

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) Civil Action
NEW YORK PICKLE & CONDIMENT DEALERS) No. 132-228
ASSOCIATION, INC.) Filed: July 17, 1958
Defendant.)

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on April 18, 1958, and the defendant, New York Pickle & Condiment Dealers Association, Inc., having appeared herein, and the plaintiff and said defendant, 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 either party in respect of any such issue;

NOW, THEREFORE, before any testimony or evidence has been taken herein, and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I

The Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim upon which relief may be granted against defendant 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" shall mean any individual, partnership, firm, association, corporation or other legal entity;
- (B) "Defendant Association" shall mean the defendant, New York Pickle & Condiment Dealers Association, Inc.;
- (C) "Pickles or sauerkraut" shall be deemed to include the various types of cucumbers, tomatoes, peppers and other vegetables, which may be processed into pickles, in their raw state, and cabbage from which sauerkraut may be made, as well as such vegetables after they have been processed into pickles or sauerkraut.

III

The provisions of this Final Judgment applicable to the defendant Association shall apply to such defendant and to its members, officers, agents, servants, employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with said defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

The defendant Association 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 member;
- (B) To institute forthwith and to complete within three months from entry of this Final Judgment such proceedings as may be appropriate and necessary to amend its charter or bylaws so as to incorporate therein Sections V and VI of this Final Judgment and require as a condition of membership or retention of membership that each of its

present and future members be bound and abide thereby;

(C) To furnish to each of its present and future members a copy of its bylaws as amended in accordance with subsection (B) of this Section IV;

(D) To expel promptly from membership any present or future member of the defendant Association who shall violate the provisions of its charter or bylaws incorporating Sections V and VI of this Final Judgment;

(E) To notify promptly the Plaintiff of the action taken with respect to any complaint received by the defendant Association of a violation by any of its present and future members of the provisions of its charter or bylaws incorporating Sections V and VI of this Final Judgment.

V

The defendant Association is enjoined and restrained from, directly or indirectly, entering into, adhering to, enforcing, maintaining or claiming any rights under any contract, agreement, understanding, plan or program with any other person:

(A) To fix, determine, establish, maintain or stabilize prices, pricing methods, discounts, mark-ups or other terms or conditions for the purchase or sale of pickles or sauerkraut from or to third persons;

(B) To hinder, restrict, limit or prevent any person from buying or selling pickles or sauerkraut;

(C) To allocate customers, territories, routes or markets for the purchase or sale of pickles or sauerkraut;

(D) To boycott or otherwise refuse to do business with any person;

(E) To picket, or cause to have picketed, any person;

(F) To restrict, hinder or otherwise interfere with the transportation of pickles or sauerkraut.

VI

The defendant Association is enjoined and restrained from, directly or indirectly:

- (A) Suggesting prices or terms and conditions to be observed by any person in sales or purchases of pickles or sauerkraut to or from any other person;
- (B) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent, any person from buying or selling pickles or sauerkraut;
- (C) Circulating, exchanging or using, in any manner, any price list or purported price list containing or purporting to contain any prices, terms or conditions for the purchase or sale of pickles or sauerkraut;
- (D) Being a member of, contributing anything of value to, or participating in any of the activities of, any trade association or other organization, the activities of which are inconsistent in any manner with any of the provisions of this Final Judgment;
- (E) Allocating customers, territories, routes or markets for the purchase or sale of pickles or sauerkraut;
- (F) Exacting or attempting to exact any fines or other punitive damages from any of its members;
- (G) Policing or otherwise interfering with the business activities of any person;
- (H) Picketing, or requesting or causing others to picket, any person;
- (I) Interfering in any manner with any person securing supplies of pickles and sauerkraut.

VII

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant Association made to its principal office, be permitted, subject to any legally recognized privilege, (A) reasonable access, during the office hours of the defendant Association, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any of the matters contained in this Final Judgment, and (B) subject to the reasonable convenience of defendant Association, and without restraint or interference from it, to interview officers and employees of the defendant Association who may have counsel present, regarding any such matters. Upon such written request defendant Association 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 purpose of enforcement of this Final Judgment. No information obtained by means permitted in this Section VII 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary

or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Dated: July 17, 1958

E. J. DIMOCK
United States District Judge

We consent to the making and entry of the foregoing Final Judgment.

For the Plaintiff:

/s/ VICTOR R. HANSEN
VICTOR R. HANSEN
Assistant Attorney General

/s/ CHARLES L. WHITTINGHILL
CHARLES L. WHITTINGHILL

/s/ W. D. KILGORE, JR.
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/s/ RICHARD B. O'DONNELL
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/s/ CHARLES F. B. McALEER
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For the Defendant:

/s/ JACK FLAMHAFT
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