

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) Civil Action No. 83-3053
)
 v.)
) Filed: June 27, 1983
)
 THE PHILADELPHIA PRODUCE)
 CREDIT AND COLLECTION BUREAU,)
)
 Defendant.)

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action to obtain equitable relief against the defendant named herein and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Sherman Act (15 U.S.C. § 4) in order to prevent and restrain violation by the defendant of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. The defendant The Philadelphia Produce Credit and Collection Bureau transacts business and is found within the Eastern District of Pennsylvania.

II.

DEFINITION

3. As used herein "produce" means fresh fruits and vegetables.

III.

DEFENDANT

4. The Philadelphia Produce Credit and Collection Bureau (hereinafter referred to as the "Bureau") is made a defendant herein. The Bureau is incorporated under the laws of the Commonwealth of Pennsylvania. Its place of business is in Philadelphia, Pennsylvania.

IV.

CO-CONSPIRATORS

5. Various other persons and firms, not made defendants herein, participated in the violation hereinafter alleged and performed acts and made statements in furtherance thereof.

V.

TRADE AND COMMERCE

6. The Bureau is an organization of 48 wholesale produce firms which sell directly to grocery stores, cooperatives, and distributors from a terminal market in South Philadelphia. Each member controls one or more units at the terminal market. Customers of Bureau members are located in Pennsylvania and

other states. The produce that Bureau members sell comes from throughout the United States.

7. The Bureau serves a number of functions. It provides billing and debt collection services for members. It also distributes to members credit information regarding customers and potential customers.

8. In collecting debts owed members, the Bureau mails bills to the members' customers. Those customers then send checks to the Bureau payable either to it or to the specific member owed. The Bureau, in either event, causes payment to be made to the member. The Bureau only tabulates the bills it collects through checks made payable directly to the Bureau. In 1981, the Bureau received payment of more than \$35 million in checks made payable to the Bureau by customers of Bureau members. In each of the four years preceding 1981, the Bureau collected more than \$22.5 million in this fashion. The total amount of transactions handled by the Bureau in each year, however, exceeded these amounts.

9. During the period covered by this complaint, there was a substantial, continuous, and uninterrupted flow in interstate commerce of produce across state lines to the terminal market in which Bureau members conduct business. During the period covered by this complaint, Bureau members also sold substantial

quantities of produce in a continuous and uninterrupted flow of interstate commerce from the terminal market to customers who transported the produce across state lines to other states. The activities of the Bureau and co-conspirators, as hereinafter alleged, were within the flow of, and substantially affected, interstate commerce.

VI.

VIOLATION ALLEGED

10. The Bureau was incorporated in 1896. Beginning at that time and continuing thereafter until the date of filing of this complaint, the defendant and co-conspirators have engaged in a continuing combination and conspiracy to suppress and eliminate competition in the sale of produce in unreasonable restraint of the interstate trade and commerce described above, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

11. The aforesaid combination and conspiracy consisted of an agreement, understanding, and concert of action among the defendant and co-conspirators to fix and maintain credit terms employed in the sale of produce.

12. For the purpose of forming and effectuating the aforesaid conspiracy, the defendant and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including, among other things:

- (a) agreeing to fix the length of time for which Bureau members extend credit to their customers;
- (b) agreeing to withhold credit from customers who did not pay bills within terms established by the Bureau and co-conspirators; and
- (c) agreeing to withhold credit from customers who did not establish credit through the Bureau.

VII.

EFFECTS

13. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) prices paid for produce by customers of Bureau members have been fixed and maintained at artificial and noncompetitive levels;
- (b) competition in terms and conditions of sale of produce has been restrained and suppressed; and
- (c) customers of Bureau members have been denied the benefits of free and open competition in the sale of produce.

VIII.

PRAYER

WHEREFORE, the plaintiff prays:

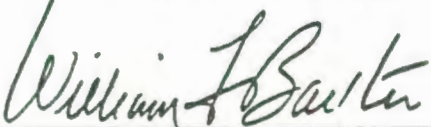
1. That the Court adjudge and decree that the defendant and co-conspirators have combined and conspired to restrain interstate trade and commerce in violation of Section 1 of the Sherman Act;

2. That the defendant, its officers, managers, agents, employees, and successors, and all other persons acting or claiming to act on behalf of the defendant, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding, or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect;

3. That the Bureau be required to provide appropriate notice to its members and those customers of its members to whom the Bureau mails bills informing each of them of the entry of any final judgment herein and of their rights and responsibilities under any such final judgment;

4. That the plaintiff have such other and further relief as the Court may deem just and proper; and

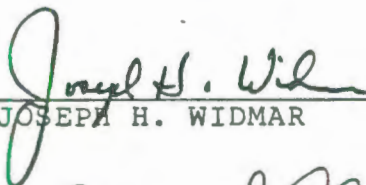
5. That the plaintiff recover the costs of this suit.



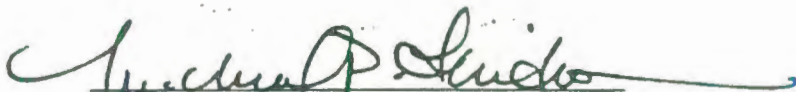
WILLIAM F. BAXTER
Assistant Attorney General



KENNETH L. JOST

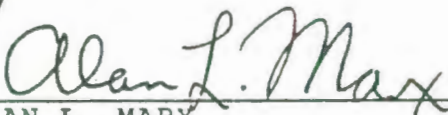


JOSEPH H. WIDMAR



MICHAEL P. LINDEMANN

Attorneys for the United States



ALAN L. MARX

United States Department of
Justice
Antitrust Division
Washington, D.C. 20530
202/724-6468

Attorneys for the United States

EDWARD S.G. DENNIS, JR.
United States Attorney