

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Association of American Weighmasters, Inc., U.S. District Court, S.D. New York, 1966 Trade Cases ¶71,728, (Apr. 29, 1966)

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United States v. Association of American Weighmasters, Inc.

1966 Trade Cases ¶71,728. U.S. District Court, S.D. New York. Civil Action No. 65-3342. Entered April 29, 1966. Case No. 1877 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Weighmaster Services—Consent Judgment.—An association of weighmasters was prohibited by a consent judgment from entering into any agreement or plan to fix or suggest prices for weighmaster services and communicating or suggesting to any weighmaster, or association or central agency of weighmasters, any prices for such services.

Price Fixing—Compilation and Distribution of Information—Consent Judgment.—An association of weighmasters was prohibited by a consent judgment from collecting and compiling information relating to prices for weighmaster services and from publishing or distributing any book, list, or chart containing or showing prices for such services. However, the association was permitted to collect and compile statistical cost information for the purpose of complying with labor contracts, provided names of weighmasters surveyed would not be used.

For the plaintiff: Donald F. Turner, Assistant Attorney General and Gordon B. Spivack, W. D. Kilgore, Jr., Harry G. Sklarsky, John D. Swartz, Bertram M. Kantor, and Robert D. Canty, Attorneys, Department of Justice.

For the defendant: John K. Holbrook of Boyd, Holbrook & Alford.

Final Judgment

FRANKEL, District Judge: Plaintiff, United States of America, having filed its complaint herein on November 8, 1965, and the defendant having appeared and having filed its answer denying the substantive allegations of said complaint, and the plaintiff and the 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 admission by either party with respect to any such issue:

Now, Therefore, before the taking of any testimony and without trial, or adjudication of any issue of fact or law herein, and upon consent of the plaintiff and the defendant, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims for relief 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," as amended, commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

- A. "Person" shall mean any individual, partnership, firm, corporation or any other legal or business entity;
- B. "Weighmaster" shall mean a person engaged in performing weighmaster services; and

C. "Weighmaster services" shall mean weighing, counting or taking samples for analyses of commodities and certifying as to the weight, quality or quantity of said commodities.

III

[*Applicability*]

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

IV

[*Price Fixing*]

Defendant is enjoined and restrained from:

- A. Entering into, adhering to, maintaining or enforcing any contract, agreement, understanding, plan or program, to fix, maintain, stabilize, establish, determine or suggest prices for weighmaster services.
- B. Communicating, advocating or suggesting to any weighmaster or to any association or central agency of weighmasters, any prices for weighmaster services.

V

[*Price Information*]

Defendant is enjoined and restrained from collecting and compiling information relating to prices for weighmaster services and from publishing or distributing any book, schedule, list, bulletin or chart containing or showing prices for weighmaster services, provided, however, that nothing in this Final Judgment shall prevent or preclude the defendant for the purpose of the negotiation of or the compliance with a labor contract, from collecting and compiling statistical information from members of the Association, without reference to the names of the weighmasters surveyed, relating to the costs which have been incurred by the weighmasters surveyed.

VI

[*Notice of Judgment*]

Defendant is ordered and directed:

- A. Within ninety days from the date of entry of this Final Judgment, to mail a copy thereof to each of its members by registered mail and to file with this Court, with a copy to the plaintiff, an affidavit setting forth the fact and manner of compliance with this subsection A, and the persons to whom copies of said Final Judgment were sent;
- B. Within ninety days after the entry of this Final Judgment, to amend its charter or by-laws to incorporate therein the provisions of Section IV of this Final Judgment and to require as a condition of membership or tenure of office that all present and future members, directors and officers abide by and be bound thereby;
- C. To furnish to all its future members, directors and officers a copy of its charter or by-laws as amended in accordance with subsection B of this Section VI.

VII

[*Inspection and Compliance*]

A. For the purpose of determining and securing compliance with this Final Judgment and for no other purpose and subject to any legally recognized privilege or right, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office be permitted:

1. 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 such defendant, who may have counsel present, relating to any of the matters contained in this Final Judgment; and
 2. Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.
- B. The defendant, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice, made to its principal office, shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may from time to time be reasonably necessary for the purpose of the enforcement of this Final Judgment;
- C. No information obtained by the means provided 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 such Department of the United States, except in the course of legal proceedings to which the United States of America 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 either 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 or appropriate for the construction or carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.