

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PROFESSIONAL PETROLEUM
MERCHANTS ASSOCIATION,

Defendant.

Civil Action No. G-152-72 C.A.

Chief Judge Noel P. Fox

Filed: February 27, 1974

Entered: April 1, 1974

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 30, 1972, and Plaintiff and Defendant, Professional Petroleum Merchants Association (hereinafter referred to as "PPMA"), either personally or by their respective attorneys, having respectively consented to the entry of this Final Judgment pursuant to a Stipulation entered into on February 27, 1974, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or 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 herein and of the parties hereto. The Complaint herein states a claim against Defendant PPMA, upon which relief may be granted 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, 15 U.S.C. § 1, as amended.

II

As used in this Final Judgment, "Grand Rapids area" means the territory included in the County of Kent, in the State of Michigan.

III

The provisions of this Final Judgment applicable to Defendant PPMA shall also apply to each of its officers, directors, agents, members, employees, successors and assigns, and to all other persons in active concert or participation with Defendant PPMA who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from, directly or indirectly:

(A) Entering into, adhering to, enforcing, directing, maintaining, furthering or claiming any rights under any contract, agreement, understanding, concert of action, plan or program with any retail gasoline dealer, or group or association of such dealers to:

1. Raise, fix, establish, stabilize, maintain, or adhere to prices for the sale of gasoline;
2. Refrain from using price signs to advertise the price of gasoline; or
3. Remove or disfigure the price advertising signs of or otherwise harass and disrupt, by violence, threats of violence or otherwise, the business of any retail gasoline station operator.

(B) Discussing, advocating, suggesting, urging, inducing, threatening, coercing, intimidating, or compelling the adoption of or future adherence to uniform or specific prices, discounts, markups, or other terms and conditions at which gasoline is sold at retail gasoline stations.

V

PPMA, and its successors and assigns, shall be required:

(A) To give appropriate notice to its officers, directors, members, agents, and employees, and to known retailers of gasoline in the Grand Rapids area within sixty (60) days after the entry of this Final Judgment by the publication of the terms of this Final Judgment in a periodical which circulates throughout the Grand Rapids area and is directed specifically at retail gasoline station operators; and

(B) To promptly notify all new or future officers, directors, members, agents, and employees of the terms of this Final Judgment.

VI

The Defendant is ordered to file with the Plaintiff annually for a period of ten (10) years on the anniversary of the entry of this Final Judgment, a report setting forth the steps taken by it to advise its officers, directors, employees and members of their obligations under this Final Judgment.

VII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognizable privilege, 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;

(A) Duly authorized representatives of the Department of Justice shall be permitted:

1. Access during regular business hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendant or its officers relating to any of the subject matters contained in this Final Judgment with the understanding that said Defendant may at such time have counsel present; and
2. Subject to the reasonable convenience of such Defendant, and without restraint or interference from it, to interview officers, directors, employees, members, or agents of Defendant, who may have counsel present, regarding any matters relating to the provisions of this Final Judgment.

(B) Upon such written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit such reports in writing, with respect to 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 VII 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 the Plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of determining or securing compliance with this Final Judgment or as otherwise required by law.

VIII

After Defendant PPMA has accomplished the requirements under Section V(A) of this Final Judgment, it may terminate its existence, but only after a written and certified report

of full compliance with this Final Judgment and a notice of intention to terminate has been submitted to the Court and to the Department of Justice, Antitrust Division.

IX

Nothing contained within this Final Judgment shall be construed as designed to inhibit the free and voluntary participation by the Defendant's officers or members in any association or organization whose activity is not in contravention of the Sherman Act or of the provisions of this Final Judgment.

X

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 or for the modification of any of the provisions thereof, and for the enforcement of compliance herewith and punishment of violations thereof.

Dated: April 1, 1974

/s/ NOEL P. FOX
UNITED STATES DISTRICT JUDGE