

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MAINE**

UNITED STATES OF AMERICA,
Plaintiff,

v.

Case No. 2:27-cv-00905-JDL

MAINE CO-OPERATIVE SARDINE
COMPANY, ET AL.,
Defendants.

DECLARATION OF DON AMLIN

I, Don Amlin, do hereby declare and state as follows:

1. I am an attorney admitted to practice in the District of Columbia and Maryland. Since 2015, I have been employed as a Trial Attorney by the Antitrust Division of the United States Department of Justice.

2. This Declaration is being submitted in support of the United States of America's Motion to Terminate Legacy Antitrust Judgments in the above-captioned matter.

3. The statements made in this Declaration are based on the knowledge acquired by me in the performance of my official duties and in conjunction with factual and legal research conducted by other attorneys and staff in the Antitrust Division.

4. In early 2018, the Department of Justice ("the Department") implemented a program to review and, when appropriate, seek termination of older antitrust judgments in which parties were subjected to some type of affirmative obligation or express prohibition that did not have an expiration date. These perpetual judgments were standard practice until 1979, when the Antitrust Division adopted the practice of including a term limit of ten years in nearly all of its antitrust judgments.

5. On April 25, 2018, the Antitrust Division issued a press release announcing its efforts to review and terminate legacy antitrust judgments, and noting that it would begin its efforts by proposing to terminate judgments entered by the federal district courts in Washington, D.C., and Alexandria, Virginia. *See* Press Release, Department of Justice, Department of Justice Announces Initiative to Terminate “Legacy” Antitrust Judgments, (April 25, 2018), <https://www.justice.gov/opa/pr/departments-justice-announces-initiative-terminate-legacy-antitrust-judgments>.

6. On May 4, 2018, the Antitrust Division published notice of the initiative to seek unilateral termination of legacy antitrust judgments in the Federal Register. *See* 83 Fed. Reg. 19837 (May 4, 2018); <https://www.justice.gov/atr/page/file/1065011/download>.

7. The procedure for reviewing and attempting to terminate such perpetual judgments was as follows:

- a. The Antitrust Division reviewed its perpetual judgments entered by this Court and other federal district courts to identify those judgments that no longer serve to protect competition such that termination would be appropriate.
- b. When the Antitrust Division identified a judgment, it believed suitable for termination, it posted the name of the case and a link to the judgment on its public Judgment Termination Initiative website, <https://www.justice.gov/atr/JudgmentTermination>.
- c. On June 1, 2018, the Antitrust Division listed the judgment in the above-captioned case on its public website, describing its intent to move to terminate the judgment. The notice identified the case, linked to the judgment, and invited public comment. *See* <https://www.justice.gov/atr/judgment-termination-initiative-maine-district>.
- d. The public had the opportunity to submit comments regarding each proposed termination to the Antitrust Division within thirty days of the date the case name and judgment link was posted to the public website. For the judgments at issue in this motion, the deadline for such comments was July 2, 2018.

8. The Antitrust Division did not receive any public comments relating to the cases at issue in this motion.

9. The judgment in *Maine Co-operative Sardine* (2:27-cv-00905-JDL) was entered in 1927. Based on research conducted by myself and my colleagues, the Maine Co-operative Sardine Co. was dissolved in 1930, as required by the judgment. Further, based on this research, I believe that the 17 additional defendants, each of which was a member of the co-operative, are no longer in business.

10. The judgment in *Maine Food Council* (2:41-cv-00100-JDL) was entered in 1941. Based on research conducted by myself and my colleagues, I believe the Council was dissolved. Further, based on this research, I believe that three of the five additional defendants (Great Atlantic & Pacific Tea Co., Arthur Chapin Co., and Cummings Bros.) are no longer in business, and that the two remaining defendants (Hannaford Bros. Co. and First National Stores, Inc.) exist today under different names (Hannaford Supermarkets and Ahold Delhaize, respectively). Additionally, given that the judgment was entered more than seventy-five years ago, it is likely that all individual defendants are deceased.

11. A true and accurate copy of each of the underlying judgments at issue in this motion is attached to this Declaration as Exhibit 1 (*Maine Co-operative Sardine*) and Exhibit 2 (*Maine Food Council*), respectively. The versions attached here are identical to the versions that were made available on the Antitrust Division's Judgment Termination Initiative public website for the District of Maine, *see* <https://www.justice.gov/atr/judgment-termination-initiative-maine-district>.

Having reviewed this Declaration, I declare, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: May 16, 2019
Washington, D.C.

_____/s/
Don P. Amlin (DC Bar No. 978349)
Trial Attorney
Antitrust Division
United States Department of Justice
450 Fifth St, NW; Suite 8010
Washington, DC 20530
Phone: (202) 598-8180
Email: don.amlin@usdoj.gov