

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

FISH SMOKERS TRADE COUNCIL, INC.;
FISH SEA FOOD, SMOKED FISH AND
CANNING WORKERS UNION OF GREATER
NEW YORK, LOCAL 635, AMERICAN
FEDERATION OF LABOR, VITA FOOD
PRODUCTS, INCORPORATED;
BANNER SMOKED FISH CORP.;
ROSOLA FOOD PRODUCTS, INC.;
AMERICAN SMOKED FISH CORP.;
NOVA SCOTIA FOOD PRODUCTS CORP.;
TEN EYCK SMOKED FISH CORP.;
SOLOMON PRUZAN; MEYER SALZMAN; and
IRVING MASOUR;

Defendants.

CIVIL ACTION
NO. 103-358

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on September 28, 1955, and the defendants Fish Smokers Trade Council, Inc., Vita Food Products, Incorporated, Banner Smoked Fish Corp., Rosola Food Products, Inc., American Smoked Fish Corp., Nova Scotia Food Products Corp., and Ten Eyck Smoked Fish Corp., having appeared herein, and the plaintiff and said defendants, 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 evidence or admission by said defendants in respect of any such issue;

NOW, THEREFORE, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of the plaintiff and consenting defendants hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

The Court has jurisdiction of the subject matter herein and all the consenting defendants. The complaint herein states a claim upon which relief may be granted against the said consenting 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" means an individual, partnership, corporation, association, or other business or legal entity;
- (B) "Jobber" means any person engaged in the business of purchasing smoked fish from smokehouses for resale to retailers and purveyors;
- (C) "Smokehouse" means any person engaged in the business of processing and smoking fish to be sold for human consumption;
- (D) "Smoked fish" means fresh-water fish and salt-water fish which has been processed and smoked for human consumption;
- (E) "Council" means the defendant Fish Smokers Trade Council, Inc.;
- (F) "Member" means any present or future member of the Council;
- (G) "Consenting Defendant" means any person who has been served with a copy of the complaint herein and/or who has signed at the foot of this Final Judgment agreeing to be bound by its terms.

III.

(A) It appearing to this Court, pursuant to Section 5 of the Sherman Act, that the ends of justice require that all members of the Council be brought before this Court, the non-defendant members of the Council, as consenting defendants hereby appear as additional parties waiving the necessity of being summoned and agree to be bound by the provisions of this Final Judgment;

(B) The provisions of this Final Judgment applicable to any consenting defendant shall apply to such defendant and to each of its

members, officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise or who have signed this Final Judgment.

IV.

The defendant Council is ordered and directed:

(A) Within thirty days after the entry hereof to serve by mail upon each of its present members a conformed copy of this Final Judgment and to file with this Court and with the plaintiff proof by affidavit of service upon each such members;

(B) Within three months after entry of this Final Judgment to amend its charter or by-laws so as to incorporate therein Section V of this Final Judgment and require as a condition of membership or retention of membership therein that all members be bound thereby;

(C) To furnish to all its members a copy of its charter and by-laws as amended in accordance with subsection (B) of this Section IV;

(D) To expel promptly from membership any member who shall violate the provisions of its charter or by-laws incorporating Section V of this Final Judgment;

(E) To notify promptly the plaintiff of the action taken with respect to any complaint received by the defendant Council of a violation by any of its members of the provisions of its charter or by-laws incorporating Section V of this Final Judgment.

V.

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

(A) Persuade, induce or compel any jobber to

(1) become a member of any labor union or association;

(2) refrain from competing for other jobbers' customers;

(B) Refuse to deal with or boycott any jobber.

VI.

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to a consenting defendant at its principal office, subject to any legally recognized privilege, be permitted:

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

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

For the purpose of securing compliance with this Final Judgment, any consenting defendant, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, 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 enforcement of this Final Judgment.

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

VII.

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

GREGORY F. NOONAN
United States District Judge

Dated: March 29, 1956

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

For the Plaintiff:

STANLEY N. BARNES
Assistant Attorney General

W. D. KILGORE, JR.

RICHARD B. O'DONNELL

JOHN D. SWARTZ

WALTER K. BENNETT

FRANCIS E. DUGAN

For the Defendants:

RUBINTON & COLEMAN
By NOEL RUBINTON
Rubinton & Coleman
Attorneys for Vita Food
Products, Incorporated

LEONARD W. GENDLER
Leonard Wm. Gendler
Attorney for Banner Smoked
Fish Corp.

ABRAHAM L. LEVENSON
Abraham L. Levenson
Attorney for Rosola Food
Products, Inc.

LEONARD S. LEVENTHAL
Leonard S. Leventhal
Attorney for Nova Scotia
Food Products Corp.

MICHAEL WEINER
Michael Weiner
Attorney for Ten Eyck
Smoked Fish Corp.

ABRAHAM L. LEVENSON
LEONARD W. GENDLER
MICHAEL WEINER
LEONARD S. LEVENTHAL
RUBINTON & COLEMAN
By NOEL RUBINTON
Attorneys for Fish Smokers Trade
Council, Inc.

Wm. M. WALDMAN
Attorney for Assignee for Creditors
of American Smoked Fish Corp.

The undersigned members of the Council agree that this Final Judgment shall apply to them:

VITA FOOD PRODUCTS, INCORPORATED seal
By Aaron Gilman
Vice-President

seal
BANNER SMOKED FISH CORP.
By L. J. Thall
Secretary

seal
REGO SMOKED FISH CO., INC.
By Conrad Spizz Secty
Secretary

seal
HOROWITZ BROTHERS SMOKED FISH PRODUCTS, INC.
By Saul Horowitz seal
President

seal
Joseph Axtmayer
TEN EYCK SMOKED FISH CORP.
By Joseph Axtmayer
President

seal
NOVA SCOTIA FOOD PRODUCTS CORP.
By David Sklar
Vice-President

METRO SMOKED FISH, INC. seal
By Sidney Lerner
Secretary

seal
ROSOLA FOOD PRODUCTS, INC.
By Moses Goldfine
President

JEROME SUTTENBERG
Jerome Suttенberg, a General Partner of the firm doing business as Montrose Smoked Fish Co.

LEON THOMAJAN
Leon Thomajan, a General Partner of the firm doing business as Blue Ribbon Smoked Fish Company

HERMAN M. FERTEL
Herman M. Fertel, doing business as East River Trading Company

MORTIMER KORCHIN
Mortimer Korchin, a General Partner of the firm doing business as Marshal Smoked Fish Co.

March 28, 1956. Deft. Union by counsel appeared & opposed the signing by the Court of this decree this date.