

APPENDIX A

FINAL JUDGMENTS

(Ordered by Case Listing in the Case Caption)

UNITED STATES v.
LAS VEGAS MERCHANT
PLUMBERS ASSOCIATION, *et al.*

Civil Action No. 14
Civil No. 939 (Old)

Year Judgment Entered: 1955

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Las Vegas Merchant Plumbers Association; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Company; United Plumbing and Heating Company; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; Bernard V. Provenzano; and Ralph Alsup., U.S. District Court, D. Nevada, 1955 Trade Cases ¶68,024, (Mar. 29, 1955)

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United States v. Las Vegas Merchant Plumbers Association; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Company; United Plumbing and Heating Company; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; Bernard V. Provenzano; and Ralph Alsup.

1955 Trade Cases ¶68,024. U.S. District Court, D. Nevada. Civil No. 14. Civil No. 939 (Old). Filed March 29, 1955. Case No. 1080 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Price Fixing—Consent Decree—Practices Enjoined— Bidding Practices—Plumbing and Heating Contractors, Trade Associations, and Union Representative.—

Plumbing and heating contractors, trade associations of such contractors, and a union representative of plumbers and pipefitters were each enjoined by a consent decree from (1) utilizing the services of a common estimator in determining prices to be used in submitting bids or estimates, (2) participating in any organization having the purpose of influencing the submission or composition of bids or estimates, (3) agreeing with any plumbing contractor as to the prices to be submitted in bids or estimates, or (4) submitting complementary or factitious bids or estimates. Compelling adherence to any prices, discounts, or system of pricing also was prohibited.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Refusal to Deal.—Plumbing and heating contractors, trade associations of such contractors, and a union representative of plumbers and pipefitters were each enjoined by a consent decree from taking action in conjunction with any plumbing contractor to coerce or compel any wholesaler either to sell exclusively to or to refrain from selling to any designated customer or purchaser.

Combinations and Conspiracies—Labor Unions—Consent Decree—Practices Enjoined —Withholding Labor.—A union representative of plumbers and pipefitters was prohibited by a consent decree from combining or conspiring with any plumbing contractor to withhold qualified journeymen or apprentice plumbers or pipefitters from any licensed and otherwise qualified plumbing contractor or from coercing any journeymen or apprentice plumber or pipefitter to refuse to accept from or to refuse to continue employment by any licensed and otherwise qualified plumbing contractor, except when acting under the instructions from a bona fide labor union as to matters involving a labor dispute.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief—Dissolution of Association.—A trade association of plumbing contractors was ordered by a consent decree to institute such proceedings as may be necessary to terminate and dissolve its corporate existence.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Madison B. Graves, United States Attorney; and Wm. D. Kilgore, Jr., Vincent Gorman, Lyle L. Jones, and Don H. Banks.

For the defendants: David Zenoff for Las Vegas Merchant Plumbers Assn.; Merchant Plumbers Exchange, Inc.; A. R. Ruppert Plumbing and Heating Co.; United Plumbing and Heating Co.; A. R. Ruppert; Joe Davis; Ruben Cohen; Jack Hynds; Dan Jacomini; Don McGarvie; and Bernard V. Provenzano; G. William Coulthard for A. R. Ruppert and A. R. Ruppert Plumbing and Heating Co. George E. Marshall for Dan Jacomini. John W. Bonner for Ralph Alsup.

Final Judgment

ROGER T. FOLEY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on May 7, 1951, and the undersigned defendants having appeared by counsel; and the plaintiff and said defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission of any of the parties with respect to any such issue; and the court having fully considered the matter and being duly advised;

Now, therefore, before any testimony has been taken, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against the undersigned 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

[*Definitions*]

As used in this Final Judgment:

- (A) "Association" shall mean the defendant Las Vegas Merchant Plumbers Association, an incorporated trade association organized and existing under the laws of the State of Nevada, and having its principal place of business in Las Vegas, Nevada;
- (B) "Exchange" shall mean the defendant Merchant Plumbers Exchange, Inc., a corporation organized and existing under the laws of the State of Nevada, and having its principal place of business in Las Vegas, Nevada;
- (C) "Defendants" shall mean those defendants who consent to the entry of this Final Judgment;
- (D) "Person" shall mean an individual, partnership, firm, association, corporation, or other business or legal entity;
- (E) "Plumbing and heating supplies" shall mean the various commodities which are customarily installed in residential, commercial and other buildings by skilled labor as a part of plumbing or heating systems, including, among other things, cast iron enamelware products, vitreous chinaware, bathtubs, water closets, sinks, lavatories, hot water heaters, showers, laundry trays, pipe, pipe connections, furnaces, hot air and water or steam pipes or conduits, radiators, blowers, and appurtenant fixtures;
- (F) "Wholesalers" shall mean those persons engaged in the business of purchasing plumbing and heating supplies from manufacturers for sale to plumbing contractors and others;
- (G) "Plumbing contractors" shall mean those persons engaged in the business of distributing, selling, installing, altering and repairing plumbing and heating supplies.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its or his officers, agents, servants, employees, subsidiaries, successors, assigns, and attorneys, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[Collusive Pricing and Bidding Practices]

Each of the defendants is enjoined and restrained from:

- (A) Employing or otherwise utilizing the services of the same or a common estimator used by any other plumbing contractor, including but not limited to those plumbing contractors named as defendants herein, in determining prices to be used in submitting estimates or bids for the sale or installation of plumbing and heating supplies;
- (B) Organizing, operating, or participating in any organization having the purpose or effect of influencing in any way the submission or composition of bids or estimates by any plumbing contractor, or the awarding of contracts thereon;
- (C) Taking action in conjunction or association with any plumbing contractor or group thereof to coerce, compel or induce adherence to any particular prices, discounts, pricing policy, or system of pricing on the part of any wholesaler, or to coerce, compel or induce any wholesaler either to sell exclusively to or to refrain from selling to any designated customer or purchaser or any class or group thereof;
- (D) Agreeing with any plumbing contractor, or taking any action in connection with any such contractor, concerning the prices to be submitted in estimates or bids, or the prices to be charged for the sale of plumbing and heating supplies or for the installation of said supplies; or
- (E) Submitting complementary or factitious estimates or bids for the sale or installation of plumbing and heating supplies to any general contractor, architect, builder or consumer.

V

[Withholding of Labor Prohibited]

The defendant Ralph Alsup is enjoined and restrained from:

- (A) Combining or conspiring or otherwise acting pursuant to any agreement or understanding with any plumbing contractor or group thereof, to withhold or threaten to withhold qualified journeymen or apprentice plumbers or pipefitters, when available, from any licensed and otherwise qualified plumbing contractor, except when acting under and pursuant to instructions from Local #525 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States or other bona fide labor union, as to matters involving or growing out of a labor dispute; or
- (B) Coercing, inducing or persuading or attempting to coerce, induce or persuade any journeyman or apprentice plumber or pipefitter to refuse to accept from or to refuse to continue employment by any licensed and otherwise qualified plumbing contractor except when acting under and pursuant to instructions from said Local #525, or other bona fide labor union, as to matters involving or growing out of a labor-dispute.

VI

[Dissolution of Exchange]

- (A) Defendant Exchange, within sixty (60) days of the date of entry of this Final Judgment, shall institute and complete such proceedings as may be appropriate and necessary to terminate and dissolve its corporate existence.
- (B) Within ninety (90) days of the date of entry of this Final Judgment, an official of the defendant Exchange shall notify this Court and the Attorney General of the United States, in writing, of the action taken by it in compliance with this Section VI(A).
- (C) Each defendant is enjoined and restrained from reviving said Exchange or forming any organization like or similar to the said defendant Exchange with similar objectives or purposes.

VII

[Notice of Judgment—Association Membership]

The defendant Association is ordered and directed to:

(A) Furnish to each of its present members and to each of its future members a copy of this Final Judgment and to obtain and keep on file receipts showing deliveries of said copies; and

(B) Admit to membership any bona fide plumbing contractor making written application therefor, provided, however, such contractor may be dropped from membership for failure to pay dues.

VIII

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment, 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 any defendant, made to its principal office, be permitted:

(A) Reasonable access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other, records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

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

Upon such written request the defendant shall submit such written reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as from time to time may be necessary to the enforcement of said Final Judgment. No information obtained by the means provided in this Section VIII 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 to which the United States is a party, or as otherwise required by law.

IX

[Jurisdiction Retained]

Jurisdiction of this action is retained 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 of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

UNITED STATES v.
ASSOCIATED NEVADA
DAIRYMEN, INC., *et al.*

Civil Action No.: 1232

Year Judgment Entered: 1955

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Associated Nevada Dairymen, Inc.; Minden Cooperative Creamery Company, Inc.; Samuel W. Murray and Ralph W. Murray, d.b.a. Old Home Milk Company; Norman H. Snow, d.b.a. Velvet Ice Cream and Dairy Products; Charles W. Brooks, Ernest Brooks, and William Gadda, d.b.a. Model Dairy; and Glen E. Myers, d.b.a. Crescent Creamery., U.S. District Court, D. Nevada, 1955 Trade Cases ¶68,172, (Oct. 18, 1955)

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United States v. Associated Nevada Dairymen, Inc.; Minden Cooperative Creamery Company, Inc.; Samuel W. Murray and Ralph W. Murray, d.b.a. Old Home Milk Company; Norman H. Snow, d.b.a. Velvet Ice Cream and Dairy Products; Charles W. Brooks, Ernest Brooks, and William Gadda, d.b.a. Model Dairy; and Glen E. Myers, d.b.a. Crescent Creamery.

1955 Trade Cases ¶68,172. U.S. District Court, D. Nevada. Civil Action No. 1232. Filed October 18, 1955. Case No. 1254 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing—Milk Producers' Association and Distributors.—Milk distributors were prohibited by a consent decree from entering into any understanding to fix, adopt, or maintain prices, terms, and conditions, at which (1) distributors will purchase raw milk from producers, (2) distributors will sell bottled milk and other fluid milk products to retailers, home buyers, and other purchasers, or (3) bottled milk and other fluid milk products will be resold by purchasers. Also, they were prohibited from fixing or maintaining prices at which raw milk, bottled milk, and other fluid milk products will be bid or sold to city, county, state; federal, and other government agencies.

A milk producers' association was prohibited from knowingly participating in any agreement among distributors to fix the prices which distributors will pay or will offer to pay producers for raw milk and from entering into any understanding with any distributor to fix or maintain prices, terms, and conditions at which a distributor will purchase raw milk from producers who are not members of the association or at which a distributor will sell bottled milk and other fluid milk products.

Department of Justice Enforcement and Procedure—Consent Decrees—Permissive Provisions—Capper-Volstead Act.—A consent decree, prohibiting a milk producers' association from fixing milk prices, provided that nothing contained in the decree shall be deemed to prohibit the association from doing any lawful act authorized by the Capper-Volstead Act.

For the plaintiff: Stanley N. Barnes/Assistant Attorney General; W. D. Kilgore, Jr., Chief, Judgments and Judgment Enforcement Section; Franklin P. Rittenhouse, United States Attorney; and Lyle L. Jones, Marquis L. Smith, Arthur H. Tibbits, and John H. Burgess, Attorneys.

For the defendants: L. M. Dixon, for Associated Nevada Dairymen, Inc.; John S. Halley, for Norman H. Snow; T. L. Withers, for Glen E. Myers; Robert L. McDonald for Samuel W. Murray and Ralph W. Murray; Wm. C. Sanford, for Charles W. Brooks, Ernest Brooks, and William Gadda; and L. M. Dixon, for Minden Cooperative Creamery Company, Inc.

Final Judgment

JOHN R. ROSS, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on September 8, 1955, and the defendants having appeared by their respective counsel, and plaintiff and defendants having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue:

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Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against the 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

[*Definitions*]

As used in this Final Judgment:

- (a) "Defendants" shall mean each and all of the following: Associated Nevada Dairymen, Inc.; Minden Cooperative Creamery Company, Inc.; Samuel W. Murray; Ralph W. Murray; Norman H. Snow; Charles W. Brooks; Ernest Brooks; William Gadda; and Glen E. Myers;
- (b) "Defendant distributors" shall mean each and all of the aforementioned defendants except Associated Nevada Dairymen, Inc.;
- (c) "Person" shall mean an individual, partnership, firm, association, corporation, or other business or legal entity;
- (d) "Producer" shall mean a person having cows and selling to or through distributors a part or all of the raw milk produced by such cows;
- (e) "Distributor" shall mean a person engaged in the business of purchasing or acquiring raw milk from producers, and processing, bottling, selling and distributing bottled milk and other fluid milk products to retailers, homes, and other purchasers;
- (f) "Raw milk" means cow's milk sold or delivered by producers to distributors for processing into bottled milk and other fluid milk products;
- (g) "Bottled milk" means raw milk which has been processed for sale as regular and homogenized, bottled and packaged, milk;
- (h) "Other fluid milk products" means products processed from raw milk, other than bottled milk, for consumption in fluid form, and includes cream, half and half, skimmed milk and chocolate milk.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant; shall apply to such defendant, its or his partners, officers, directors, managers, agents, servants, employees, successors and assigns, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Price Fixing Prohibited*]

The defendant distributors are jointly and severally enjoined and restrained from entering into, adhering to, renewing, maintaining or furthering, directly or indirectly, or inducing others to enter into, any contract, agreement, understanding, plan, program or common course of action among themselves or with any other distributor, to:

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- (a) Fix, adopt, stabilize or maintain prices, terms and conditions at which distributors will purchase raw milk from producers, or from any association of producers;
 - (b) Fix, adopt, stabilize or maintain prices, terms and conditions at which distributors will sell bottled milk and other fluid milk products, to retailers, home buyers, and other purchasers;
 - (c) Fix, adopt stabilize or maintain markups, prices, terms and conditions at which bottled milk and other fluid milk products will be resold by purchasers;
 - (d) Fix, adopt, stabilize or maintain prices at which raw milk, bottled milk, and other fluid milk products will be bid or sold to city, county, state, federal, and other government agencies.
- Nothing in this section IV shall be deemed to prohibit bona fide sales of raw milk, bottled milk, and other fluid milk products by one distributor to another in the regular course of business.

V

Defendant Associated Nevada Dairymen, Inc. is enjoined and restrained from:

- (a) Knowingly aiding, abetting or participating in, any agreement, understanding or meeting between or among distributors to fix the prices which distributors will pay or will offer to pay producers for raw milk;
- (b) Entering into, adhering to, renewing, maintaining or furthering, directly or indirectly, or inducing others to enter into, any contract, agreement, understanding, plan, program or common course of action with any distributor, to:
 - (1) Fix, establish, stabilize or maintain prices, terms and conditions at which a distributor will purchase raw milk from producers who are not members of Associated Nevada Dairymen, Inc.; and
 - (2) Fix, establish stabilize or maintain prices, terms and conditions at which a distributor will sell bottled milk and other fluid milk products.

Nothing in this section V shall be deemed to enjoin said Associated Nevada Dairymen, Inc. from doing any lawful act authorized by the Capper-Volstead Act.

VI

[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 any defendant, be permitted, subject to any legally recognized privilege, (A) access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, 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 from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters. Upon 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 purpose of 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VII

[Jurisdiction Retained]

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

UNITED STATES v.
ANDERSON DAIRY, INC., *et al.*

Civil Action No.: 133

Year Judgment Entered: 1956

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Anderson Dairy, Inc.; Clark County Dairymen, Inc.; Hi-Land Dairyman's Association; Lloyd Foremaster, d. b. a. Arden Milk Distributor; Bert O'Donnell; H. D. Zigtema, d.b.a. Hinie's Select Dairy; Blaine Allan; Elmer Bowman; John Fetherston; Ty Gillins; Harold Gottfriedson; Norman Grimshaw; Bill Marshall; M. K. Stewart; Wilson Stewart; Dan Waite; Vern Waite; M. J. Warr; and Murray Webb., U.S. District Court, D. Nevada, 1956 Trade Cases ¶68,284, (Feb. 20, 1956)

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United States v. Anderson Dairy, Inc.; Clark County Dairymen, Inc.; Hi-Land Dairyman's Association; Lloyd Foremaster, d. b. a. Arden Milk Distributor; Bert O'Donnell; H. D. Zigtema, d.b.a. Hinie's Select Dairy; Blaine Allan; Elmer Bowman; John Fetherston; Ty Gillins; Harold Gottfriedson; Norman Grimshaw; Bill Marshall; M. K. Stewart; Wilson Stewart; Dan Waite; Vern Waite; M. J. Warr; and Murray Webb.

1956 Trade Cases ¶68,284. U.S. District Court, D. Nevada. Civil Action No. 133. Filed February 20, 1956. Case No. 1255 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Milk Producers and Distributors.—Milk distributors were prohibited by a consent decree from entering into any understanding to fix, adopt, or maintain prices, terms, and conditions at which (1) distributors will purchase raw milk from producers, (2) distributors will sell bottled milk and other fluid milk products to retailers, home buyers, and other purchasers, or (3) bottled milk and other fluid milk products will be resold by purchasers. Also, they were prohibited from fixing or maintaining prices at which raw milk, bottled milk, and other fluid milk products will be bid or sold to city, county, state, federal, and other government agencies.

Milk producers, representing other producers who were class defendants, were prohibited from knowingly participating in any understanding among distributors to fix the prices which distributors will pay or will offer to pay producers for raw milk and from entering into any understanding with any distributor to fix or maintain prices, terms, and conditions at which a distributor will sell bottled milk and other fluid milk products.

Department of Justice Enforcement and Procedure—Consent Decrees—Permissive Provisions—Capper-Volstead Act.—A consent decree, prohibiting milk producers from fixing milk prices, provided that nothing contained in the decree shall be deemed to prohibit the producers from doing any lawful act authorized by the Capper-Volstead Act.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Franklin P. Rittenhouse, United States Attorney; and W. D. Kilgore, Jr., Geo. L. Derr, Lyle L. Jones, Marquis L. Smith, Arthur H. Tibbits, and John H. Burgess, Attorneys.

For the consenting defendants: Herbert M. Jones for Anderson Dairy, Inc., and Bill Marshall and Murray Webb, individually, and as representatives of the defendant class of producers, in accordance with Rule 23 of the Federal Rules of Civil Procedure. Rulon A. Earl for Clark County Dairymen, Inc. and Hi-Land Dairyman's Association. V. Gray Gubler for Lloyd Foremaster, d.b.a. Arden Milk Distributor. W. Bruce Beckley for H. D. Zigtema, d.b.a. Hinie's Select Dairy. Elwin C. Leavitt for John Fetherston, Ty Gillins, Harold Gottfriedson, Norman Grimshaw, M. K. Stewart, Wilson Stewart, Dan Waite, Vern Waite, M. J. Warr, and Blaine Allan, individually, and as representatives of the defendant class of producers, in accordance with Rule 23 of the Federal Rules of Civil Procedure. Howard W. Cannon for Elmer Bowman, individually, and as a representative of the defendant class of producers, in accordance with Rule 23 of the Federal Rules of Civil Procedure.

Final Judgment

JOHN R. ROSS, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on September 8, 1955, and the consenting defendants having appeared by their respective counsel, and plaintiff and said defendants having sever ally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue:

Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the plaintiff and consenting defendants, it is hereby ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter hereof and of the plaintiff and consenting defendants. The complaint states a cause of action against the 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

[*Definitions*]

As used in this Final Judgment:

(A) "Consenting defendants" shall mean each and all of the following: Anderson Dairy, Inc.; Clark County Dairymen, Inc.; Hi-Land Dairyman's Association; Lloyd Foremaster, d.b.a. Arden Milk Distributor; H. D. Zigtema, d.b.a. Hinie's Select Dairy; Blaine Allan; Elmer Bowman; John Fetherston; Ty Gillins; Harold Gottfriedson; Norman Grimshaw ; Bill Marshall ; M. K. Stewart ; Wilson Stewart: Dan Waite; Vern Waite; M. Warr; and Murray Webb;

(B) "Consenting defendant distributors" shall mean each and all of the following aforementioned consenting defendants: Anderson Dairy, Inc.; Clark County Dairymen, Inc.; Hi-Land Dairyman's Association; Lloyd Foremaster, d.b.a. Arden Milk Distributor; and H. D. Zigtema, d.b.a. Hinie's Select Dairy;

(C) "Consenting defendant producers" shall mean each and all of the aforementioned consenting defendants except consenting defendant distributors, and in addition, the class of approximately 215 producers, of which they are members, located in Nye, Lincoln and Clark Counties in the State of Nevada, and Beaver, Iron, Piute and Washington Counties in the State of Utah;

(D) "person" shall mean an individual, partnership, firm, association, corporation, or other business or legal entity;

(E) "Producer" shall mean a person having cows and selling to or through distributors a part or all of the raw milk produced by such cows;

(F) "Distributor" shall mean a person engaged in the business of purchasing or acquiring raw milk from producers, and processing, bottling, selling and distributing bottled milk and other fluid milk products to retailers, homes, and other purchasers;

(G) "Raw milk" means cow's milk sold or delivered by producers to distributors for processing into bottled milk and other fluid milk products;

(H) "Bottled milk" means raw milk which has been processed for sale as regular and homogenized, bottled and packaged, milk;

(I) "Other fluid milk products" means products processed from raw milk, other than bottled milk, for consumption in fluid form, and includes cream, half and half, skimmed milk and chocolate milk.

III

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[Applicability of Judgment]

The provisions of this Final Judgment applicable to any consenting defendant shall apply to such defendant, its or his partners, officers, directors, managers, agents, servants, employees, successors and assigns, and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[Pricing Practices—Distributors]

The consenting defendant distributors are jointly and severally enjoined and restrained from adhering to, renewing, maintaining or furthering, directly or indirectly, or inducing others to adhere to, renew, maintain or further any contract, agreement, understanding, plan, program or common course of action, if any now exist, among themselves or with any other distributor to:

- (A) Fix, adopt, stabilize or maintain prices, terms and conditions at which distributors will purchase raw milk from producers, or from any association of producers;
- (B) Fix, adopt, stabilize or maintain prices, terms and conditions at which distributors will sell bottled milk and other fluid milk products, to retailers, home buyers, and other purchasers;
- (C) Fix, adopt, stabilize or maintain mark-ups, prices, terms and conditions at which bottled milk and other fluid milk products will be resold by purchasers;
- (D) Fix, adopt, stabilize or maintain prices at which raw milk, bottled milk and other fluid milk products will be bid or sold to city, county, state, federal, and other government agencies; and consenting defendant distributors are jointly and severally enjoined and restrained from at any time hereafter entering into, adhering to, maintaining or furthering, directly or indirectly, or inducing others to enter into any contract, agreement, understanding, plan, program or common course of action among themselves or with any other distributor, to do any of the acts or things set forth in subparagraphs (A), (B), (C) and (D) of this Section IV.

Nothing in this Section IV shall be deemed to prohibit bona fide sales of raw milk, bottled milk, and other fluid products by one distributor to another in the regular course of business.

V

[Pricing Practices—Producers]

Consenting defendant producers are jointly and severally enjoined and restrained:

- (A) From knowingly aiding, abetting or participating in, any agreement, understanding or meeting between or among distributors to fix the prices which distributors will pay or will offer to pay producers for raw milk;
- (B) From adhering to, renewing, maintaining or furthering, directly or indirectly, or inducing others to adhere to, renew, maintain or further any contract, agreement, understanding, plan, program or common course of action, if any now exist, with any distributor, to fix, establish, stabilize or maintain prices, terms and conditions at which a distributor will sell bottled milk and other fluid milk products; and from at any time hereafter entering into, adhering to, maintaining or furthering directly or indirectly, or inducing others to enter into any contract, agreement, understanding, plan, program or common course of action with any distributor to fix, establish, stabilize or maintain prices, terms and conditions at which a distributor will sell bottled milk and other fluid milk products.

Nothing in this Section V shall be deemed to enjoin said consenting defendant producers from doing any lawful act authorized by the Capper-Volstead Act.

VI

[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 any consenting defendant, be permitted, subject to any legally recognized privilege, (a) access, during the office hours of such consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such consenting defendant, 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 from it, to interview officers or employees of such consenting defendant, who may have counsel present, regarding any such matters. Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, such consenting 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 purpose of 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VII

[*Jurisdiction Retained*]

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

UNITED STATES v.
INDEPENDANT BODY SHOP ASSN. OF RENO
AND SPARKS, INC.

Civil Action No.: R-2041

Year Judgment Entered: 1968

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Independent Body Shop Assn. of Reno and Sparks, Inc., U.S. District Court, D. Nevada, 1968 Trade Cases ¶72,478, (Jun. 24, 1968)

[Click to open document in a browser](#)

United States v. Independent Body Shop Assn. of Reno and Sparks, Inc.

1968 Trade Cases ¶72,478. U.S. District Court, D. Nevada. Civil No. R-2041. Entered June 24, 1968. Case No. 1995 in the Antitrust Division of the Department of Justice.

Sherman Act

Trade Association—Automobile Body Repairs and Parts—Consent Judgment.—An automobile body repair shop association was prohibited by a consent decree from advocating or establishing fixed prices for parts and service and from fixing the number of hours of labor to be used by repair shops in computing prices to be charged for repair work; from allocating body repair work through towing of damaged automobiles to body repair shops of members, on a rotation basis or by any other means; and from excluding tow firms or nonmember body shops from performing body repair work.

For the plaintiff: Donald F. Turner, Asst. Atty. Gen.; Joseph L. Ward, U. S. Atty.; Julien G. Sourwine, Asst. U. S. Atty.; Robert B. Hummel, Lyle L. Jones, Marquis L. Smith, Robert J. Staal, and James E. Figenshaw, Attys., Dept. of Justice.

For the defendant: LeRoy Arrascada, of Richards & Arrascada, for Independent Body Shop Assn. of Reno and Sparks, Inc.

Final Judgment

THOMPSON, D. J.: Plaintiff, United States of America, having filed its complaint herein on March 7, 1968, and defendant, Independent Body Shop Association of Reno and Sparks, Inc., having filed its answer thereto denying the substantive allegations thereof; and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue:

Now, Therefore, before the taking of any testimony and upon said consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 (15 U. S. C. § 1) 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 herein:

(a) "Parts" means any portion of an automobile except the motor and its components. It includes but is not limited to bumpers, radiators, hoods, fenders, glass, doors, quarter panels, and paint materials.

(b) "Body repair work" means the application of new or used parts and labor to the damaged bodies of automobiles for the purpose of repairing them.

(c) "Person" means any individual, partnership or corporation.

(d) "Body repair shop" means any person engaged in the sale and performance of body repair work.

(e) "Towing" means the hauling or removal to body repair shops of damaged automobiles.

(f) "Tower" means any person engaged in the sale and performance of towing.

III

[Applicability]

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

IV

[Notification]

Defendant is ordered and directed:

A. Forthwith to serve a copy of this Final Judgment upon (1) each member of its Board of Directors, (2) each of its principal managerial officers who are not members of its Board of Directors, and (3) each of its present members;

B. To serve a copy of this Final Judgment upon all of its future members at such time as they become members; and

C. To file with this Court and serve upon the plaintiff within thirty (30) days after the date of the entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsection A of this Section IV.

V

[Price Fixing]

Defendant is enjoined and restrained from, directly or indirectly:

A. Entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, policy, or program to fix, establish, adopt, or maintain:

(i) The prices, discounts, markups, or other terms and conditions at which new or used auto parts, glass, or paint material are to be sold by body repair shops;

(ii) The flat rates to be charged per hour for labor by body repair shops;

(iii) The number of hours of labor to be utilized by body repair shops in computing prices to be charged for any body repair work.

B. Advocating, suggesting, urging, inducing, or compelling any person operating a body repair shop to adopt, use, or adhere to:

(i) Uniform or specific prices, discounts, markups, or other terms and conditions at which new or used auto parts, glass, or paint material are to be sold by body repair shops;

(ii) Any particular price book, price manual, or price schedule in computing prices to be charged by body repair shops for body repair work;

(iii) Uniform or specific flat rates to be charged per hour for labor by body repair shops;

(iv) Any manual, chart, or schedule designating the minimum hours of labor to be utilized in computing prices to be charged for any body repair work.

C. Entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, policy, or program to allocate body repair work through towing of damaged automobiles to body repair shops of members of defendant on a rotation basis, or by any other means, or to exclude towers or nonmember body shops from performing body repair work.

VI

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, and subject to any legally recognized privilege, 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 defendant, made through its principal office, be permitted (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of 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; and upon such request, defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided 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 plaintiff, 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.

VII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties of 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 the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

UNITED STATES v.
A. LEVY & J. ZENTNER CO., *et al.*

Civil Action No.: R-2724

Year Judgment Entered: 1973

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,

v.

A. LEVY & J. ZENTNER CO.; and
JOHN H. BURROWS, INC.,
Defendants.

Civil Action No. R-2724

Filed: Aug. 20, 1973

Entered: Sept. 20, 1973

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on August 15, 1972, and plaintiff and the 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 admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without adjudication of any issue of fact or law herein and upon the consent of the parties hereto, it is hereby:

1 ORDERED, ADJUDGED and DECREED as follows:

2 I

3 This Court has jurisdiction of the subject matter of
4 this action and of all parties hereto. The Complaint states
5 a claim against the defendants upon which relief may be
6 granted under Section 1 of the Act of Congress of July 2,
7 1890, entitled "An Act to protect trade and commerce against
8 unlawful restraints and monopolies," as amended (15 U.S.C.
9 § 1), commonly known as the Sherman Act.

10 II

11 As used in this Final Judgment:

12 (A) "Person" means any individual, partnership, firm,
13 corporation, association or other business or legal entity;

14 (B) "Produce" means fresh fruits, vegetables, and
15 other similar food products, including but not limited to
16 lettuce, tomatoes, bananas, lemons, onions, oranges, and
17 potatoes.

18 III

19 The provisions of this Final Judgment applicable to
20 any defendant shall apply to such defendant, its
21 subsidiaries, successors and assigns and to its officers,
22 directors, agents, employees and attorneys, and to all
23 other persons in active concert or participation with
24 any of them who receive actual notice of this Final
25 Judgment by personal service or otherwise.

26 IV

27 Each defendant is enjoined and restrained from directly
28 or indirectly in any manner entering into, adhering to, or
29 claiming or maintaining any right under any contract,
30 agreement, arrangement, understanding, plan or program
31 with any other person:
32

1 (B) Serve a conformed copy of this Final Judgment upon
2 each successor officer, director, managing agent and employee
3 having any responsibility for establishing prices or bids
4 for the sale of produce by said defendant;

5 (C) Advise and inform each such officer, director,
6 managing agent and employee upon whom this Final
7 Judgment has been served as described in subparagraphs
8 (A) and (B) above, that violation by him of the terms
9 of this Final Judgment could result in a conviction
10 for contempt of court and could subject him to imprisonment
11 and/or fine;

12 (D) Within ninety (90) days after the entry of
13 this Final Judgment, to file with this Court and to
14 serve upon the plaintiff affidavits concerning the
15 fact and manner of compliance with subsections (A)
16 and (C) of this Section VI.

17 VII

18 For a period of ten (10) years from the date of
19 entry of this Final Judgment, each defendant is
20 ordered to file with the plaintiff, on each anniversary
21 date of such entry, a report setting forth the steps
22 which it has taken during the prior year to advise
23 the defendant's appropriate officers, directors and
24 employees of its and their obligations under this
25 Final Judgment.

26 VIII

27 A. For the purpose of determining or securing
28 compliance with this Final Judgment, duly authorized
29 representatives of the Department of Justice shall,
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1 upon the written request of the Attorney General, or
2 the Assistant Attorney General in charge of the Antitrust
3 Division, and upon reasonable notice to any defendant
4 made to its principal office, be permitted, subject to
5 any legally recognized privilege:

6 (a) Access, during office hours of each
7 defendant, to all books, ledgers, accounts,
8 correspondence, memoranda, and other records
9 and documents in the possession of or under
10 the control of said defendant relating to
11 any of the matters contained in this Final
12 Judgment; and

13 (b) Subject to the reasonable
14 convenience of each defendant to interview
15 the officers, directors, agents, and employees
16 of said defendant, who may have counsel
17 present, regarding any such matters.

18 B. Each defendant shall submit such reports in
19 writing, under oath if so requested, to the Department
20 of Justice with respect to any of the matters contained
21 in this Final Judgment as from time to time may be requested.

22 C. No information obtained by the means provided in
23 this Section VIII shall be divulged by any representative
24 of the Department of Justice to any person other than a
25 duly authorized representative of the Executive Branch of
26 the plaintiff except in the course of legal proceedings to
27 which the United States is a party for the purpose of
28 securing compliance with this Final Judgment, or as
29 otherwise required by law.
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IX

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

DATED this 20th day of September, 1973.

/s/ ROGER D. FOLEY
UNITED STATES DISTRICT JUDGE

UNITED STATES v.
LEN HARRIS WHOLESALE
MEATS, INC., *et al.*

Civil Action No.: R-2735

Year Judgment Entered: 1974

ENTERED

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APR 30 1974

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY LINDA SHARER DEPUTY

U.S. DISTRICT COURT
DISTRICT OF NEVADA
APR 30 1974

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,

v.

LEN HARRIS WHOLESALE
MEATS, INC.;
BLUE RIBBON MEAT COMPANY;
SIERRA MEAT & PROVISION
COMPANY, INC.;
SILVER STATE MEAT COMPANY;
and
CALVIN D. HEMPHILL, d/b/a
PEERLESS MEAT COMPANY,

Defendants.

Civil Action No. R-2735

FINAL JUDGMENT

Filed: March 25, 1974

Entered: April 30, 1974

Plaintiff, United States of America, having filed its
Complaint herein on September 12, 1972, and plaintiff and
the defendants 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 any
party with respect to any such issue, and without this
Final Judgment constituting evidence or admission by any
party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony
and without adjudication of any issue of fact or law herein
and upon the consent of the parties hereto, it is hereby

1 ORDERED, ADJUDGED and DECREED as follows:

2 I

3 This Court has jurisdiction of the subject matter of
4 this action and of all parties hereto. The Complaint states
5 a claim against the defendants upon which relief may be
6 granted under Section 1 of the Act of Congress of July 2,
7 1890, entitled "An Act to protect trade and commerce against
8 unlawful restraints and monopolies," as amended (15 U.S.C.
9 § 1), commonly known as the Sherman Act.

10 II

11 As used in this Final Judgment:

12 (A) "Person" means any individual, partnership, firm,
13 corporation, association or other business or legal entity;

14 (B) "Meat" means meat and meat products of any type
15 regardless of whether fresh, frozen or processed.

16 III

17 The provisions of this Final Judgment applicable to
18 any defendant shall apply to such defendant, its
19 subsidiaries, successors and assigns and to its officers,
20 directors, agents, employees and attorneys, and to all
21 other persons in active concert or participation with
22 any of them who receive actual notice of this Final
23 Judgment by personal service or otherwise.

24 IV

25 Each defendant is enjoined and restrained from directly
26 or indirectly in any manner entering into, adhering to, or
27 claiming or maintaining any right under any contract,
28 agreement, arrangement, understanding, plan or program
29 with any other person:
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(A) To fix, raise, maintain or stabilize prices, discounts, markups or other terms or conditions relating to the sale of meat to any third person;

(B) To submit collusive or rigged bids or quotations for meat to any agency of any local, state, or federal government, or to any other person;

(C) To allocate or rotate customers, territories or meat business.

V

Each of the defendants is enjoined and restrained from:

(A) Communicating to or exchanging with any other person selling meat any information concerning prices, discounts, markups or other terms or conditions relating to the sale of meat that are contained in any bid or are to be contained in any bid to any third person prior to the opening of any such bid, or, in the absence of a bid opening, prior to the release by such third person of such information to the public;

(B) Communicating to or exchanging with any other person selling meat any information concerning any actual or proposed prices, discounts, markups or other terms or conditions at which meat is to be, or has been, sold to any third person, prior to the communication of such information to the public or to customers generally.

VI

Each defendant is ordered and directed to:

(A) Serve within sixty (60) days after the entry of this Final Judgment a conformed copy of this Final Judgment upon each of its respective officers, directors, managing agents and employees who have any responsibility for establishing prices or bids for the sale of meat by said defendant;

1 (B) Serve a conformed copy of this Final Judgment
2 upon each successor officer, director, managing agent and
3 employee having any responsibility for establishing prices
4 or bids for the sale of meat by said defendant;

5 (C) Advise and inform each such officer, director,
6 managing agent and employee upon whom this Final
7 Judgment has been served as described in subparagraphs
8 (A) and (B) above, that violation by him of the terms
9 of this Final Judgment could result in a conviction for
10 contempt of court and could subject him to imprisonment
11 and/or fine;

12 (D) Within ninety (90) days after the entry of
13 this Final Judgment, to file with this Court and to
14 serve upon the plaintiff affidavits concerning the
15 fact and manner of compliance with subsections (A)
16 and (C) of this Section VI.

17 VII

18 For a period of ten (10) years from the date of
19 entry of this Final Judgment, each defendant is
20 ordered to file with the plaintiff, on each anniversary
21 date of such entry, a report setting forth the steps
22 which it has taken during the prior year to advise
23 the defendant's appropriate officers, directors and
24 employees of its and their obligations under this
25 Final Judgment.

26 VIII

27 A. For the purpose of determining or securing
28 compliance with this Final Judgment, duly authorized
29 representatives of the Department of Justice shall,
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1 upon the written request of the Attorney General, or
2 the Assistant Attorney General in charge of the Antitrust
3 Division, and upon reasonable notice to any defendant
4 made to its principal office, be permitted, subject to
5 any legally recognized privilege:

6 (a) Access, during office hours of each
7 defendant, to all books, ledgers, accounts,
8 correspondence, memoranda, and other records
9 and documents in the possession of or under
10 the control of said defendant relating to
11 any of the matters contained in this Final
12 Judgment; and

13 (b) Subject to the reasonable
14 convenience of each defendant to interview
15 the officers, directors, agents, and employees
16 of said defendant, who may have counsel
17 present, regarding any such matters.

18 B. Each defendant shall submit such reports in
19 writing, under oath if so requested, to the Department
20 of Justice with respect to any of the matters contained
21 in this Final Judgment as from time to time may be requested.

22 C. No information obtained by the means provided in
23 this Section VIII shall be divulged by any representative
24 of the Department of Justice to any person other than a
25 duly authorized representative of the Executive Branch of
26 the plaintiff except in the course of legal proceedings to
27 which the United States is a party for the purpose of
28 securing compliance with this Final Judgment, or as
29 otherwise required by law.
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IX

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

DATED this 26th day of June, 1974.

ROGER D. FOLEY
UNITED STATES DISTRICT JUDGE

UNITED STATES v.
FOREMOST-MCKESSON INC., *et al.*

Civil Action No.: CIV-LV-76-183

Year Judgment Entered: 1977

Raymond P. Hernacki
 Joseph J. Tabacco
 Ronald M. Griffith
 Department of Justice
 Antitrust Division
 1444 United States Court House
 312 North Spring Street
 Los Angeles, California 90012
 Telephone: (213) 688-2502

UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. CIV-LV-76-183 BRT
)	
v.)	<i>filed: APR 27 1977</i>
)	
FOREMOST-McKESSON, INC.;)	
DeLUCA IMPORTING CO., INC.;)	<i>Entered: August 12, 1977</i>
NEVADA BEVERAGE CO.; and)	
DeLUCA REALTY CORP., INC.,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint hereon on September 27, 1976, and defendant Foremost-McKesson, Inc. having filed its answer thereto and plaintiff and defendants by their respective attorneys having consented to the entry of this Final Judgment:

NOW THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue and upon consent of the said parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof

1 and the parties hereto. The complaint states on its face a
 2 claim upon which relief may be granted against the defendants
 3 under Section 7 of the Clayton Act (15 U.S.C. § 18).

4 II

5 As used in this Final Judgment:

6 (A) "Foremost" shall mean Foremost-McKesson, Inc.;

7 (B) "DeLuca" shall mean DeLuca Importing Co., Inc.,
 8 Nevada Beverage Co., and DeLuca Realty Corp., Inc.;

9 (C) "Person" shall mean an individual, partnership,
 10 firm, corporation, or any other business or legal entity;

11 (D) "Wholesaler" shall mean a person who engages in
 12 the purchase of any alcoholic beverage for resale in its
 13 original packaging to retailers;

14 (E) "Supplier" shall mean a manufacturer, distiller,
 15 rectifier, wine maker, packager, or distributor who engages
 16 in the sale of any alcoholic beverage to wholesalers;

17 (F) "Liquor" shall mean any alcoholic beverage having
 18 greater than 22% alcoholic content by volume;

19 (G) "Wine" shall mean any alcoholic beverage, containing
 20 up to 22% alcohol by volume, obtained by the fermentation of
 21 the natural content of fruits and other agricultural products
 22 containing sugar;

23 (H) "Assets" shall mean any tangible or intangible
 24 thing of value, personalty or realty owned or controlled by
 25 any wholesaler and shall include, without limitation, the
 26 willingness of a supplier to sell a particular brand of
 27 alcoholic beverage for resale, whether expressed orally or in
 28 writing.

29 III

30 The provisions of this Final Judgment applicable to
 31 defendants shall apply to each of their directors, officers,
 32 employees, agents, affiliates, successors and assigns, and.

1 to all persons in active concert or participation with any of
2 them who receive actual notice of this Final Judgment by per-
3 sonal service or otherwise.

4 VI

5 (A) Foremost is permanently enjoined and restrained from
6 merging with, or consolidating with, or acquiring any of the
7 shares of stock of, or any assets from, DeLuca.

8 (B) Foremost is enjoined and restrained for a period of
9 ten (10) years from the date of the entry of this Final
10 Judgment from merging with, or consolidating with, or acquir-
11 ing any of the shares of stock of, or any assets from, a whole
12 saler of liquor or wine in the State of Nevada without the
13 consent of plaintiff or, if such consent is not given after
14 45 days' notice to plaintiff, without the approval of the
15 Court.

16 (C) Nothing in this Final Judgment shall preclude
17 Foremost from purchasing equipment, products or supplies from
18 any person in the normal course of that person's business.

19 V

20 (A) For the purpose of determining or securing com-
21 pliance with this Final Judgment, and for no other purpose,
22 any duly authorized representative of the Department of
23 Justice shall, upon written request of the Attorney General or
24 the Assistant Attorney General in charge of the Antitrust
25 Division, and on reasonable notice to any defendant made to
26 its principal office, be permitted, subject to any legally
27 recognized privilege:

28 (1) Access, during the office hours of such
29 defendant, to inspect and copy all books, ledgers,
30 accounts, correspondence, memoranda and other records
31 and documents in the possession or under the control
32 of such defendant relating to any matters contained

1 in this Final Judgment; and

2 (2) Subject to the reasonable convenience of
3 such defendant, and without restraint or inter-
4 ference from it, to interview officers, directors,
5 agents, partners or employees of such defendant,
6 who may have counsel present, regarding any such
7 matters.

8 (B) Defendant, upon the written request of the Attorney
9 General or of the Assistant Attorney General in charge of the
10 Antitrust Division, shall submit such reports in writing with
11 respect to any of the matters contained in this Final Judgment
12 as may from time to time be requested.

13 No information obtained by the means provided in this
14 Section V shall be divulged by any representative of the
15 Department of Justice to any person other than a duly
16 authorized representative of the Executive Branch of the
17 United States except in the course of legal proceedings to
18 which the United States is a party, or for the purpose of
19 securing compliance with this Final Judgment, or as otherwise
20 required by law.

21 If at any time information or documents are furnished
22 by a defendant to plaintiff, such defendant represents and
23 identifies in writing the material in any such information or
24 documents which is of a type described in Rule 26(c)(7) of the
25 Federal Rules of Civil Procedure, and said defendant marks each
26 pertinent page of such material, "Subject to claim of pro-
27 tection under the Federal Rules of Civil Procedure," then 10
28 days notice shall be given by the plaintiff to such defendant
29 prior to divulging such material in any legal proceeding (other
30 than a Grand Jury proceeding) to which the defendant is not
31 a party.

32 The Court having entered an order on November 12, 1976,

1 enjoining and restraining the defendants from engaging in
2 certain activities, and the Court and the plaintiff having
3 intended the Order to continue only until the entry of a
4 Final Judgment in this action, including a Final Judgment
5 upon consent of the parties, the Order is hereby dissolved.

6 VI

7 Jurisdiction is retained by this Court for the purpose
8 of enabling any of the parties to this Final Judgment to
9 apply to this Court at any time for such further orders and
10 directions as may be necessary or appropriate for the con-
11 struction or carrying out of this Final Judgment, for the
12 modification of any of the provisions hereof, for the enforce-
13 ment of compliance herewith, and for the punishment of
14 violations hereof.

15 VII

16 Entry of this Final Judgment is in the public interest.

17 Dated: August 12, 1977

18 *Bruce R. Thompson*
19
20 UNITED STATES DISTRICT JUDGE