Minneapolis area" shall mean the territory lying within the corporate limits of the city of Minneapolis, Minnesota, and the adjacent suburbs named Columbia 'Heights, St. Louis Park, Morningside, Richfield, New Brighton, Edina and Robbinsdale, all in the State of Minnesota;
- (J) "Stores" shall mean grocery stores, whether chain or independently owned, delicatessens, so-called, milk stores which specialize in the sale of milk products, and like establishments which purchase milk or cream for resale to consumers for consumption off the premises.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to a defendant shall apply only to such defendant, its or his officers, agents, servants, employees and attorneys, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, a defendant and the respective officers, agents, servants, employees and attorneys thereof shall be deemed to be one person.

IV

[*Concerted Activities Prohibited*]

The distributor defendants and the defendant Association are jointly and severally enjoined and restrained from directly or indirectly entering into, adhering to maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program with any other person to:

- (A) Fix, establish or determine the price or other terms of sale for milk or cream sold to third persons;
- (B) Induce or coerce, or attempt to induce or coerce, any store, vendor or distributor not to sell milk or cream at any price set by said store, vendor or distributor;
- (C) Allocate or divide customers or sellers for the purchase or sale of milk or cream.

Provided, however, that nothing in this Section IV shall be construed as forbidding the distributor defendants from complying with the provisions of Milk Marketing Orders issued by the Production and Marketing

Administration of the United States Department of Agriculture or any similar governmental agency, whether state or federal.

V

[*Contracts*]

Each of the distributor defendants and the defendant Association are ordered and directed:

- (A) To eliminate from their contracts all “provisions, with the exception of the requirement of union membership, which restrict or curtail, directly or indirectly, any person from becoming a vendor, and said defendants are each enjoined and restrained from entering into any agreements or understandings having the effect of continuing or renewing any of the same or similar restrictions;
- (B) To eliminate from their contracts all references to the prices at which vendors buy or sell milk or cream in the Minneapolis area, and said defendants are each enjoined and restrained from entering into any agreements or understandings having the effect of continuing or renewing any of the same or similar restrictions;
- (C) To refrain from printing, writing or distributing any resale price lists to any store containing suggested or recommended out-of-store prices to be charged by any store for milk or cream sold in the Minneapolis area;
- (D) To refrain from compelling, inducing or requesting, individually or otherwise, any store not to advertise its out-of-store price for milk or cream;
- (E) To refrain from suggesting or recommending to any store the price such store should charge for milk or cream sold in the Minneapolis area.

VI

[*Trade Association Membership*]

Each of the defendants is jointly and severally enjoined and restrained from organizing or becoming a member of, or participating in any of the activities of, any trade association or similar organization knowing that the purpose or activities of said association or such organization are contrary to any of the provisions of this Final Judgment.

VII

[*Interlocking Directorates*]

Each of the individual defendants is enjoined and restrained from:

- (A) Holding any office in or acting as a director of, more than one distributor in the Minneapolis area;
- (B) After complying with Section VIII(A) hereof, holding any office in or acting as a director of any distributor in the Minneapolis area while owning or controlling any capital stock in any other distributor in such area.

Provided, however, that any of said individual defendants may hold office in or act as a director of two distributors having the relation of parent, and subsidiary, and that A. H. Heller, Jr., may continue as an officer and director of Minnesota Milk Company of St. Paul; Minnesota and defendant Northland Milk & Ice Cream Company,

VIII

[*Sale of Stock—Acquisitions*]

(A) The defendants Northland Milk & Ice Cream Company, Clover Leaf Creamery Company, Edwin S. Elwell, Edwin S. Elwell, Jr., A., H. Heller, Jr., L. H. Heller, B; B. Nelson, B. B. Nelson, Jr., Raymond H. Nelson, Theodore L. Nelson, J. E. Hogander, Monne Roberts and Hjalmer Newline are each ordered and directed within one year after the entry of this Final Judgment to dispose of any stock owned by such defendant, directly or indirectly, in more than one distributor in the Minneapolis area. Said stock shall be disposed of to persons other than

defendants named in this Section VIII or to persons not related by blood or marriage to or in any manner controlled by any such; defendant; provided, however, that defendant B. B. Nelson may sell his interest in Clover Leaf Creamery Company to defendants Raymond A. Nelson or Theodore L. Nelson, their wives or persons under their control. If at the end of one year from the date of the entry of this Final Judgment any defendant named in this Section has been unable, with due diligence, to comply with this order such defendant shall file with this Court a complete report stating the efforts which have been made to dispose of its or his stock holdings required to be divested. Such report should be filed on notice to the Attorney General, which notice shall include a copy of the report, and the Court shall thereupon grant such extension of time or enter such further orders as may be just in the premises;

(B) The defendants Northland Milk & Ice Cream Company and Clover Leaf Creamery Company are each enjoined and restrained from acquiring, directly or indirectly, any shares of stock in or assets of, or any other interest in, any other distributor in the Minneapolis area, except after showing to the satisfaction of this Court, upon reasonable notice to the Attorney General, that the effect of such acquisition may not be substantially to lessen competition or to tend to create a monopoly in the distribution or sale of milk or cream in the Minneapolis area;

(C) The defendants Edwin S. Elwell, Edwin S. Elwell, Jr., A. H. Heller, jr., L. H. Heller, B. B. Nelson, B. B. Nelson, Jr.; Raymond H. Nelson, Theodore L. Nelson, J. E. Hogander, Monne Roberts and Hjalmer Newline, are each enjoined and restrained from acquiring, directly or indirectly, any shares of stock in or assets of, or any other interest in, more than one distributor in the Minneapolis area, except after showing to the satisfaction of this Court, upon reasonable notice to the Attorney General, that the effect of such acquisition may not be substantially to lessen competition or to tend to create a monopoly in the distribution or sale of milk or cream in the Minneapolis area.

IX

[*Option to Purchase*]

The defendants A. R. Wolff, Arop M. Berg, and Margaret Cook are ordered and directed to eliminate from their option agreement, originally dated January 2, 1944 and extended at various times since said date, the defendant Margaret Cook's option to purchase an undivided one-half interest in the business of the Purity Dairy Company, and that the defendant Margaret Cook and each of the defendants named in this Section IX above are enjoined and restrained from claiming any rights under said option agreement and from entering into, directly or indirectly, any agreement having the same purpose or effect as the option agreement referred to above with the defendants A. R. Wolff and Arop M. Berg, either jointly or severally,

X

[*Creditor*]

The defendant Margaret Cook as agent or trustee for Ellen Jean Elwell, Leonard H. Heller, Jr., Mrs. Robert H. Harris, Bernard Nelson, Jr., Ebba Roberts and Florence Hogander, may retain her status as creditor for said beneficiaries under the loan agreement originally dated January 2, 1944 and extended at various times since that date between defendants A. R. Wolff, Arop M. Berg and Margaret Cook; or said beneficiaries may acquire the status of creditors under said loan agreement, as their interest may appear; provided that neither said Margaret Cook nor any of said beneficiaries may acquire any interest in defendant Purity Dairy Company other than as creditors provided further, however, that in the event defendant Purity shall be incorporated, the said beneficiaries other than Bernard Nelson, Jr., Ebba Roberts, and Florence Hogander may become stockholders in the company so formed and receive stock in exchange for their rights as creditors, providing their combined total holdings of common voting stock shall not exceed 33 1/3 per, cent of the outstanding voting stock of the company so formed.

XI

[*Notice of Judgment*]

The defendant Association is ordered and directed to furnish, to each of its present and future members a true copy of this Final Judgment and to obtain and keep on file receipts showing delivery of said copies.

XII

[*Contingent Provisions*]

(A) The refusal of any distributor to sell milk or cream to vendors, or so-called peddlers or independent milkmen, in accordance with the requirements of Section H of Article 5 of the *Articles of Agreement Between The Milk Dealers and The Milk Drivers, and Dairy Employees. Union Local 471*, dated May 1, 1955 shall not be deemed a violation of this Final Judgment in the interval between the date of entry hereof, and (1); the termination or expiration of such articles of agreement or (2) the entry of a Final Judgment against the defendant Union in this cause, whichever period shall, be the shorter;

(B) Nothing in this Final Judgment shall require any distributor to take any action with respect to Section L of Article 5 of the *Articles of Agreement Between The Milk Dealers and The Milk Drivers and Dairy Employees Union Local 471*, dated May 1, 1955 in the interval between the date of entry of this Final Judgment and (1) the termination or expiration of the aforesaid articles of agreement or (2) the entry of a Final Judgment against the defendant Union in this cause, whichever period shall be the shorter.

XIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall on 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 matters contained in this Final Judgment, and

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

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

XIV

[*Jurisdiction Retained*]

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

XV

[*Future Proceedings—Evidence*]

It is agreed that in any future proceedings wherein the plaintiff is a party, the entry of this Final Judgment is not intended to operate as a "cut-off date" for the purpose of determining the admissibility of evidence.

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MILK DRIVERS & DAIRY EMPLOYEES
UNION, LOCAL NO. 471, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN & HELPERS OF AMERICA,

Defendant.

CIVIL ACTION

No. 4361

[Entered Nov. 12, 1957 by Judge Edward
J. Devitt]

FINAL JUDGMENT

AS TO DEFENDANT MILK DRIVERS AND
DAIRY EMPLOYEES UNION, LOCAL NO. 471

Plaintiff, United States of America, having filed its complaint herein on November 24, 1952, and the defendants having appeared and filed their several answers, and the Court having entered on June 23, 1955 a Final Judgment as to all defendants except the defendant Union, the issues as to the defendant Union having been tried from February 13, 1957 to February 19, 1957, the Court having entered its opinion on August 30, 1957 and its findings of fact and conclusions of law on

1957, and it appearing to the Court that there is no just reason for delay in entering a Final Judgment, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I

The Court has jurisdiction of the subject matter hereof and of the plaintiff and the defendant Union. The defendant, Milk Drivers and Dairy Employees Union, Local No. 471, has combined and conspired with the defendants herein to unreasonably restrain the distribution and sale of milk and cream in the Minneapolis area in violation of 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" shall mean an individual, partnership, firm, corporation, association, trustee, cooperative, or any other legal entity;

(B) "Union" shall mean defendant Milk Drivers and Dairy Employees Union, Local No. 471, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L.;

(C) "Distributor" shall mean any person engaged in the business of processing and bottling milk or cream and selling or distributing such milk or cream to consumers or other purchasers;

(D) "Milk" shall mean cow's milk sold for human consumption in fluid form as whole milk, or as milk drinks, such as chocolate milk, buttermilk, and skimmed milk;

(E) "Cream" shall mean fluid cream removed or separated from cow's milk and sold for human consumption in fluid form as cream;

(F) "Vendor" shall mean any person (other than a store, restaurant or hotel) engaged primarily in the business of purchasing milk or cream from a distributor and reselling such milk or cream to consumers or other purchasers, including stores, restaurants, and hotels;

(G) "Minneapolis area" shall mean the territory lying within the corporate limits of the city of Minneapolis, Minnesota, and the adjacent suburbs named Columbia Heights, St. Louis Park, Morningside, Richfield, New Brighton, Edina, and Robbinsdale, all in the State of Minnesota;

(H) "Stores" shall mean grocery stores, whether chain or independently owned, delicatessens, so-called milk stores which specialize in the sale of milk products, and like establishments which purchase milk or cream for resale to consumers for consumption off the premises;

(I) "Labor dispute" shall mean any actual controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

III

The provisions of this Final Judgment applicable to the defendant Union shall also apply to its members, officers, agents, servants, employees, and attorneys, and to those persons in active concert or

participation with them who receive actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment shall prohibit the defendant Union from engaging in necessary activities in connection with a bona fide labor dispute or collective bargaining.

IV

The defendant Union is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or participating in any combination, conspiracy, contract, agreement, understanding, plan or program with any other person to:

(A) Fix, establish or determine the price or other terms of sale for milk or cream sold to third persons;

(B) Induce or coerce, or attempt to induce or coerce, any store, vendor or distributor from selling milk or cream at any price set by said store, vendor or distributor;

Provided, however, that nothing in this Section IV or Section V(B) shall be deemed to prevent the defendant Union from representing a vendor who is a member of the Union in negotiating the purchase price for milk or cream, on behalf of such vendor with a distributor in the Minneapolis area, if the vendor in writing requests the Union to represent him in such negotiations.

V

The defendant Union is ordered and directed:

(A) To eliminate from its contracts with any distributor all provisions, with the exception of the requirement of Union membership,

which restrict or curtail, directly or indirectly, any person from becoming a vendor, and the defendant Union is enjoined and restrained from entering into any agreement or understanding having the effect of continuing or renewing any of the same or similar restrictions;

(B) To eliminate from its contracts all references to the prices at which vendors buy or sell milk or cream in the Minneapolis area, and the defendant Union is enjoined and restrained from entering into any agreements or understandings having the effect of continuing or renewing any of the same or similar restrictions;

(C) To eliminate from its contracts Section L of Article 5 of the 1955-56 [Section T in the 1956-57] Union-distributor agreements and the defendant Union is enjoined and restrained from entering into any agreements or understandings having the effect of continuing or renewing any of the same or similar restrictions;

(D) To refrain from printing, writing or distributing any resale price lists to any store containing suggested or recommended out-of-store prices to be charged by any store for milk or cream sold in the Minneapolis area;

(E) To refrain from compelling, inducing or requesting, individually or otherwise, any store not to advertise its out-of-store price for milk or cream;

(F) To refrain from suggesting or recommending to any store the price such store should charge for milk or cream sold in the Minneapolis area.

VI

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to the defendant Union 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 matters contained in this Final Judgment, and

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

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

VII

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

VIII

The judgment is entered against the defendant Union for all costs to be taxed in this proceeding.

s/ EDWARD J. DEVIITT

United States District Judge

Dated: November 12, 1957

Appendix A-8

United States v. Morton Salt Co., No. 4-61 Civ. 162 (D. Minn. 1965)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MORTON SALT COMPANY,)
 INTERNATIONAL SALT COMPANY,)
 DIAMOND CRYSTAL SALT COMPANY, and)
 CAREY SALT COMPANY,)
)
 Defendants.)

CIVIL ACTION
NO. 4-61 Civ. 162
Filed: March 26, 1962

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 11, 1961, the defendant Carey Salt Company having appeared and filed its answer to the complaint, denying the substantive allegations thereof, and the plaintiff and the defendant Carey Salt Company by their respective attorneys having severally consented to the entry of this Final Judgment without adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by either party consenting hereto with respect to any such issue;

NOW, THEREFORE, before any testimony has been taken herein, without trial or adjudication of any issue of law or fact herein, and upon consent of the parties consenting hereto 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, and the complaint states a claim upon which relief may be granted against the defendant Carey Salt Company 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. The making and entry of this Final Judgment shall be without prejudice to the plaintiff seeking other, further and different relief against the remaining defendants in this action.

II

As used in this Final Judgment:

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

(B) "Rock salt" means a common salt (sodium chloride) occurring in solid form as a mineral, commonly called halite.

III

The provisions of this Final Judgment applicable to the defendant Carey Salt Company shall apply also to its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

The defendant Carey Salt Company is enjoined and restrained from entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any other person to:

(A) Eliminate or suppress competition in the distribution or sale of rock salt;

(B) Establish, maintain, stabilize or fix prices, pricing methods or any other terms or conditions for sales to any third person;

(C) Exchange information concerning prices, pricing methods, transportation charges or any other terms and conditions of sale at or upon which rock salt will be sold to any third person;

(D) Submit noncompetitive, collusive or rigged bids or quotations to any third person;

(E) Hinder, restrict or limit the right of any purchaser to purchase rock salt from any source; or

(F) Allocate or divide territories, markets or customers.

V

The defendant Carey Salt Company is enjoined and restrained from entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any seller of rock salt to:

(A) Bid or quote, refrain from bidding or quoting or communicate an intention to bid or quote on any rock salt to be sold to any third person; or

(B) Hinder, restrict, limit or prevent any person from selling rock salt to, or purchasing rock salt from, any third person.

VI

The defendant Carey Salt Company is enjoined and restrained from directly or indirectly:

(A) Urging or suggesting to any seller of rock salt the quotation or charging of any price or other term or condition of sale of rock salt;

(B) Communicating to or exchanging with any producer or distributor of rock salt any information relative to prices or transportation charges applicable to rock salt except in connection with bona fide purchase or sale negotiations or offers to sell;

(C) Disclosing to or exchanging with any seller of rock salt the intention to submit or not submit a bid or quotation, the fact that a bid or quotation has or has not been submitted or made, or the content or terms of any bid or quotation; or

(D) Selling rock salt to any reseller thereof on a commission basis.

VII

The defendant Carey Salt Company is ordered and directed for a period of three years after the date of entry of this Final Judgment, to submit a sworn statement in the form set forth in the Appendix hereto, with each bid for rock salt submitted to any governmental body, such sworn statement to be signed by a principal officer of said defendant and by the person actually responsible for the preparation of said bid; and a duplicate of each such sworn statement and of such bid, together with the work papers used in the preparation of such bid shall be kept in the files of the defendant for a period of three years from the date of execution of such bids.

VIII

(A) Nothing in this Final Judgment shall be deemed to prevent the defendant Carey Salt Company from individually or jointly with others presenting its views to appropriate regulatory agencies with respect to transportation charges for rock salt.

(B) The relief which the plaintiff obtains against any of the remaining defendants with respect to pricing methods, including freight equalization and zone-pricing formulae shall be incorporated into this judgment without further proceedings by either party to this Final Judgment.

IX

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice

to the defendant Carey Salt Company made to its principal office, be permitted, subject to any legally recognized privilege and with the right of said defendant to have counsel present:

(A) Reasonable access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any of the matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference, to interview officers and employees of said defendant, who may have counsel present, regarding such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the said defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment.

No information obtained by the means permitted in this Section 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 for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law. If any such information is divulged to a duly authorized representative of the Executive Branch, outside the Department of Justice, such information shall be given only after notice to defendant and on the condition that it will not be revealed to any person outside of such representative's Department or Agency except where required by regulation or statute or pursuant to Court process.

Jurisdiction is retained for the purpose of enabling either of the parties consenting 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, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and punishment of violations thereof.

Dated: March 26, 1962

Edward J. Devitt
United States District Judge

We hereby consent to the making and entry of the foregoing Final Judgment:

For the Plaintiff:

Assistant Attorney General

John W. Neville

Margaret H. Brass

Herbert F. Peters, Jr.

William D. Kilgore, Jr.

Jerome A. Hochberg

Attorneys, Department of Justice

For the Defendant Carey Salt Company:

Loring M. Staples
Faegre & Benson

William B. Swearer
Martindell, Carey, Hunter,
Dun & Brabets

A P P E N D I X

AFFIDAVIT

The undersigned hereby certify to their best knowledge and belief that:

(1) The bid to _____
(name of recipient of bid) dated _____
has not been prepared by _____
(name of defendant) in collusion with any other seller of
rock salt, and

(2) The prices, terms or conditions of said bid have
not been communicated by the undersigned nor by any employee
or agent of _____
(name of defendant), to any other seller of rock salt and
will not be communicated to any such seller prior to the
official opening of said bid,

in violation of the Final Judgment in Civil No. 4-61 Civ.162 entered
by the United States District Court for the District of Minnesota
on _____, 1962.

Dated: _____, 1962

Signature of person responsible
for the preparation of the bid

Signature of person supervising
the above person, where feasible

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL NO. 4-61 Civ. 162
-against-)	
)	
MORTON SALT COMPANY,)	
INTERNATIONAL SALT COMPANY,)	ENTERED: November 4, 1963
DIAMOND CRYSTAL SALT COMPANY,)	
and CAREY SALT COMPANY,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 11, 1961, the defendant International Salt Company having appeared and filed its answer to the complaint, denying the substantive allegations thereof, and the plaintiff and the defendant International Salt Company by their respective attorneys having severally consented to the entry of this Final Judgment without adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by either party consenting hereto with respect to any such issue;

NOW, THEREFORE, before any testimony has been taken herein, without trial or adjudication of any issue of law or fact herein, and upon the aforesaid consent of those parties 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, and the complaint states a claim upon which relief may be granted against the defendant International Salt Company 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. The making and entry of this Final Judgment shall be without prejudice to the plaintiff seeking other, further and different relief against the remaining defendants in this action.

II

As used in this Final Judgment:

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

(B) "Rock salt" means a common salt (sodium chloride) occurring in solid form as a mineral.

III

The provisions of this Final Judgment applicable to the defendant International Salt Company shall apply also to its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to transactions solely between such defendant and its officers, directors, agents, employees, parent company and subsidiaries, or any of them, when acting in such capacity.

IV

The defendant International Salt Company is enjoined and restrained from entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any other person to:

(A) Establish, maintain, stabilize or fix prices, pricing methods or any other terms or conditions for sales to any third person;

(B) Submit collusive or rigged bids or quotations to any third person.

V

The defendant International Salt Company is enjoined and restrained from entering into, adhering to, maintaining or claiming

any right under any contract, combination, agreement, understanding, plan or program with any seller of rock salt to:

(A) Bid or quote, refrain from bidding or quoting or communicate an intention to bid or quote on any rock salt to be sold to any third person; or

(B) Hinder, restrict, limit or prevent any person from selling rock salt to, or purchasing rock salt from, any third person.

VI

The defendant International Salt Company is enjoined and restrained from directly or indirectly:

(A) Urging or suggesting to any seller of rock salt the quotation or charging of any price or other term or condition of sale of rock salt;

(B) Communicating to or exchanging with any producer or distributor or rock salt any information relative to prices, pricing methods or transportation charges applicable to rock salt except in connection with bona fide purchase or sale negotiations or published offers to sell;

(C) Disclosing to or exchanging with any seller of rock salt the intention to submit or not submit a bid or quotation, the fact that a bid or quotation has or has not been submitted or made, or the content or terms of any bid or quotation; or

(D) Selling rock salt to any reseller thereof on a commission basis.

VII

Nothing in this Final Judgment shall be deemed to (a) prevent the defendant International Salt Company from individually or jointly with others presenting its views to appropriate regulatory agencies with respect to import tariffs or taxes upon or transportation charges for rock salt, or (b) prevent such defendant from exercising any rights it may have under the Act of Congress of 1937, commonly called the Miller-Tydings Act, as amended, or (c) require that such defendant act in violation of any law or regulation of the United States of America.

VIII

For the purpose of securing compliance with this Final Judgment, and for such purpose only, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant International Salt Company made to its principal office, be permitted, subject to any legally recognized privilege and with the right of said defendant to have counsel present:

(A) Reasonable access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any of the matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference, to interview officers and employees of said defendant, who may have counsel present, regarding such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the said defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment.

No information obtained by the means permitted in this Section 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 for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

IX

Jurisdiction is retained for the purpose of enabling either of the parties consenting 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, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and punishment of violations thereof.

Dated: November 4, 1963

GINNAR H. NORLBYE
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-61 Civ. 162

United States of America,

Plaintiff,

vs.

Morton Salt Company and
Diamond Crystal Salt Company,

Defendants.

AMENDED FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 11, 1961, the defendants Morton Salt Company and Diamond Crystal Salt Company having appeared and filed their respective answers to the complaint, and trial of this cause having been held in accordance with the stipulation assented to by attorneys for said parties signed by the Court and filed on November 4, 1963, and the Court having on August 6, 1964, issued a Memorandum Decision directing the submission of a decree in accordance therewith and the Court having filed its Findings of Fact and Conclusions of Law on November 24, 1964, and the Court having filed its order amending the Final Judgment on February 19, 1965,

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of said parties hereto. The complaint states a claim upon which relief may be granted against the defendants Morton Salt Company and Diamond Crystal Salt Company under Section 1 of the Act of Congress of

1.

July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended, and defendants Morton Salt Company and Diamond Crystal Salt Company have combined and conspired to fix prices of rock salt in restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act.

II

As used in this Amended Final Judgment:

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

(B) "Rock salt" means a common salt (sodium chloride) occurring in solid form as a mineral.

III

The provisions of this Amended Final Judgment applicable to the defendants Morton Salt Company and Diamond Crystal Salt Company shall also apply to their respective subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendants who shall have received actual notice of this Amended Final Judgment by personal service or otherwise, but shall not apply to transactions solely between a defendant and its officers, directors, agents, employees, parent company and subsidiaries, or any of them, when acting in such capacity.

IV

The defendants Morton Salt Company and Diamond Crystal Salt Company are each enjoined and restrained from entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any other person to:

(A) Establish, maintain, stabilize or fix prices, pricing methods or any other terms or conditions for any sale to any third person;

(B) Submit collusive or rigged bids or quotations to any third person.

V

The defendants Morton Salt Company and Diamond Crystal Salt Company are each enjoined and restrained from entering into, adhering to, maintaining or claiming any right under any contract, combination, agreement, understanding, plan or program with any seller of rock salt to:

(A) Bid or quote, refrain from bidding or quoting or communicate an intention to bid or quote on any rock salt to be sold to any third person; or

(B) Hinder, restrict, limit or prevent any person from selling rock salt to, or purchasing rock salt from, any third person.

VI

The defendants Morton Salt Company and Diamond Crystal Salt Company are each enjoined and restrained from directly or indirectly:

(A) Urging or suggesting to any seller of rock salt the quotation or charging of any price or other term or condition of sale for rock salt;

(B) Communicating to or exchanging with any person any information relative to prices, pricing methods or transportation charges applicable to rock salt, except with

(1) prospective purchasers in connection with bona fide purchases or sale negotiations or published offers to sell;

(2) carriers in connection with bona fide shipments;
and

(3) warehousemen in connection with bona fide storage arrangements.

(C) Disclosing to or exchanging with any seller of rock salt the intention to submit or not submit a bid or quotation, the fact that

a bid or quotation has or has not been submitted or made, or the content or terms of any bid or quotation.

(D) Selling rock salt to any reseller thereof on a commission basis.

VII

The defendants Morton Salt Company and Diamond Crystal Salt Company are each directed and ordered for a period of three years after the date of the entry of this Amended Final Judgment to prepare monthly a sworn statement in the form set forth in the Appendix hereto attached in which it shall list each bid for rock salt submitted by it to a governmental body during the next preceding calendar month. These sworn statements are to be submitted to the Department of Justice of the United States by such defendant on or before the last date of each calendar month during the three-year period commencing March 31, 1965. A duplicate of the sworn statement as to the bids listed thereon, together with the work papers used in the preparation of such bid shall be kept in the files of the defendant for a period of three years from the date of the execution of such bids.

VIII

Nothing in this Amended Final Judgment shall be deemed to (a) prevent the defendants Morton Salt Company and Diamond Crystal Salt Company from individually or jointly with others presenting their views to appropriate regulatory agencies with respect to import tariffs or taxes upon or transportation charges for rock salt, or (b) prevent such defendants from exercising any rights they may have under the Act of Congress of 1937, commonly called the Miller-Tydings Act, as amended, or (c) require that such defendants act in violation of any law or regulation of the United States of America, or (d) prevent such defendants, or any of their respective subsidiaries, successors, assigns, officers, directors, agents, or employees, from participating in any bona fide distributorship or brokerage dealings

or transactions not illegal under any of the antitrust laws of the United States.

IX

For the purpose of securing compliance with this Amended Final Judgment duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant Morton Salt Company or defendant Diamond Crystal Salt Company made to its principal office, be permitted, subject to any legally recognized privilege and with the right of said defendant to have counsel present:

(A) Reasonable access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any of the matters contained in this Amended Final Judgment; and

(B) Subject to the reasonable convenience of said defendant, and without restraint or interference, to interview officers and employees of said defendant, who may have counsel present, regarding such matters.

Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the said defendants shall submit such written reports with respect to any of the matters contained in this Amended Final Judgment as from time to time may be necessary for the purpose of enforcement of this Amended Final Judgment.

X

No information obtained by the means permitted in this Section 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 for the purpose of securing compliance with this Amended Final Judgment in which the United States is a party or as otherwise required by law.

XI

Jurisdiction is retained for the purpose of enabling any of the parties to this Amended 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 Amended Final Judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and punishment of violations thereof.

XII

The defendants Morton Salt Company and Diamond Crystal Salt Company are hereby ordered to pay all costs to be taxed in this case.

Exceptions to this judgment are reserved.

Dated this 19th day of February, 1965.

BY THE COURT:

/s/ GUNNAR H. NORDBYE
Judge

A P P E N D I X

AFFIDAVIT

The undersigned, a principal officer of _____
(name of defendant), being first duly sworn, certifies to his best
knowledge and belief that:

(1) Listed herein under Paragraph (2) hereof are all of the
bids for the sale of rock salt submitted by _____
(name of defendant) to any governmental body during _____
(month and year) and that none of the bids listed were prepared by
_____ (name of defendant) in collusion with any
other seller of rock salt.

(2) List of bids, the name of recipient, and the date submitted
during _____ (month and year):

(3) The prices, terms or conditions of said bids were not sub-
mitted or made known by _____ (name of defendant) or
by any employee or agent of _____ (name of defendant)
to any other seller of rock salt prior to the official opening of said
bids in violation of the Final Judgment in Court Action No. 4-61 Civil
162 entered by the United States District Court for the District of
Minnesota, as amended on February 19, 1965.

(Name of defendant)

By _____

Subscribed and sworn to before me this ____ day of _____,
196__.

Notary Public
(State and County)

Appendix A-9

United States v. Minneapolis-Honeywell Regulator Co., No. 4-62 Civ. 348 (D. Minn. 1964)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Civil No. 4-62 Civ. 348
)	
)	Entered: October 7, 1964
HONEYWELL INC.; JOHNSON SERVICE)	
COMPANY; and THE POWERS REGULATOR)	
COMPANY,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on November 29, 1962, and the plaintiff and each of the defendants, 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 this Final Judgment constituting evidence or an admission by any party hereto with respect to any such issue;

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

ORDERED, ADJUDGED AND DECREED as follows:

I

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendants 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" shall mean an individual, partnership, firm, association, corporation or other legal or business entity;

(B) "Automatic temperature control system" shall mean a system installed by or under the supervision of the manufacturer thereof, usually incorporating a thermostat, to control the heating, ventilating or air conditioning equipment in a building or structure in which such system is installed, and which system is generally of the pneumatic, electric or electronic type.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant and to each of its subsidiaries, successors and assigns and their respective officers, agents, servants and employees, and to all persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment each defendant and its subsidiaries, officers, agents, servants and employees shall be deemed to be one person. This Final Judgment shall not apply to sales of automatic temperature control systems outside the United States, its territories and possessions, except for sales of such systems by any defendant to, or for use in any building or structure of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the defendants is enjoined and restrained from directly or indirectly entering into or adhering to any contract, agreement, arrangement or understanding with any other manufacturer or seller of automatic temperature control systems to:

(A) Fix, maintain, adopt or adhere to prices or other terms or conditions for the sale of any automatic temperature control system to any third person;

(B) Submit collusive or rigged bids or quotations for the sale of any automatic temperature control system to any third person;

(C) Allocate or divide customers, territories or markets for the sale of automatic temperature control systems; or

(D) Communicate or exchange information concerning (i) an intention to bid or quote or not to bid or quote on the sale of any automatic temperature control system to any third person, (ii) cost estimates on which any such bid or quotation would be based, (iii) the bid position of any person or persons making any such bid or quotation or (iv) the price or other financial or credit terms and conditions at or upon which any automatic temperature control system is to be sold to any third person.

V

Each of the defendants is enjoined and restrained from communicating in any manner with any other defendant for the purpose or with the effect of transmitting to or securing from such other defendant information regarding (i) the amount of any bid or quotation intended to be submitted by any defendant for the sale of automatic temperature control system to any third person, (ii) the intention of any defendant to bid or quote or not to bid on any such sale, (iii) any cost estimates on which any bid or quotation by any defendant on any such sale would be based or (iv) a desire by any defendant to meet or discuss with any other defendant for the purpose of attempting to arrive at any agreement with respect to a proposed sale of any automatic temperature control system to any third person or with respect to the amount of any bid or quotation therefor or the specifications therefor.

VI

Each of the defendants is ordered and directed, for a period of five years from the date of entry of this Final Judgment, in connection with any sealed bid submitted by it to any Federal, State or local

government for the sale of any automatic temperature control system for use in any building or structure of any such government, to submit with such bid a written statement relating to such sealed bid in substantially the form set forth in the Appendix hereto or containing the substance thereof.

VII

Nothing contained in this Final Judgment shall be deemed to prohibit any of the defendants, where requested in writing by the purchaser, from formulating, submitting, contracting for or performing, in combination with any other manufacturer or seller of automatic temperature control systems, a bona fide joint bid or contract which is denominated as such relating to the sale of an automatic temperature control system to, or for use in any building or structure of, the plaintiff or any instrumentality or agency thereof.

VIII

Each of the defendants is ordered and directed, within 60 days from the date of entry of this Final Judgment, to furnish a copy of this Final Judgment to each of its officers and to each of its area, regional and branch managers and assistant managers of sales of automatic temperature control systems in the United States, its territories and possessions and to retain in its files for a period of five years from the date of entry of this Final Judgment a written statement signed within said 60 days by each such employee setting forth the date he received a copy of this Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on 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 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 or employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request, such defendant 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 necessary and requested for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone 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 is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Neither the making nor the entry of this Final Judgment shall preclude the Department of Justice, in any legal proceedings to which the United States is a party for the prosecution of any defendant for a violation of the antitrust laws (as defined in Section 1 of the Act of Congress dated October 15, 1914, commonly known as the Clayton Act, as amended) alleged to have occurred after the entry of this Final Judgment, from adducing evidence as to activities of the defendants which occurred prior to such entry, to the extent that such evidence is material, relevant and otherwise admissible in such proceedings. Nothing contained

in this Final Judgment shall preclude the Department of Justice, in any legal proceedings to which the United States is a party against any defendant under Sections 3490 and 5438 of the Revised Statutes (31 U.S. Code Sec. 231-235), from adducing evidence as to activities of the defendants alleged in the Complaint herein, to the extent that such evidence is material, relevant and otherwise admissible in such proceedings. This Final Judgment shall not constitute res judicata nor collateral estoppel to any extent in any such proceeding.

XI

Jurisdiction is retained by this Court 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, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: October 7, 1964

BY THE COURT:

/s/ Gunnar H. Nordbve
United States District Judge

APPENDIX

The undersigned hereby certifies that, to his best knowledge and belief, the annexed bid is not the result of any agreement, arrangement or understanding between the bidder and any other manufacturer or seller of automatic temperature control systems and that the prices, terms or conditions thereof have not been communicated by or on behalf of the bidder to any such person and will not be communicated to any such person prior to the official opening of said bid.

Dated: _____

[Signature of person preparing the bid]

Appendix A-10

United States v. Nw. Nat'l Bank of Minneapolis, No. 4-63 Civ. 52 (D. Minn. 1964)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Northwestern National Bank of Minneapolis; First National Bank of Minneapolis; Midland National Bank of Minneapolis; Marquette National Bank of Minneapolis; First National Bank of St. Paul; Northwestern National Bank of St. Paul; The American National Bank of Saint Paul; The Midway National Bank of St. Paul; Stock Yards National Bank of South St. Paul; Northern City National Bank of Duluth; First American National Bank of Duluth., U.S. District Court, D. Minnesota, 1964 Trade Cases ¶71,020, (Mar. 24, 1964)

[Click to open document in a browser](#)

United States v. Northwestern National Bank of Minneapolis; First National Bank of Minneapolis; Midland National Bank of Minneapolis; Marquette National Bank of Minneapolis; First National Bank of St. Paul; Northwestern National Bank of St. Paul; The American National Bank of Saint Paul; The Midway National Bank of St. Paul; Stock Yards National Bank of South St. Paul; Northern City National Bank of Duluth; First American National Bank of Duluth.

1964 Trade Cases ¶71,020. U.S. District Court, D. Minnesota, Fourth Division. Civil No. 4–63 Civ. 52. Entered March 24, 1964. Case No. 1737 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Bank Service Charges and Interest Rates—Consent Judgment.—Banks were prohibited under the terms of a consent judgment from agreeing to fix the rate of interest on loans, from restricting the solicitation of business by any correspondent bank, or from preventing the absorption of exchange charges or losses on securities for any third person.

For the Plaintiff: William H. Orrick, Jr., Assistant Attorney General, W. D. Kilgore, Jr., Donald F. Melchior, Samuel Flatow, John M. Toohey, and Charles A. Degnan, Attorneys, Department of Justice.

For the Defendants: Covington & Burling, Washington 5, D. C., by Hamilton Carothers, for Northwestern National Bank of Minneapolis, Midland National Bank of Minneapolis, Northwestern National Bank of St. Paul, Stock Yards National Bank of South St. Paul, First American National Bank of Duluth; Faegre & Benson, Minneapolis, Minnesota, by Loring M. Staples, for Northwestern National Bank of Minneapolis; Dorsey, Owen, Marquart, Windhorst & Wes, Minneapolis, Minnesota, by John G. Dorsey, First National Bank of Minneapolis; Ueland & Sundheim, Minneapolis, Minnesota, by Rolf Ueland, for Midland National Bank of Minneapolis; Levitt, Palmer & Bearmon, Minneapolis, Minnesota, by Matthew J. Levitt, for The Marquette National Bank of Minneapolis; Briggs and Morgan, Saint Paul, Minnesota, by J. Neil Morton, for The First National Bank of Saint Paul; Doherty, Rumble & Butler, Saint Paul, Minnesota, by Richard J. Leonard, for Northwestern National Bank of St. Paul; Kelly, Segell & Fallon, Saint Paul, Minnesota, by Fallon Kelly, for The American National Bank of Saint Paul; Murnane, Murnane, Battis and De Lambert, Saint Paul, Minnesota, by Charles R. Murnane, for The Midway National Bank of St. Paul; Grannis & Grannis, South Saint Paul, Minnesota, by Vance B. Grannis, for Stock Yards National Bank of South St. Paul; Sullivan, McMillan, Hanft & Hastings, Duluth, Minnesota, by William P. O'Brien, for Northern City National Bank of Duluth; Palmer, Hood, Crassweller & McCarthy, Duluth, Minnesota; by Ray G. Palmer, for First American National Bank of Duluth.

Final Judgment

DEVITT, Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on February 8, 1963, and the defendants, by their respective attorneys, having severally consented to the entry of this Final

Judgment without admission by any party with respect to, or trial or adjudication of, any issue of fact or law herein, and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony and upon consent of the parties hereto, it is hereby Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants 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

[*Definitions*]

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, firm, corporation, association, trustee or other business or legal entity other than any charitable or eleemosynary institution;

(B) "Exchange charges" shall mean the pecuniary charges made by many State (nonpar) banks for paying checks drawn on them when such checks are presented for payment by other banks and payment is made by remittance to the presenting banks.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply also to its successors, assigns, officers, directors, agents and employees, and to any person owning or controlling a majority of the stock of such defendant, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment only, transactions or communications solely between a registered bank holding company under the Bank Holding Company Act of 1956, or any servicing subsidiary of such bank holding company, and subsidiaries of such bank holding company recognized as such under such Act, shall be deemed to be transactions and communications not prohibited by this Final Judgment; provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such past or future transactions or communications.

IV

[*Prohibited Practices*]

Each consenting defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination, agreement, undertaking, by-law, plan or program with another Commercial Bank:

(A) To limit, restrict or forego the solicitation of business relations, including group insurance, with any correspondent bank;

(B) To furnish or refrain from furnishing bank drafts, stationery, any other bank supplies or other gifts to any third person;

(C) To limit, restrict or prevent the absorption of any exchange charges for any third person;

(D) To limit, restrict or prevent the absorption of any loss on any securities for any third person;

(E) Except where the defendant and such other Commercial Bank are actual parties to the negotiations for or the loan transactions resulting therefrom, to fix, determine, maintain, establish, stabilize or make uniform:

- (1) The rate of interest, terms or conditions of any loan to any officer, director or stockholder of any bank which by reason of such loan continues to be or becomes a correspondent bank;
- (2) The rate of interest, terms or conditions on any livestock loan made by any third bank;
- (3) The rate or amounts of rebate, kickback or commission paid to any third bank which originates or services any livestock loan made by any third bank; or
- (4) The rate of interest, terms or conditions on any loan by any bank;

provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such transactions or negotiations not prohibited by this subsection (E).

V

[*Exchange of Information*]

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

- (A) Communicating to or exchanging with any bank (except any Federal Reserve Bank, any Federal lending agency or any bank when acting in a fiduciary capacity) clearing house, bank holding company or other organization of banks, any information as to transactions prohibited by subsection (E) of Section IV, except (1) with or after the release of such information to the public generally or pursuant to court process, or (2) as necessary to provide data processing services, including services contemplated by 12 U. S. C. §§ 1861–65, but if performed by a defendant, such defendant shall not use any of the data so obtained from another bank in any of its other banking operations;
- (B) Continuing to be a member of or participating in the activities of any association or other organization, formal or informal, with knowledge that any of the official activities of such association or organization are being carried on in a manner which, if the association or organization were a consenting defendant herein, would violate any of the provisions of this Final Judgment.

VI

[*Permissive Provisions*]

Nothing in this Final Judgment shall be deemed to prohibit any defendant from seeking to procure the enactment, issuance, repeal, amendment or interpretation of any Federal or State law or regulation applicable to banks; or from complying with or doing anything authorized by any duly promulgated rule or regulation of any Federal agency or any Federal law or statute now or hereafter in force.

VII

[*Inspection and Compliance*]

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, subject to any legally recognized privilege:

- (A) Access during the office hours of said 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 and employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

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 provision thereof, for the enforcement of compliance therewith, and for punishment of violation thereof.

Appendix A-11

United States v. The First Nat'l Bank of Saint Paul, No. 3-63 Civ. 37 (D. Minn. 1964)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The First National Bank of Saint Paul; First Grand Avenue State Bank of Saint Paul; First Security State Bank of Saint Paul; First Merchants State Bank of Saint Paul; First State Bank of Saint Paul; First Bank Stock Corporation; Northwestern National Bank of St. Paul; and Commercial State Bank in St. Paul., U.S. District Court, D. Minnesota, 1964 Trade Cases ¶71,021, (Mar. 24, 1964)

[Click to open document in a browser](#)

United States v. The First National Bank of Saint Paul; First Grand Avenue State Bank of Saint Paul; First Security State Bank of Saint Paul; First Merchants State Bank of Saint Paul; First State Bank of Saint Paul; First Bank Stock Corporation; Northwestern National Bank of St. Paul; and Commercial State Bank in St. Paul.

1964 Trade Cases ¶71,021. U.S. District Court, D. Minnesota, Third Division. Civil No. 3–63 Civ. 37. Entered March 24, 1964. Case No. 1738 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Bank Service Charges and Interest Rates—Consent Judgment.— Banks were prohibited under the terms of a consent judgment from fixing uniform service charges or exchanging information as to costs of service charges.

For the Plaintiff: William H. Orrick, Jr., Assistant Attorney General, W. D. Kilgore, Jr., Donald F. Melchior, Samuel Flatow, John M. Toohey, and Charles A. Degnan, Attorneys, Department of Justice.

For the Defendants: Briggs & Morgan, St. Paul, Minnesota, by J. Neil Morton, for The First National Bank of Saint Paul, First Grand Avenue State Bank of Saint Paul, First Security State Bank of Saint Paul, First Merchants State Bank of Saint Paul, and First State Bank of Saint Paul; Dorsey, Owen, Marquart, Windhorst & West, Minneapolis, Minnesota, by John G. Dorsey, for First Bank Stock Corporation; Covington & Burling, Washington, D. C., by Hamilton Carothers, for Northwestern National Bank of St. Paul; Doherty, Rumble & Butler, St Paul, Minnesota, by R. J. Leonard, for Northwestern National Bank of St. Paul; Bowen, Bowen, Preus, Farrell & Adams, Minneapolis, Minnesota, by Robert E. Bowen, for Commercial State Bank in St. Paul; Levin & Levin, St. Paul, Minnesota, by Albert D. Levin, for Commercial State Bank in St. Paul.

Final Judgment

DEVITT, Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on February 11, 1963, and the defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without admission by any party with respect to, or trial or adjudication of, any issue of fact or law herein, and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants 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

[*Definitions*]

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, trustee or any other business or local entity other than any charitable or eleemosynary institution;

(B) "Service charge" shall mean the fees, and charges of a commercial bank asserted against the checking account of any customer.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply also to its successors, assigns, officers, directors, agents and employees, to any person owning or controlling a majority of the stock of such defendant, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment only, transaction or communications solely between a registered bank holding company under the Bank Holding Company Act of 1956, or any servicing subsidiary of such bank holding company, and subsidiaries of such bank holding company recognized as such under such Act, shall be deemed to be transactions and communications not prohibited by this Final Judgment; provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such past or future transactions, or communications.

IV

[*Prohibited Practices*]

(A) The consenting defendants are each enjoined and restrained from entering into, adhering to, participation in, maintaining or furthering any contract, combination, agreement, undertaking, by-law, plan or program with each other or any other commercial bank to eliminate, suppress or restrict competition for the account of any depositor with respect to any service charges.

(B) Without limitation to subsection (A) above, the consenting defendants are each enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination agreement, undertaking, by-law, plan or program with each other or any other commercial bank:

- (1) To fix, determine, maintain, establish, stabilize or make uniform any service charge for any other person;
- (2) To exchange underlying cost or other underlying data relating to any service charge to be levied against any other person, except as permitted under Section V(A) below.

V

[*Exchange of Information, Record-Keeping*]

The consenting defendants are each enjoined and restrained from directly or indirectly:

(A) Communicating to or exchanging with any bank (except any Federal Reserve Bank, any Federal lending agency or any bank when acting in a fiduciary capacity) clearing house, bank holding company or other organization of banks, any information as to service charges, except (1) with or after the release of such service charges to the public generally or pursuant to court process, or (2) as necessary to provide data processing services, including services contemplated by 12 U. S. C. §§ 1861–65, but if performed by a defendant, such defendant shall not use any of the data so obtained from another bank in any of its other banking operations;

(B) Continuing to be a member of or participating in activities of any clearing house, association or other organization with knowledge that any of the official activities of such clearing house, association or other

organization are being carried on in a manner which, if the clearing house, association or other organization were a consenting defendant therein, would violate any provision of this Final Judgment;

(C) Maintaining or utilizing, after ninety (90) days from the date of entry of this Final Judgment, any schedule of service charges which is not independently arrived at by each such defendant on the basis of its individual cost figures and individual judgment as to profits and competitive factors;

(D) Refraining from maintaining for a period of five (5) years from the date of preparation the memoranda, work sheets and other underlying documents used by the defendant in determining what shall be the service charges of the defendant.

VI

[*Permissive Provisions*]

Nothing in this Final Judgment shall be deemed to prohibit any defendant from (a) seeking to procure the enactment, issuance, repeal, amendment or interpretation of any Federal or State law or regulation applicable to banks; or (b) complying with or doing anything authorized by any duly promulgated rule or regulation of any Federal agency or any Federal law or statute now or hereafter in force.

VII

[*Inspection and Compliance*]

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, subject to any legally recognized privilege:

(A) Access during the office hours of said 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 and employees of such defendant, who may have counsel present, regarding any such matters.

Upon written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

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 provision thereof, for the enforcement of compliance therewith, and for punishment of violation thereof.

Appendix A-12

United States v. The Duluth Clearing House Ass'n, No. 5-63 Civ. 4 (D. Minn. 1964)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Duluth Clearing House Association; First American National Bank of Duluth; Northern City National Bank of Duluth; Northwestern Bank of Commerce; and Duluth National Bank., U.S. District Court, D. Minnesota, 1964 Trade Cases ¶71,022, (Mar. 24, 1964)

[Click to open document in a browser](#)

United States v. The Duluth Clearing House Association; First American National Bank of Duluth; Northern City National Bank of Duluth; Northwestern Bank of Commerce; and Duluth National Bank.

1964 Trade Cases ¶71,022. U.S. District Court, D. Minnesota, Fifth Division. Civil No. 5-63 Civ. 4. Entered March 24, 1964. Case No. 1739 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Bank Loans and Interest Rates—Consent Judgment.—Banks and a bank clearing house were prohibited under the terms of a consent judgment from fixing the interest rate paid to depositors, the terms or duration of installment loans, or service charges or to exchange information relating to them.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, William D. Kilgore, Jr., Donald F. Melchior, Samuel Flatow, John M. Toohey, Charles A. Degnan, Attorneys, Department of Justice.

For the defendants: Palmer, Hood, Crassweller & McCarthy, Duluth, Minnesota, by Ray G. Palmer, for The Duluth Clearing House Association and First American National Bank of Duluth; Covington & Burling, Washington, D. C., by Hamilton Carothers, for First American National Bank of Duluth; Sullivan, McMillan, Hanft, & Hastings, Duluth, Minnesota, by William P. O'Brien, for Northern City National Bank of Duluth and Duluth National Bank; and Fryberger, Fryberger & Smith, Duluth, Minnesota, by H. B. Fryberger, for Northwestern Bank of Commerce.

Final Judgment

DEVITT, Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on February 11, 1963, and the defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without admission by any party with respect to, or trial or adjudication of, any issue of fact or law herein, and the Court having considered the matter and being duly advised,

Now, Therefore, before the taking of any testimony and upon consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I.

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants 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.

[*Definition*]

As used in this Final Judgment:

(A) "Duluth Clearing House" shall mean the defendant The Duluth Clearing House Association;

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

(C) "Service charge" shall mean the fees and charges of a commercial bank asserted against the checking account of any customer.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to its successors, assigns, officers, directors, agents, employees to any person owning or controlling a majority of the stock of such defendant, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment only, transactions or communications

(a) solely between a registered bank holding company under the Bank Holding Company Act of 1956, or any servicing subsidiary of such bank holding company, and subsidiaries of such bank holding company recognized as such under such Act; and

(b) solely between any person and any bank the majority of whose shares of stock are owned or otherwise controlled by such person

shall be deemed to be transactions and communications not prohibited by this Final Judgment; provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such past or future transactions or communications.

IV.

[*Prohibited Practices*]

(A) The consenting defendants are each enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination, agreement, understanding, by-law, plan or program with each other or any other commercial bank to eliminate, suppress or restrict competition in interest rates paid on deposits or installment loans on automobiles, or in service charges.

(B) Without limitation to subsection (A) above, the consenting defendants are each enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination, agreement, understanding, by-law, plan or program with any Commercial Bank or savings and loan or building and loan association:

(1) To fix, determine, maintain, establish, stabilize or make uniform any

(a) rate of interest on deposits made by any other person;

(b) rate of interest on or duration or other terms of any installment loans on automobiles, or mortgages, except where the defendant and such other commercial bank or savings and loan or building and loan association are actual parties to the negotiations for or the loan transactions resulting therefrom;

(c) service charges for any other person;

(2) To limit, restrict or prevent the advertising of interest or loan rates, service charges or other services rendered bank customers, or the media to be used for such advertising.

V.

[*Exchange of Information*]

The consenting defendants are enjoined and restrained from directly or indirectly:

(A) Communicating to or exchanging with any bank (except any Federal Reserve Bank, any Federal lending agency or any bank when acting in a fiduciary capacity), clearing house or other organization of banks any information as to (1) any service charges for any other person; (2) rate of interest on deposits made by any other person; or (3) transactions prohibited by subsection (B)(l)(b) of Section IV, except (1) with or after the release of such information to the public generally or pursuant to court process, or (2) as necessary to provide data processing services, including services contemplated by 12 U. S. C. §§ 1861–65, but if performed by a defendant, such defendant shall not use any of the data so obtained from another bank in any of its other banking operations;

(B) Continuing to be a member of or participating in the activities of any association, clearing house or other organization with knowledge that any of the official activities of such association, clearing house or other organization are being carried on in a manner which, if the association, clearing house or other organization were a consenting defendant herein, would violate any of the provisions of Sections IV or V herein;

(C) Maintaining or utilizing, after ninety (90) days from the date of entry of this Final Judgment, any schedule of service charges, rates of interest on deposits, or rates of interest on or duration of new loans made after said ninety (90) days and covered by Section IV above, which are not independently arrived at by each such defendant on the basis of its individual cost figures and individual judgment as to profits and competitive factors;

(D) Refraining from maintaining for a period of five (5) years from the date of preparation the memoranda, work sheets and other underlying documents used by the defendant in determining what shall be the said schedules used by the defendant.

VI.

[*Clearing House Activities*]

(A) Defendant Duluth Clearing House is enjoined from engaging in any activity except to effect the daily exchanges between active and participating members and the payment of the balances resulting from such exchanges except for activities relating to civic, charitable, educational or eleemosynary promotions.

(B) Defendant Duluth Clearing House shall serve upon each future active and participating member a copy of this Final Judgment and maintain a record of such service.

VII.

[*Permissive Provisions*]

Nothing in this Final Judgment shall be deemed to prohibit any defendant from (a) seeking to procure the enactment, issuance, repeal, amendment or interpretation of any Federal or State law or regulation applicable to banks, or (b) complying with or doing anything authorized by any duly promulgated rule or regulation of any Federal agency or any Federal law or statute now or hereafter in force.

VIII.

[*Inspection and Compliance*]

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, subject to any legally recognized privilege:

(A) Access during the office hours of said 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 and employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VIII shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX.

[*Jurisdiction Retained*]

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 provision thereof, for the enforcement of compliance therewith, and for punishment of violation thereof.

Appendix A-13

United States v. Otter Tail Power Co., No. 6-69-139 (D. Minn. 1971)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Otter Tail Power Co., U.S. District Court, D. Minnesota, 1972 Trade Cases ¶73,791, (Nov. 10, 1971)

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United States v. Otter Tail Power Co.

1972 Trade Cases ¶73,791. U.S. District Court, D. Minnesota, Sixth Division. Civil Action No. 6-69-139. Dated November 10, 1971. Case No. 2065, Antitrust Division, Department of Justice.

Sherman Act

Monopoly—Electric Power—Refusal to Deal—Harassment—Allocation of Markets and Customers.—A supplier of electric power, found to have attempted to monopolize and to have monopolized the retail distribution of electric power in cities and towns located in its service area, was prohibited from: (1) refusing to sell electric power at wholesale to municipalities; (2) refusing to wheel (transmit) electric power over its lines from other sources of supply to municipalities; (3) instituting litigation to frustrate the establishment of municipal electric power systems; (4) entering or enforcing contracts prohibiting the wheeling of power to municipalities; (5) allocating markets, territories or customers. Rates would be compensatory and approvable by the FPC.

Amended judgment in [1971 Trade Cases ¶ 73,692](#).

For plaintiff: Robert G. Renner, Minneapolis, Minn., Kenneth C. Anderson, Keith I. Clearwaters, Herbert D. Miller, Jr., and William L. Jaeger, Washington, D. C. **For defendant:** Cyrus A. Field, of Field, Arvesen, Donoho & Lundeen, Fergus Falls, Minn.

Amended Judgment

DEVITT, D. J.: This case having come on to be heard, trial having been had and the Court having considered the evidence and briefs, and having issued a Memorandum and Order dated September 9, 1971, and the Court having issued an Order Amending the Judgment as herein provided, it is hereby

Ordered, Adjudged, and Decreed that:

I.

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of the action and the parties hereto under Section 4 of the Act of Congress of July 2, 1890, as amended, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" (15 U. S. C. Sec. 4), commonly known as the Sherman Act.

II.

[*Monopoly*]

Defendant has attempted to monopolize and has monopolized interstate trade and commerce in the retail distribution of electric power in cities and towns located in its service area, in violation of [Section 2 of the Sherman Act](#).

III.

[*Applicability*]

The provisions of this Judgment applicable to the Defendant shall also apply to each of its officers, directors, agents and employees and to each of its subsidiaries, successors and assigns, and all persons, firms and

corporations acting in its behalf or under its direction and control, and to all other persons in active concert or participation with any of them who receive actual notice of this Judgment by personal service or otherwise.

IV.

[*Supply and Establishment of Power Systems*]

Defendant is enjoined and restrained from:

- (A) Refusing to sell electric power at wholesale to existing or proposed municipal electric power systems in cities and towns located in any area serviced by Defendant;
- (B) Refusing to wheel (transmit) electric power over its transmission lines from other electric power suppliers to existing or proposed municipal electric power systems in cities and towns located in any area serviced by Defendant;
- (C) Instituting, supporting or engaging in litigation, directly or indirectly, against cities and towns, and officials thereof, which have voted to establish municipal electric power systems, for the purpose of delaying, preventing, or interfering with establishment of a municipal electric power system;
- (D) Entering into, enforcing or claiming any rights under any contract, agreement or understanding which prohibits the use of Otter Tail's transmission lines to wheel (transmit) electric power from other electric power suppliers to existing or proposed municipal electric power systems;
- (E) Entering into, enforcing, or claiming any rights under any contract, agreement or understanding which limits, allocates, restricts, divides or assigns the customers to whom, or the markets or territories in which, defendant or any other electric power supplier may sell electric power.

V.

[*Rates*]

The Defendant shall not be compelled by the Judgment in this case to furnish wholesale electric service or wheeling service to a municipality except at rates which are compensatory and under terms and conditions which are filed with and subject to approval by the Federal Power Commission.

VI.

[*Inspection and Compliance*]

For the purpose of determining or securing compliance with this Judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division given to defendant at its principal office, be permitted, subject to any legally recognized privilege:

- (A) Access during the office hours of defendant to all contracts, agreements, correspondence, memoranda, and other business records and documents in the possession or control of defendant relating to any of the matters contained in this Judgment; and
- (B) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview the officers and employees of defendant, who may have counsel present, regarding any such matters.

Upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit written reports relating to any of the matters contained in this Judgment as may be requested.

No information obtained by the means provided in this Section VI shall be divulged by any representatives 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 is a party for the purpose of securing compliance with this Judgment, or as otherwise required by law.

VII.

[Jurisdiction Retained]

Jurisdiction is retained for the purpose of enabling any of the parties to this 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 Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Otter Tail Power Co., U.S. District Court, D. Minnesota, 1978-1 Trade Cases ¶61,854, (Jan. 9, 1978)

[Click to open document in a browser](#)

United States v. Otter Tail Power Co.

1978-1 Trade Cases ¶61,854. U.S. District Court, D. Minnesota, Sixth Division, Civil Action No. 6-69-139, Dated January 9, 1978.

Case No. 2065, Antitrust Division, Department of Justice.

Sherman Act

Department of Justice Enforcement: Injunctive Relief: Ban on Institution of Litigation: Permission to Prosecute Suit.— A supplier of electric power that was barred by a Sherman Act judgment from instituting litigation to frustrate the establishment of municipal electric power systems (1972 TRADE CASES ¶73,791) was permitted (1) to prosecute an action to determine whether it was entitled to compensation for its property and service rights in a city establishing a municipal electric power system and whether the city had proceeded legally in seeking to establish the system; and (2) to appeal from a decision of the South Dakota Public Utilities Commission involving a dispute between the city, the state of South Dakota, the public utilities commission and the electric power company regarding the construction and application of statutory gas and electric utilities regulation.

For plaintiff: J. Earl Cudd, U. S. Atty., Minneapolis, Minn., Kenneth C. Anderson, Keith I. Clearwaters, Herbert D. Miller, Jr., and William L. Jaeger, Dept. of Justice, Washington, D. C. **For defendant:** Cyrus A. Field, of Field, Arvesen, Donoho & Lundeen, Fergus Falls, Minn.

Order

DEVITT, D. J.: The above-entitled matter came on for hearing before the Honorable Edward J. Devitt, District Judge, in the Court Room of the Federal Courthouse in the City of St. Paul, Minnesota, on January 9, 1978, upon the Motion of the defendant. Mark G. English, of the firm of Arvesen, Donoho, Lundeen, Hoff & Svingen, appeared on behalf of the defendant. Plaintiff informed the Court through Stephen G. Palmer of the office of the United States Attorney for Minnesota, that plaintiff had no objection to the Motion.

Subject to the further Order of the Court, upon Motion by either party, it is hereby ordered that Otter Tail be and hereby is authorized and permitted (1) to prosecute an action for the purpose of determining whether under state and federal law Otter Tail is entitled to compensation for its property and service rights in the City of White when a municipal electric system is established, and for the purpose of protecting and securing such compensation, and to determine whether the City had proceeded properly and according to law in seeking to establish a municipal electric system, and (2) to appeal from the Decision and Order on Rehearing, dated December 14, 1977, of the Public Utilities Commission of the State of South Dakota, and to participate in the resolution of the dispute between the City of White, South Dakota, the South Dakota Public Utilities Commission and Otter Tail involving the construction and application of Chapter 283, South Dakota Session Laws 1975 (SDCL Chapter 49-34A).

Appendix A-14

United States v. N. Natural Gas Co., No. 5-70-20 (D. Minn. 1970)

II

As used in this Final Judgment:

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

(B) "Defendant" means defendant Northern Natural Gas Company and any division or subsidiary thereof;

(C) "Taconite region" means that area in northern Minnesota and the upper peninsula of Michigan wherein certain companies are engaged in the mining of low grade iron ores and the conversion of such ores into iron pellets, utilizing in most instances natural gas in the pelletizing process and as a source of fuel;

(D) "Industrial customer" means any company which purchases natural gas directly from defendant for use in its low grade iron ore mining and conversion operations.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents, and employees and to each of its subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

With respect to direct sales of natural gas to industrial customers, defendant is enjoined and restrained from directly or indirectly entering into, renewing, or enforcing any contractual provision, agreement, understanding, plan or program with any such industrial customer pursuant to which defendant has or will have the prior right to sell

or to contract to sell to such customer any additional volumes of natural gas in excess of the maximum daily contract demand specified in any contract existing between defendant and such industrial customer.

V

The defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Terminate and cancel any provisions or terms of any contract, agreement, or understanding with respect to the direct sale of natural gas to any industrial customer in the Taconite region of the United States that are contrary to or inconsistent with the provisions of this Final Judgment;

(B) Send to the Department of Justice copies of each such contract, agreement, or understanding as amended or modified to conform to the provisions of this Final Judgment; and

(C) Send to each of its industrial customers a copy of this Final Judgment and, to each of its industrial customers outside the Taconite region a notice, with copy to plaintiff, that as of the date thereof defendant will not enforce any term or provision of any direct sales contract pursuant to which defendant has or would have the prior right to sell or to contract to sell, to such customer any additional volumes of natural gas in excess of the maximum daily contract demand specified in any contract existing between defendant and such industrial customer.

VI

Defendant is enjoined and restrained from directly or indirectly:

(A) Selling natural gas to any natural gas distributing company for resale in the Taconite region on the condition, agreement or understanding that such distributing company will not resell or seek to resell such natural gas to any industrial customer in the Taconite region or to any person who may become an industrial customer in such region.

(B) Refusing to sell natural gas to any natural gas distributing company for resale in the Taconite region except on the condition, agreement, or understanding that such distributing company will not resell or seek to resell such natural gas to any industrial customer in the Taconite region or to any person who may become an industrial customer in such region.

VII

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant, made to its principal office, shall be permitted, subject to any legally recognized claim of privilege, (a) access during the office hours of said defendant to such books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of said defendant which relate to any matters contained in this Final Judgment. and (b) subject to the reasonable convenience of said defendant and without

restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding such matters.

Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, 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 requested.

No information obtained by the means provided in this Paragraph VII 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 is a party, for the purpose of securing compliance with this Final Judgment or as otherwise by law.

VIII

Jurisdiction is retained for the purpose of enabling either 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, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith, and the punishment of any violation of any of the provisions contained herein.

DATED: May 5, 1970

/s/Miles Lord

United States District Judge

Appendix A-15

United States v. Burlington Northern, Inc., No. 3-70-361 (D. Minn. 1971)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Burlington Northern Inc., U.S. District Court, D. Minnesota, 1971 Trade Cases ¶73,419, (Jan. 25, 1971)

[Click to open document in a browser](#)

United States v. Burlington Northern Inc.

1971 Trade Cases ¶73,419. U.S. District Court, D. Minnesota, Third Division. Civil Action No. 3-70-361. Entered January 25, 1971. Case No. 2148, Antitrust Division, Department of Justice.

Sherman Act

Tying—Railroad Traffic Clauses—Consent Decree.—A railroad was required by a consent decree to cancel and delete from all spur track agreements and industrial contracts for the lease or sale of any of its real property, to which it or any of its predecessor companies may be a party, any provision that restricts the choice of carrier or mode of transportation that may be utilized for any movement of freight to or from any other party to any such agreement. The railroad must notify all shippers with such agreements or contracts that these provisions are being cancelled and deleted, and will not be enforced.

For plaintiff: Richard W. McLaren, Asst. Atty. Gen., Baddia J. Rashid, William D. Kilgore, Jr., Joseph J. Saunders, Harry N. Burgess, William L. Jaeger and Ernest S. Carsten, Attys., Dept. of Justice.

For defendant: Donald Engle, Associate Gen. Counsel.

Final Judgment

NEVILLE, D. J.: Plaintiff, United States of America, having filed its Complaint herein and the plaintiff and the defendant having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party hereto 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.

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209, as amended (15 U. S. C. §4), commonly known as the Sherman Act, and the Complaint states a claim upon which relief may be granted against the defendant under Section 1 of said act as amended (15 U. S. C. § 1).

II.

[*Definitions*]

As used in this Final Judgment:

1. "Defendant" means Burlington Northern Inc., its subsidiaries, successors and assigns.
2. "Spur Track Agreement" means any written or oral contract whereby the Defendant agrees to construct, maintain or operate spur tracks for the provision of railroad service to premises owned or occupied by the other party or parties to such contract.

3. "Industrial Agreement" means any written or oral contract for the lease or sale of real property to which Defendant is a party.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to the Defendant shall also apply to each of its officers, directors, agents and employees and to each of its subsidiaries, successors, and assigns, and all persons, firms and corporations acting in its behalf or under its direction and control, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Choice of Carrier*]

Defendant is enjoined and restrained from directly or indirectly entering into, renewing, enforcing or claiming any rights under any spur track agreement or industrial agreement which may now or hereafter exist to which it may be a party, which restricts the choice of carrier or mode of transportation which may be utilized for any movements of freight to or from any other party to any such agreement.

V.

[*Notification*]

The defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Terminate and cancel any provisions or terms of any spur track agreement or industrial agreement to which it is a party which restricts the choice of carrier or mode of transportation which may be utilized for any movements of freight to or from any other party to any such agreement;

(B) Send to each of the parties to these agreements at their last known address a notice of such termination and cancellation, setting forth that as of the date thereof defendant will not enforce any provisions or terms of any spur track agreement or industrial agreement to which it is a party which restrict the choice of carrier or mode of transportation which may be utilized for any movements of freight to or from any other party to any such agreement; that such notice shall be in the form attached hereto and made a part hereof and marked Exhibit "A"; and

(C) Send to the Department a report setting forth the names and addresses of the parties to whom Exhibit "A" was sent.

VI.

[*Compliance and Inspection*]

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant, made k> its principal office, shall be permitted, subject to any legally recognized claim of privilege, (a) access during the office hours of said defendant to such books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of said defendant which relate to any matters contained in this Final Judgment; and (b) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding such matters.

Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, 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 requested.

No information obtained by the means provided in this Paragraph VI 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 is a party, for the purpose of securing compliance with this Final Judgment or as otherwise by law.

VII.

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling either 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, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith, and the punishment of any violation of any of the provisions contained herein.

Exhibit A

Burlington Northern Inc.
St. Paul, Minnesota

(Date)

Pursuant to a Final Judgment entered on by the United States District Court for the District of Minnesota in *United States v. Burlington Northern Inc.*, Burlington Northern is required by this Final Judgment to cancel and delete from all spur track agreements and contracts for the lease or sale of any of its real property to which it or any of its predecessor companies (Great Northern Railway Company, Northern Pacific Railway Company and Chicago, Burlington & Quincy Railroad Company) may be a party, any provision which in any manner restricts you in your choice of carrier or mode of transportation which you may use for the shipment of freight. This provision is often designated as a "traffic clause."

Burlington Northern Inc therefore notifies you of the cancellation of all such provisions as well as any oral understandings to the same effect.

Burlington Northern Inc.
By

Appendix A-16

United States v. Gen. Cinema Corp., No. 4-71 C 473 (D. Minn. 1973)

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	NO. 4-71 C 473
GENERAL CINEMA CORPORATION,)	
)	
Defendant.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on September 13, 1971, and the defendant having filed its answer thereto denying the material allegations of the complaint, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto 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 without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue, and upon consent of the parties hereto it is hereby

Ordered, Adjudged and Decreed as follows:

Filed August 2 19 73
 Harry A. Sieben, Clerk
 By Ellen M. Ellis
 Deputy

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

(a) "Person" shall mean an individual, partnership, corporation or any other legal entity;

(B) "General Cinema" shall mean defendant General Cinema Corporation;

(C) "Minneapolis and St. Paul Metropolitan Area" shall mean the area within a radius of about 20 miles from the center of the City of Minneapolis, including the following municipalities in the State of Minnesota: Minneapolis, St. Paul, Bloomington, Edina, Hopkins, St. Louis Park, Wayzata, Robinsdale, Brooklyn Center, Columbia Heights, Falcon Heights, White Bear Lake, South St. Paul, Anoka, and intervening areas.

III

The provisions of this Final Judgment applicable to General Cinema shall apply to each of its directors, officers, agents, employees, affiliates, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) General Cinema is ordered and directed to divest, within twenty-four (24) months from the date of entry of this Final Judgment, all of its interest, direct and indirect, in the theatres listed in Appendix A to this Final Judgment.

(B) Until the time of such divestiture, General Cinema shall continue to operate all of said theatres for the exhibition of motion pictures.

(C) No divestiture of all or any portion of said theatres shall be made to any person or persons who are directors, officers, agents, employees, or affiliates of General Cinema at the time of divestiture.

(D) General Cinema shall use its best efforts to secure purchasers and new tenants and operators for the theatres. General Cinema shall furnish to bona fide prospective purchasers, or their agents, all appropriate information regarding the business of the theatres and shall permit them to make such inspection of the facilities and operations of the theatres as is reasonably necessary for a prospective purchaser to advise himself properly.

(E) Ninety (90) days after the date of entry of this Final Judgment and every ninety (90) days thereafter until a satisfactory purchaser(s) is (are) obtained, General Cinema shall report to the plaintiff in writing the steps which have

been taken to comply with this Section IV and shall make known to the plaintiff the names and addresses of all persons who have made an offer for the theatres together with the terms and conditions of such offer. At least sixty (60) days in advance of the effective date of any contract with any purchaser, General Cinema shall supply the plaintiff with the name and address of such proposed purchaser, and with the basic facts concerning the terms and conditions of the proposed divestiture, together with any other pertinent information requested by the plaintiff. At the same time, General Cinema shall make known to the plaintiff the names and addresses of all other persons not previously reported who have made an offer for the theatres together with the terms and conditions of such offer. No more than thirty (30) days after its receipt of the basic facts of the proposed transaction and such additional information as it may request, the plaintiff shall advise General Cinema of any objection it may have to the consummation of the proposed divestiture. If no such objection is made known to General Cinema within such period, the plaintiff shall be deemed to have approved such divestiture. If such an objection is made by the plaintiff, the proposed divestiture shall not be consummated unless approved by the Court or unless the plaintiff's objection is withdrawn.

(F) Any contract of sale or lease pursuant to this Final Judgment shall require the purchaser to file with this Court its representation that it intends to continue operating the assets for the exhibition of motion pictures and to be bound by the applicable terms of this Final Judgment.

(G) In the event the theatres are not totally divested within the period specified in paragraph (A) above, the Court may, on application and showing by General Cinema that it has diligently and in good faith attempted to make such divestiture, extend the time specified for a period not to exceed twelve (12) months. If diligence and good faith is not shown or at the end of any extended period if the theatres have not been totally divested, the Court shall on application of any party hereto appoint a trustee for the purpose of selling or leasing all theatres remaining to be divested. The trustee shall have full power and authority to dispose of all or any part of the theatres and such other assets as may be necessary to continue operations of the exhibition of motion pictures, at whatever price and terms are obtainable by him subject to approval by the Court after notice to the parties hereto and a hearing on any objection by a party to the disposition proposed by the trustee. The trustee shall use his best efforts to dispose of the theatres transferred within twelve (12) months of his appointment. The trustee shall serve on such terms as the Court sees fit and shall account for all

revenues derived from the disposal of the theatres and other assets and all expenses incurred therein. After approval by the Court of the trustee's account, including fees for his services, all remaining monies shall be paid to General Cinema, or if there are unsatisfied claims General Cinema shall pay them, and the trust created hereunder shall be terminated.

(H) General Cinema shall not, for a period of three (3) years beginning with the date that the Valley West Theatre is divested to another operator as provided for by this Judgment, convert the Southtown Theatre into a theatre having more than one auditorium.

(I) If any purchaser or new tenant and operator for any theatre divested under this Final Judgment defaults in any lease obligation and General Cinema is required to discharge such lease obligation, General Cinema may re-enter the premises and operate the theatre until such theatre can be re-divested; in any such case the theatre shall again be divested within the period provided herein for divestiture or within a year after re-entry, whichever is later.

V

General Cinema is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring, without the consent of plaintiff, any part of the assets, or of the stock or other share capital, of any operating motion picture theatre in the Minneapolis and St. Paul Metropolitan Area.

VI

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, General Cinema shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice, subject to any legally recognized privilege:

- (1) Access during the business hours of General Cinema, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of General Cinema which relate to any matters contained in this Final Judgment;
- (2) Subject to the reasonable convenience of General Cinema and without restraint or interference from it, to interview officers or employees of General Cinema, any of whom may have counsel present, regarding such matters.

(B) Upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, General Cinema shall submit such reports in writing,

with respect to the matters contained in this Final Judgment, as may from time to time be requested.

(C) No information obtained by the means provided in this Section VI of this Final Judgment shall be divulged by a 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 is a party for the purpose of determining or securing compliance with this Final Judgment or as otherwise required by law.

VII

Jurisdiction is retained by this Court for the purpose of enabling 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 modification of any of the applicable provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

ENTER this 3rd day of August, 1973.

Philip Neville
Philip Neville
United States District Judge

APPENDIX A TO FINAL JUDGMENT

<u>Name of Owner</u>	<u>Name of Theatre</u>
Suburban Cinema Corp.	Suburban World
Westgate Cinema Corp.	Westgate
Varsity Cinema Corp.	Campus
Lagoon Cinema Corp.	Uptown
Valley West Cinema Corp.	Valley West
Orpheum-St. Paul Cinema Corp.	Orpheum
Strand Cinema Corp.	Strand
Compton Theatre Corporation	State
World Cinema-St. Paul Corp.	World
GCC-Mann Corp.	Edina Theatre (Management Agreement only)

All of the above owners are Minnesota corporations and are in turn owned by General Cinema Corporation, a Delaware corporation.

Appendix A-17

United States v. Beatrice Foods Co., No. 3-80-596 (D. Minn. 1982)

II.

As used in this Final Judgment:

(A) "Beatrice" means the defendant, Beatrice Foods Co., and its subsidiaries and divisions, excluding, however, the division or divisions which will conduct the business of the Fiberite Corporation created either by the total or partial liquidation of the Fiberite Corporation.

(B) "Fiberite" means the defendant, the Fiberite Corporation, a wholly-owned subsidiary of Beatrice, and the division or divisions of Beatrice which will conduct the business of the Fiberite Corporation created either by the total or partial liquidation of the Fiberite Corporation.

(C) "Department" means the United States Department of Justice, Antitrust Division.

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

(E) "Transferee" means the purchaser of the business and assets required to be divested under the terms of this Final Judgment and for the purposes of this Final Judgment means Miller Waste Mills, Inc., a Minnesota corporation, with offices at Winona, Minnesota.

(F) "Thermoplastic compounding business" means the formulation, production, processing, marketing or sale of compounds (in pellet, powder or granular form or in packages, bags or other containers thereof, including transportation in bulk) consisting of any thermoplastic resin to which any reinforcement, filler, lubricant, flame retardant, colorant or conductive material has been added. It shall include any compound consisting of a combination of thermoplastic resins or of any combination of thermoplastic resins with any of the additives listed above or combination of such additives.

III.

The provisions of this Final Judgment shall apply to Beatrice and Fiberite, their respective successors and assigns, to each of their respective officers, directors, agents and employees and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. Any person not a defendant herein who acquires by purchase, transfer or otherwise any assets pursuant to this Final Judgment shall not solely by such acquisition be considered to be a successor bound by this Final Judgment.

IV.

Within ten (10) days of entry of this Final Judgment, Beatrice and Fiberite shall divest themselves absolutely, permanently and in good faith of the thermoplastic compounding business of Fiberite to the transferee so as to create a new, independent and viable competitor in that business. The divestiture shall be carried out by the defendants pursuant to the Agreement made as of the 8th day of January, 1982 and executed by Beatrice, Fiberite and the transferee, a copy of which will be filed with the Court. Defendants shall make a good faith effort to transfer all personnel listed in Exhibit B of said Agreement to the transferee.

V.

Following the completion of such divestiture to the transferee, each and every respective officer, director, agent, representative and employee of Beatrice and Fiberite having responsibility for or participating in the thermoplastic compounding business of Beatrice (including its subsidiaries and divisions) is enjoined and restrained from:

(a) exercising or attempting to exercise, directly or indirectly, any control, supervision, or influence over the policies, management, operations or acts of the transferee, or any successor in interest to the transferee;

(b) directly or indirectly consulting with or communicating to the transferee, or any officer, director, agent, representative, or employee of the transferee, concerning the thermoplastic compounding business of Beatrice;

(c) directly or indirectly soliciting any knowledge or information from, or communicating with, the transferee, or any officer, director, agent, representative, or employee of the transferee, concerning the thermoplastic compounding business of the transferee.

VI.

Beatrice and Fiberite are enjoined and restrained for a period of ten (10) years from the effective date of the Final Judgment and without the prior approval of the Department, from acquiring, directly or indirectly, any interest in or any of the assets of any person engaged in the reinforced thermoplastic compounding business. Solely for the purposes of this Section VI, "reinforced thermoplastic compounding business" means the production, processing, marketing and sale of compounds (sold in pellet, powder or granular form or in packages, bags or other containers thereof, including transportation in bulk), consisting of a thermoplastic resin or combination of thermoplastic resins to which a reinforcing agent or combination of reinforcing agents has been added. The term "reinforcing agent" shall include fibrous materials, such as fibrous glass, synthetic organic fibers, carbons and/or graphite fibers; any reinforcing mineral materials, including mica, talc or calcium carbonate; metallic powders or oxides; glass in any form; or any combination of

the foregoing. The addition to any reinforced thermoplastic compound of any additional ingredient or ingredients shall not exclude that compound from the reinforced thermoplastic compounding business.

VII.

Fiberite is hereby directed for a period of ten years from the date of the entry of this Final Judgment to cease and desist from engaging in any thermoplastic compounding business as defined in Section II (F). Beatrice and Fiberite are further hereby directed to issue a public announcement acceptable to plaintiff within 10 days after the completion of the divestiture to the transferee that Fiberite's entire thermoplastic compounding business has been sold to the transferee as the successor to Fiberite's thermoplastic compounding business and to publish the announcement in the Wall Street Journal and the Modern Plastics magazine. While Beatrice owns or controls the business of Fiberite, for a period of 10 years from the date of entry of this Final Judgment, Beatrice shall maintain Fiberite as a distinct and ongoing entity or entities, either in the form of a corporation or one or more divisions.

VIII.

Beatrice and Fiberite shall submit to the Department within ninety (90) days of the entry of this Final Judgment a report in writing setting forth its efforts and progress in carrying out the requirements of this Order.

IX.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents 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, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X.

Jurisdiction is retained by this Court 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, for the modification of any of the provisions hereof, for the enforcement or compliance herewith, and for the punishment of violations hereof.

XI.

Entry of this Final Judgment is in the public interest.

Entered: April 19, 1982

/s/ Judge Devitt
United States District Judge

Dated: April 19, 1982

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