

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil No. C 80-1893
v.)	
)	Judge Thomas D. Lambros
FIRST NATIONAL SUPERMARKETS,)	
INC., dba PICK-N-PAY)	
SUPERMARKETS;)	Filed: August 27, 1985
FISHER FOODS, INC.,)	
dba FAZIO'S; and)	
ASSOCIATION OF STOP-N-SHOP)	
SUPER MARKETS,)	
)	
Defendants.)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on October 10, 1980, and plaintiff and 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 this Final Judgment constituting any evidence against or any admission by any 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 parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

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

(B) "Grocery products" means dry groceries, dairy products, frozen foods, non-alcoholic beverages, pet foods, paper goods, detergents, and other such products commonly sold in a grocery store;

(C) "Meat items" means those portions of animals in whatever form, including beef, pork, and poultry, commonly sold in a grocery store;

(D) "Produce items" means fresh fruits and vegetables commonly sold in a grocery store;

(E) "Price checking" means an activity wherein an employee, agent, or third party on behalf of a defendant, physically enters a retail store of any competitor (including retail stores of another defendant herein) and inspects or records and reports the prices stamped, printed, or written on grocery products, meat items, or produce items;

(F) "Wholesaler" means any division or subsidiary of either defendant Fisher Foods, Inc. or First National Supermarkets, Inc., or any member of, or entity formed by one or more members of, defendant Association of Stop-N-Shop Super Markets, that engages in the sale at wholesale of grocery products, meat items, or produce items.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, members, successors, and assigns, and to 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; provided, however, that this Final Judgment shall not apply to any person to which any defendant transfers (a) only the stock or assets of a Wholesaler or (b) substantially less than all of the assets used in the retail sale of grocery products, meat items, or produce items.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing, or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any person engaged in the retail sale in Cuyahoga County, Ohio, of grocery products, meat items, or produce items to determine, establish, fix, raise, maintain, or adhere to advertised retail prices, retail prices, or other terms or conditions for the retail sale of grocery products, meat items, or produce items.

VII

Nothing in sections IV or V of this Final Judgment shall:

(A) Prohibit any person, except defendants First National Supermarkets, Inc. and Fisher Foods, Inc., from being a member of defendant Association of Stop-N-Shop Super Markets; or

(B) Prohibit any member of defendant Association of Stop-N-Shop Super Markets or any member of any organized group of retail stores from purchasing from a Wholesaler or from participating in cooperative buying and joint advertising activities.

VIII

(A) Defendants First National Supermarkets, Inc. and Fisher Foods, Inc. shall advise each of their officers and directors and each of their employees who has any responsibility for the pricing of grocery products, meat items, or produce items in Cuyahoga County, of its and his or her obligations under this Final Judgment.

(B) Defendant Association of Stop-N-Shop Super Markets shall advise each of its officers, directors, agents, employees and each of the employees of its members who has any responsibility for the pricing of grocery products, meat items or produce items of its and his or her obligations under this Final Judgment.

(C) Each defendant is ordered and directed, with respect to the appropriate subsection (A) or (B) hereof, to:

(1) Furnish a copy of this Final Judgment to each of the persons described in either subsection (A) or subsection (B) hereof within thirty (30) days after the date of the entry of this Final Judgment;

(2) Furnish a copy of this Final Judgment to each successor to each person described in subsection (A) or (B) hereof within thirty (30) days after each successor becomes associated with the defendant;

(3) Obtain from each of those persons described in subsections (A) or (B), and (C)(2) hereof and furnished a copy of this Final Judgment, a signed receipt therefor, which receipt shall be retained in the defendant's files;

(4) Attach to each copy of this Final Judgment furnished to each of those persons described in subsections (A) or (B), and (C)(2) hereof, a statement, in substantially the form set forth in Appendix A attached hereto, advising each such person of his or her obligations and of the defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him or her and upon the defendant for violation of this Final Judgment;

(5) Hold, within seventy-five (75) days after the date of entry of this Final Judgment, a meeting of the persons described in subsections (A) or (B), and (C)(2) hereof, at which meeting such persons shall be instructed

APPENDIX A

Notice

Re: United States v. First National Supermarkets,
Inc., Fisher Foods, Inc., and Association of
Stop-N-Shop Super Markets, Civil No. C 80-1893
(N.D. Ohio)

Attached hereto is a copy of a Final Judgment entered
_____, 1985 in the captioned case. We are
required to provide this to you. You should read it carefully.
The provisions of the Final Judgment contained in Sections IV
and V apply to you. If you violate these provisions, you may
subject the company [or the Association of Stop-N-Shop Super
Markets] to a fine and you may also subject yourself to a fine
and imprisonment.