

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|---|---|-----------------------|
| 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 | : | CIVIL ACTION |
| LABOR; | : | |
| VITA FOOD PRODUCTS, INCORPORATED; | : | No. 103-358 |
| BANNER SMOKED FISH CORP.; | : | |
| ROSOLA FOOD PRODUCTS, INC.; | : | |
| AMERICAN SMOKED FISH CORP.; | : | |
| NOVA SCOTIA FOOD PRODUCTS CORP.; | : | Entered: June 7, 1960 |
| TEN EYCK SMOKED FISH CORP.; | : | |
| SOLOMON PRUZAN; MEYER SALZMAN; and | : | |
| IRVING MASOUR, | : | |
| | : | |
| Defendants. | : | |

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on September 28, 1955, and the defendants Fish, Sea Food, Smoked Fish and Canning Workers Union of Greater New York, Local 635, American Federation of Labor, Solomon Pruzan, Meyer Salzman and Irving Masour having contested the jurisdiction of the Court and interposed affirmative defenses;

NOW, THEREFORE, having tried the issues and having filed an opinion dated April 22, 1960, which constitutes findings of fact and conclusions of law, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

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 or purveyors;
- (C) "Smokehouse" means any persons engaged in the business of processing and smoking fish to be sold for human consumption;

(D) "Smoked fish" means any fish which has been processed and smoked for human consumption;

(E) "Local 635" shall mean defendant Fish, Sea Food, Smoked Fish and Canning Workers Union of Greater New York, Local 635, American Federation of Labor.

II

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, to each of its members, officers, trustees, 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.

III

Since 1952, defendants Local 635, Solomon Pruzan, Meyer Salzman and Irving Masour (hereinafter collectively referred to as the defendants) have engaged and continue to be engaged in a combination and conspiracy among themselves and others to suppress and eliminate competition in the sale and distribution of smoked fish 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.

IV

The defendant Local 635 is ordered and directed:

(A) Within three months after entry of this Final Judgment to amend its 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;

(B) To furnish to all its present and future members a copy of the amendments to its by-laws, as amended in accordance with subsection (A) of this Section IV;

(C) To expel promptly from membership any jobber, or any other person who hereafter engages in the business of buying and selling smoked fish for his or their own account and risk, and any member who

hereafter shall violate the provisions of its charter or by-laws incorporating Section V of this Final Judgment.

(D) To notify promptly the plaintiff of the action taken with respect to any complaint received by the defendant Local 635 of a violation by any of its members of the provisions of its by-laws incorporating Section V of this Final Judgment.

V

(A) Defendants are jointly and severally enjoined and restrained from directly or indirectly persuading, inducing or compelling, or attempting to persuade, induce or compel:

- (1) Any jobber to become a member of any labor union or association;
- (2) any jobber to refrain from competing with any other jobber;
- (3) any person to refuse to deal with or boycott any jobber.

(B) Defendant Local 635 is enjoined and restrained from directly or indirectly;

- (1) permitting any jobber, or any other person engaged in the business of buying and selling smoked fish for his or their own account and risk, from hereafter becoming a member of the union;
- (2) entering into any agreement or understanding, by way of collective bargaining or otherwise, with any smokehouse or any non-labor group or members of a non-labor group, for the purpose or with the effect of:
 - (a) requiring any person not to compete with any other person in the purchase or sale of smoked fish;
 - (b) fixing any price or margin of profit for the purchase or sale of smoked fish;
 - (c) providing for an arbiter or otherwise resolving disputes as to the legality or propriety of any jobber or smokehouse soliciting or serving any particular customer or group of customers or in any

way participating in or aiding in any effort to allocate customers;

(3) striking or bringing any other form of pressure to bear on any person engaged in the sale or distribution of smoked fish for the purpose or with the effect of:

- (a) requiring any person not to compete with any other person in the purchase or sale of smoked fish;
- (b) fixing any price or margin of profit for the purchase or sale of smoked fish.

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 defendant at its or his 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 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 defendant, and without restraint or interference, to interview the officers or employees of such defendant, who may have counsel present, regarding any such matters.

Upon order of this Court made on the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, such 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 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 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.

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 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.

/s/ Sylvester J. Ryan
United States District Court

Dated: June 7th, 1960

Judgment Entered 6/7/60

/s/ Herbert A. Charlson
Clerk