

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Greater New York Food Processors Association, Inc., U.S. District Court, S.D. New York, 1958 Trade Cases ¶69,064, (Jun. 13, 1958)

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United States v. The Greater New York Food Processors Association, Inc.

1958 Trade Cases ¶69,064. U.S. District Court, S.D. New York. Civil Action No. 132-227. Filed June 13, 1958. Case No. 1382 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing—Circulating Price Lists—Pickles and Sauerkraut.—An association of pickle and sauerkraut packers was prohibited by a consent decree from entering into any agreement with any person or central agency to fix prices, pricing methods, discounts, mark-ups, or other terms for the sale of pickles and sauerkraut. The decree also prohibited the association from (1) suggesting the price or other terms or conditions to be charged for the sale of pickles or sauerkraut to any other person or (2) circulating, exchanging, or using any price list containing any terms, prices, or conditions for the sale of pickles or sauerkraut.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Excluding Competitors.—An association of pickle and sauerkraut packers was prohibited by a consent decree from entering into any agreement with any person or central agency to hinder, restrict, limit, or prevent any person from selling pickles or sauerkraut. The decree also prohibited the association from hindering, restricting, limiting, or preventing any person from selling those products.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Trade Association Membership.—An association of pickle and sauerkraut packers was prohibited by a consent decree from 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 with any of the provisions of the decree.

Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief—Dissolution of Trade Association.—An association of pickle and sauerkraut packers was ordered by a consent decree to institute such action as might be necessary to dissolve the association and to complete such dissolution within the minimum period of time permitted by law.

For the plaintiff: Victor R. Hansen, Assistant Attorney General; and Charles L. Whittinghill, W. D. Kilgore, Jr., Richard B. O'Donnell, Charles F. B. McAleer, Walter W. K. Bennett, Francis E. Dugan, Elliott H. Feldman, and Samuel V. Greenberg, Attorneys, Department of Justice.

For the defendant: Jacob P. Lefkowitz.

Final Judgment

JOHN M. CASHIN, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on April 18, 1958, and the defendant, The Greater New York Food Processors 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 without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Sherman Act*]

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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 the 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

[*Definitions*]

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 The Greater New York Food Processors Association, Inc.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to the defendant Association shall apply to such defendant and to its 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

[*Dissolution of Association*]

The defendant Association is ordered and directed:

- (A) Forthwith to institute such action as may be necessary to dissolve the defendant Association under the laws of the State of New York and to complete such dissolution within the minimum period of time permitted by the laws of the State of New York;
- (B) Upon the completion of such dissolution of the defendant Association, to file an affidavit with this Court and with the plaintiff herein setting forth the fact of compliance with this Section IV.

V

[*Prohibited Agreements*]

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 person or with any association or central agency:

- (A) To fix, determine, establish, maintain or stabilize prices, pricing methods, discounts, mark-ups or other terms or conditions for the sale of pickles or sauerkraut;
- (B) To hinder, restrict, limit or prevent any person from selling pickles or sauerkraut.

VI

[*Prohibited Activities*]

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

- (A) Suggesting, or attempting to suggest, to any person the price or prices, or other terms or conditions to be charged by such person for the sale of pickles or sauerkraut to any other person;
- (B) Hindering, restricting, limiting or preventing or attempting to hinder, restrict, limit or prevent any person from 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 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.

VII

[Inspection and Compliance]

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, 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 said defendant, and without restraint or interference, to interview officers and employees of the defendant Association who may have counsel present, regarding any such matters. Upon such written request said 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 the 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 Retained]

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, for the enforcement of compliance therewith and punishment of violations thereof.