

UNITED STATES OF AMERICA v. LAY FISH CO.,
ET AL., DEFENDANTS.

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

In Equity No. 37-23.

UNITED STATES OF AMERICA, PETITIONER,

VS.

HARRY E. ARONSON, DAVID FINKELSTEIN, HARRY V. LYONS, FRANK MAIBACH, JACK MAIBACH, PHILIP J. BEGLOFF, ALOIS W. PINI, LEROY A. RICE, MICHAEL N. LIPINSKI, BERNARD H. COHEN, SOL BROOME, LAY FISH CO., INC., PORT CLINTON FISH CO., INC., POLLOCK FISH CO., INC., FINLAY FISH CO., INC., THE RELIABLE FISH COMPANY, INC., BEGLOFF FISH CO., INC., MISCHLER FISH CO., INC., EAGLE FISH COMPANY, ACME FISH COMPANY, INC., MAJESTIC FISH CO., INC., THE NATIONAL FISHERIES COMPANY, INC., NEW FISH COMPANY, INC., WINONA FISH CO., INC., LAKESIDE FISH COMPANY, EMPIRE STATE FISH COMPANY, INC., CHARLES LYONS FISH COMPANY, NORTHWESTERN FISH COMPANY, and AARON RADIN, doing business under the the registered trade name of STAR FISH COMPANY,
Defendants.

FINAL DECREE.

This cause came on to be heard at this term, and upon consideration thereof, and upon motion of the petitioner by Emory R. Buckner, United States Attorney for the Southern District of New York, and Alexander B. Royce, William D. Whitney and Israel B. Oseas, Special Assistants to the United States Attorney, of counsel, for relief in accordance with the prayer of the petition, and no testimony or evidence having been taken, and the defendants David Finkelstein, Harry V. Lyons, Frank Maibach, Jack Maibach, Michael N. Lipinski, Bernard H. Cohen, Sol Broome, LeRoy A. Rice, Port Clinton Fish Co., Inc., Pollock Fish Co., Inc., Finlay Fish Co., Inc., The Reliable Fish Company, Inc., Eagle Fish Company, Acme

Fish Company, Inc., Majestic Fish Co., Inc., Winona Fish Co., Inc., Lakeside Fish Company, Empire State Fish Company, Inc., Charles Lyons Fish Company and Northwestern Fish Company, having appeared by their attorneys Messrs. Goldstein & Goldstein, and the defendants Harry E. Aronson, Philip J. Begloff, Alois W. Pini, Lay Fish Co., Inc., Begloff Fish Co., Inc., Mischler Fish Co., Inc., The National Fisheries Company Inc., and New Fish Company, Inc., having appeared by their attorneys Messrs. Rothwell, Harper & Matthews, and the defendant Aaron Radin having appeared by his attorney Harold H. Straus, and having consented thereto in open court; NOW THEREFORE it is

ORDERED, ADJUDGED AND DECREED, as follows:

(1) That the combination and conspiracy in restraint of interstate trade and commerce and to monopolize the same, described in the petition herein, be and they hereby are declared illegal and in violation of the Act of Congress approved July 2, 1890, and Acts amendatory thereof and supplemental or additional thereto.

(2) That the defendants, corporate and individual, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or any of them or claiming so to act, be and they hereby are perpetually enjoined, restrained and prohibited, collectively and individually, from directly or indirectly further engaging in or carrying into effect the said combination and conspiracy, and from engaging in or entering into any like combination or conspiracy the effect of which would be to restrain the interstate and foreign trade and commerce in dead fresh water fish described in the petition herein, and from directly or indirectly carrying out or continuing in effect the agreements, acts and practices described in the petition herein, and from making any express or implied agreements between them or any two or more of them similar to those described in the petition herein and hereby declared to be illegal, and from using any other means or methods, the effect of which would be to prevent

the free and unrestrained flow of said interstate and foreign trade and commerce in dead fresh water fish.

(3) That the defendants within 30 days after the entry of this decree cause Fish Purchasing Corporation to dissolve, forfeit all of its corporate privileges and surrender its Certificate of Incorporation to the State of New York, provided that this shall not be deemed to prohibit the organization of another corporation under a different name for the sole purpose of taking over and conducting the operating plant and incidental assets of said Fish Purchasing Corporation on Lake-of-the Woods, Minnesota.

(4) That the defendants, corporate and individual, and each of them, and their officers, agents, servants, and employees, and all persons acting under, through, by, or in behalf of them or any of them or claiming so to act, be and they hereby are perpetually enjoined, restrained and prohibited, collectively and individually, from directly or indirectly

(a) Agreeing with each other or with others to fix prices to be paid for fish.

(b) Agreeing with each other or with others to employ a common agent to purchase fish or to solicit orders for fish on consignment where the effect of such employment will be substantially to lessen competition between the defendants or any of them.

(c) Agreeing with each other or with others upon the prices to be returned for sales of fish received on consignment for sale on commission.

(d) Agreeing with each other or with others upon prices or terms upon which fish are to be sold.

(e) Pooling, combining, dividing or apportioning their operating or other profits among themselves or with others, except in connection with or pursuant to a consolidation, merger or purchase of assets.

(f) Interfering, by violence or threat or inducing breach of contract, with any person, partnership, association or corporation in the purchase or sale of fish

in interstate or foreign trade and commerce, or in the shipment or transportation of the same into or through the United States.

PROVIDED HOWEVER that the defendants within each of the following nine groups are not enjoined, restrained or or prohibited from entering into agreements, which but for the foregoing provisions of this decree would be open to them, with others within the same group which for some time past have had substantial identity of personnel:

Group 1. Harry E. Aronson, Lay Fish Co., Inc., Port Clinton Fish Co., Inc., Finlay Fish Co., Inc., and Pollock Fish Co., Inc.,

Group 2. Harry V. Lyons, Charles Lyons Fish Company and The Reliable Fish Company, Inc.

Group 3. Michael N. Lipinski, LeRoy A. Rice, Bernard H. Cohen, Northwestern Fish Company, Incorporated and Winona Fish Co., Inc.

Group 4. Frank Maibach, Jack Maibach, Eagle Fish Company, Empire State Fish Company, Inc., and Level Fish Co., Inc.

Group 5. Alois W. Pini, National Fisheries Company, Inc., and New Fish Company, Inc.

Group 6. Philip J. Begloff, Begloff Fish Co., Inc., and Mischler Fish Co., Inc.

Group 7. Aaron Radin, Majestic Fish Co., Inc., and Star Fish Company.

Group 8. Sol Broome and Lakeside Fish Company.

Group 9. David Finkelstein, Acme Fish Company, Inc., and Superior Fish Company, Inc.,

(5) That nothing in any of the foregoing provisions of this decree shall be deemed to prohibit the defendants, or any of them, from being members of a trade association, the objects of which are to collect and disseminate accurate information relative to the fish business and

otherwise properly to advance the interest of its members, provided that (1) such association is not used as a means for reaching or attempting to reach any agreement or understanding (express or implied) as to any concerted action hereinabove forbidden, or any other matter tending to restrain competition in interstate trade and commerce, (2) membership in such association is open to competitors of the defendants on the same basis as it is open to the defendants themselves, (3) no person is compelled by any means, direct or indirect, to disclose any facts or information for compilation or for any other purpose which he does not wish to disclose, and (4) all information collected by such association and made available to its members is available on like terms to non-members requesting the same.

(6) That jurisdiction of this cause is retained by this Court for the purpose of making such other or further orders and decrees as may become necessary.

May 12, 1926.

JULIAN W. MACK,
United States Circuit Judge.