

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Monterey Sardine Industries, Inc., Salvatore Ventimiglia, O. Enea, Sam Loner, A. N. Lucido and Horace E. Balbo., U.S. District Court, N.D. California, 1940-1943 Trade Cases ¶56,169, (Oct. 6, 1941)

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United States of America v. Monterey Sardine Industries, Inc., Salvatore Ventimiglia, O. Enea, Sam Loner, A. N. Lucido and Horace E. Balbo.

1940-1943 Trade Cases ¶56,169. U.S. District Court, N.D. California, Southern Division. Civil Action No. 21991-W. October 6, 1941.

Upon consent of all parties, a decree was entered in proceedings under the Sherman Anti-Trust Act, enjoining an association and certain individuals from monopolistic activities in the marketing of sardines at the port of Monterey, California, or any other port. The activities enjoined are price fixing through the formulation of plans with purchasers of sardines; preventing non-members of the association from marketing their sardines at Monterey, California, or any other port; compelling purchasers of sardines by contractual arrangements to purchase solely from the association or its members; and conducting meetings for the purpose of carrying out the unlawful activities of the conspiracy..

Thurman Arnold, Assistant Attorney General, Frank J. Hennessy, U. S. District Attorney, San Francisco, Calif., Tom C. Clark and Wallace Howland, Special Assistants to the Attorney General, and Fred S. Gilbert, Jr., for plaintiff.

Peter J. Ferrante and Webster Street, Monterey, Calif., for defendants.

Before Louderback, District Judge.

Consent Decree

The complainant, United States of America, having filed its complaint herein on October 6, 1941; all of the defendants having appeared generally and having waived service of process; all parties hereto by their respective attorneys herein having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party in respect to any such issue; and the complainant having moved the Court for this decree;

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

ORDERED, ADJUDGED, and DECREED

[*Jurisdiction*]

1. That the Court has jurisdiction of the subject matter and of all the parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled, "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," and the acts amendatory thereof and supplemental thereto.

[*Activities Enjoined*]

2. Each of the defendants, their successors, members, officers, directors, agents and employees, and all persons acting under, through or for them, or any of them, be and they are hereby enjoined and restrained from doing, or attempting to do, or inducing others to do the following things or any of them:

[*Restraining Marketing*]

(a) Preventing or restraining any individual, co-partnership, or corporation not a member of Monterey Sardine Industries, Inc., from, or suppressing or hindering any such individual, co partnership, or

corporation in, marketing sardines at, or transporting or delivering sardines to, Monterey, California, or any other port;

[*Compelling Purchasing from Association by Contract*]

(b) Entering into any contract or agreement with any corporation, co-partnership, or individual by terms of which such corporation, co-partnership, or individual shall be required to purchase sardines solely from defendant Monterey Sardine Industries, Inc., or its members, or from any other organization or association or its members, or through any common agency, and from or through no one else; or forcing, inducing, coercing, or persuading any corporation, co-partnership, or individual to enter into any such contract or agreement or any such practice;

(c) Entering into any contract or agreement with any corporation, co-partnership, or individual prohibiting it from purchasing sardines from any individual, co-partnership, or corporation not a member or temporary member of Monterey Sardine Industries, Inc., or of any organization or association, or preventing any corporation, co-partnership, or individual from making such purchases;

[*Price Fixing*]

(d) Formulating, entering into, or participating in, or furthering any agreement, plan, or program with any combination or group of purchasers of sardines for the purpose or with the effect of fixing or determining prices for sardines;

[*Conducting Meeting*]

(e) Sponsoring, calling, holding, or participating in any meeting or conference for the purpose of carrying out any of the activities prohibited by this decree, or any meeting in which purchasers of sardines are represented as a combination or as a group for the purpose or with the effect of fixing or determining prices for sardines.

[*Further Activities Enjoined*]

3. Each of the said defendants, their successors, members, officers, directors, agents and employees, and all persons acting under, through, or for them, or any of them, are further enjoined and restrained from agreeing, combining, or conspiring among themselves or with any other person to do, or to attempt to do, or to induce others to do any of the acts or things set forth and prohibited by subparagraphs 2 (a) to 2 (e), inclusive, of this decree and from carrying out or performing the provisions of any contract or agreement which provisions are inconsistent with, contrary to, or prohibited by, the terms of this decree.

[*Examination of Records to Secure Compliance*]

4. For the purpose of securing compliance with this decree, authorized representatives of the Department of Justice, upon the written request of the Attorney General or an Assistant Attorney General, shall be permitted access, within the office hours of the defendants, and upon reasonable notice, to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or the control of the defendants, or any of them, relating to any of the matters contained in this decree. Any authorized representative of the Department of Justice, subject to the reasonable convenience of the defendants, shall be permitted to interview officers or employees of defendants without interference, restraint, or limitation by defendants; provided, however, that any such officer or employee may have counsel present at such interview. Defendants, upon the written request, of the Attorney General or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this decree as from time to time may appear to be reasonably necessary for the purpose of enforcement of this decree; provided, however, that the information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

[*Retention of Jurisdiction*]

5. Jurisdiction of this action is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction of or carrying out of this decree for the modification thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.