

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Kraft Paper Association, The Albemarle Paper Manufacturing Co., Calcasieu Sulphate Paper Co., Central Paper Company, Champion Paper & Fibre Company, Chesapeake-Camp Corporation, Crossett Lumber Company, Crown Zellerbach Corporation, Filer Fibre Company, Gaylord Container Corporation, Gilman Paper Company, Gulf States Paper Corporation. Hollingsworth & Whitney Company, Hummel-Ross Fibre Corporation, Longview Fibre Company, Mosinee Paper Mills Company, Munroe Paper Corporation, Nashua River Paper Company, Nekoosa-Edwards Paper Company, Orono Pulp & Paper Company, Paterson Parchment Paper Co., St. Regis Paper Company, Sorg Paper Company, Southern Advance Bag & Paper Co., Southern Kraft Corporation, John Strange Paper Company, Tarentum Paper Mills, Thilmany Pulp & Paper Co., Tomahawk Kraft Paper Company, Union Bag & Paper Corporation, West Virginia Pulp & Paper Company, Inc., William H. Anders, John E. Alexander, Joseph H. Cowhill, H. Stuart Daniels, H. W. Ellerson, W. J. Henry, E. A. Kendler, R. A. McDonald, J. L. Stille, Norman S. Stone., U.S. District Court, S.D. New York, 1940-1943 Trade Cases ¶56,105, (Sept. 10, 1940)**

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United States of America v. Kraft Paper Association, The Albemarle Paper Manufacturing Co., Calcasieu Sulphate Paper Co., Central Paper Company, Champion Paper & Fibre Company, Chesapeake-Camp Corporation, Crossett Lumber Company, Crown Zellerbach Corporation, Filer Fibre Company, Gaylord Container Corporation, Gilman Paper Company, Gulf States Paper Corporation. Hollingsworth & Whitney Company, Hummel-Ross Fibre Corporation, Longview Fibre Company, Mosinee Paper Mills Company, Munroe Paper Corporation, Nashua River Paper Company, Nekoosa-Edwards Paper Company, Orono Pulp & Paper Company, Paterson Parchment Paper Co., St. Regis Paper Company, Sorg Paper Company, Southern Advance Bag & Paper Co., Southern Kraft Corporation, John Strange Paper Company, Tarentum Paper Mills, Thilmany Pulp & Paper Co., Tomahawk Kraft Paper Company, Union Bag & Paper Corporation, West Virginia Pulp & Paper Company, Inc., William H. Anders, John E. Alexander, Joseph H. Cowhill, H. Stuart Daniels, H. W. Ellerson, W. J. Henry, E. A. Kendler, R. A. McDonald, J. L. Stille, Norman S. Stone.

1940-1943 Trade Cases ¶56,105. U.S. District Court, S.D. New York, Civil No. 10-329. September 10, 1940.

Upon the consent of all parties, a decree is entered enjoining the defendant paper manufacturers and a trade association in their operations within the United States, its territories, and the District of Columbia, except where such operations relate exclusively to foreign countries, from combining to limit the production of kraft paper to predetermined quotas, to participate in plans for apportioning production, or to collect or disseminate information for the purposes of establishing proscribed production quotas, indicating the breach of already established quotas, or compelling adherence to such quotas.

Thurman Arnold, Assistant Attorney General; Frank H. Elmore, Jr., Special Assistant to the Attorney General; Manuel M. Gorman, Special Attorney, for the plaintiff.

Oseas & Pepper, for defendants Kraft Paper Association, Chesapeake-Camp Corporation, Gaylord Container Corporation, Gulf States Paper Corporation, Hummel-Ross Fibre Corporation, Longview Fibre Company, Munroe Paper Corporation, Orono Pulp & Paper Company, Paterson Parchment Paper Co., Sorg Paper Company, Southern Advance Bag & Paper Co., W. J. Henry.

Philip S. Ehrlich, Oseas & Pepper, for defendants Crown Zellerbach Corporation, R. A. McDonald.

Theo. W. Brazeau, Oseas & Pepper, for defendants Mosinee Paper Mills Company, Norman S. Stone, Nekoosa-Edwards Paper Company, John E. Alexander, Tomahawk Kraft Paper Company, Joseph H. Cowhill.

Wise, Corlett & Canfield, for defendants The Albermarle Paper Manufacturing Co., H. W. Ellerson, Hollingsworth & Whitney Company.

Ehlermann & Crawford, for defendant Caicasieu Sulphate Paper Co.

Turnbull & Bergh, for defendants Central Paper Company, Filer Fibre Company.

Breed, Abbott & Morgan, for defendant Champion Paper & Fibre Company.

John G. Jackson, Charles B. Brophy, Raymond M. Tierney, for defendant Crossett Lumber Company.

Max Dorff, I. Alfred Levy, for defendant Gilman Paper Company.

William L. Stephens, for defendants Nashua River Paper Company, William H. Anders.

LeBoeuf, Machold & Lamb, for defendant St. Regis Paper Company.

Lindsay Goeltz, for defendants John Strange Paper Company, Union Bag & Paper Corporation, H. Stuart Daniels.

Davis, Polk, Wardwell, Gardiner & Reed, for defendants Southern Kraft Corporation, J. L. Stille.

Jacob Rappaport, for defendant Tarentum Paper Mills.

Shearman & Sterling, for defendant Thilmany Pulp & Paper Co.

Burroughs & Brown, for defendant West Virginia Pulp & Paper Company, Inc.

Before Knox, District Judge.

#### ***Final Decree***

KNOX, D. J.: The United States of America filed its complaint herein on September 10th, 1940; the defendants appeared and filed their answers to such complaint, and assert the truth of their several answers and their innocence of any violation of law; the plaintiff and the defendants desire to avoid the expense of a trial of the issues therein and the loss of time, occasioned thereby; no testimony having been taken, each of the defendants consents to the entry of this decree without any findings of fact, upon condition that neither such consent nor this decree shall be evidence, admission or adjudication that they, or any of them, have violated any law or have done any of the things charged in the complaint or enjoined by this decree; and the United States of America by its counsel having consented to the entry of this decree and to each and every provision thereof, and having moved the court for this decree;

[ *Basis of Decree* ]

NOW, THEREFORE, before any testimony has been taken, and without any findings of fact or adjudication of the issues, and upon the consent of all parties, hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. The court has jurisdiction of the parties to this decree; and for the purposes of this decree and proceedings for the enforcement thereof, and for no other purpose, the court has jurisdiction of the subject matter hereof, and the complaint states a cause of action against the defendants, and each of them, under Section 1 of the Act of July 2, 1890 (15 U. S. C. §1).

[ "*Kraft Paper*" Defined ]

2. For the purposes of this decree, "kraft paper" means the grades of paper now regularly reported to the Kraft Paper Association as part of its statistical service; which papers are more particularly described as papers (as distinguished from paperboard) made from sulphate pulp and weighing not less than 18 pounds nor more than 150 pounds per ream of 480 sheets of 24 by 36 inches excepting papers containing more than 50 percent of bleached sulphate pulp, file folder stock and cylinder-made sack paper.

[ *Injunction*]

3. The defendants, their successors, members, directors, officers, agents, and employees, and all persons acting under, through, or for them, be, and they hereby are, enjoined and restrained from agreeing, combining, or conspiring among themselves or with any other manufacturer of kraft paper

- a) to limit production of kraft paper to predetermined quotas;
- b) to promote or take part in any plan for apportioning kraft paper production among the manufacturers of kraft paper;
- c) to do any act or thing for the purpose or having the effect of carrying out any such plan;
- d) to gather, audit, disseminate and discuss data or to issue forecasts respecting production or shipments of, or orders for kraft paper, for the purpose of establishing such quotas, or to do any other act or thing for such purpose; or, any such quota having been established, for the purpose of
  - i) indicating that any manufacturer of kraft paper has or has not exceeded such quota; or
  - ii) compelling any manufacturer of kraft paper to adhere to such quota.

4. Nothing contained in this decree limits the right of the defendants, their successors, members, directors, officers, agents, and employees, and all persons acting under, through, or for them, or any of them, to do, or to agree to do, or cooperate in doing, any act, or to engage in any practice not enjoined by this decree, including but not limited to gathering, auditing, disseminating and discussing data and issuing forecasts respecting the kraft paper business; without, however, reaching any agreement, concerted action or conspiracy to establish or secure adherence to predetermined quotas or to do any other act forbidden by paragraph "3" hereof.

[ *Application of Decree*]

5. Nothing contained herein shall apply to:

- a) the conduct of the individual business of any manufacturer;
- b) any agreement between
  - (i) a manufacturer and its subsidiaries,
  - (ii) a manufacturer and companies associated with it through common ownership or operating management, or
  - (iii) the subsidiaries of any such manufacturer;
- c) manufacture other than the production of kraft paper;
- d) operations or activities of the defendants outside the United States, its Territories and the District of Columbia, or to their operations or activities within the United States, its Territories and the District of Columbia, which relate exclusively to foreign countries.

[ *Inspections and Investigations*]

6. For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney General and on reasonable notice as to time and subject matter and subject to any legally recognized privilege, be permitted (i) reasonable access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the

control of the defendants, relating to any of the matters enjoined by this decree, (ii) subject to the reasonable convenience of the decendants, and without restraint or interference from them, to interview officers or employees of the defendants, in the presence of counsel, regarding any such matters; and the defendants, on such request and subject to such privilege, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree, provided, however, that 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.

[ *Retention of Jurisdiction*]

7. Jurisdiction of this action is retained for the purpose of enabling any of the parties to this decree to apply to the court at any time for such further orders or directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification thereof (including, without limitation, any modification upon application of the defendants, or any of them, required in order to conform to this decree to any Act of Congress enacted after the date of entry of this decree or to the laws or regulations of any state), or for the enforcement of compliance therewith.