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11 UNITED STATES DISTRICT COURT

12 FOR THE DISTRICT OF NEVADA

13
14 UNITED STATES OF AMERICA,)
15 Plaintiff,) Civil Action No. R-2724
16 v.) COMPLAINT FOR INJUNCTIVE RELIEF
17 A. LEVY & J. ZENTNER CO; and) FOR VIOLATION OF TITLE 15 U.S.C.
18 JOHN H. BURROWS, INC.,) SECTION 1 (SHERMAN ANTITRUST ACT)
19 Defendants.) Filed: August 15, 1972

20 COMPLAINT

21 The United States of America, plaintiff, by its
22 attorneys, acting under the direction of the Attorney
23 General of the United States, brings this action against
24 the above-named defendants, and complains and alleges as
25 follows:

26 I

27 JURISDICTION AND VENUE

28 1. This complaint is filed and this action is in-
29 stituted under Section 4 of the Act of Congress of July
30 2, 1890, as amended (15 U.S.C. § 4), commonly known as
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1 the Sherman Act, in order to prevent and restrain continuing
2 violation by the defendants, as hereinafter alleged, of
3 Section 1 of that Act, as amended (15 U.S.C. § 1).

4 2. The defendants maintain offices, transact business,
5 and are found within the District of Nevada.

6 II

7 THE DEFENDANTS

8 3. A. Levy & J. Zentner Co. is made a defendant herein.
9 A. Levy & J. Zentner Co. is a corporation organized and
10 existing under the laws of the State of California, and
11 has its principal place of business in South San Francisco,
12 California.

13 4. John H. Burrows, Inc. is made a defendant herein.
14 John H. Burrows, Inc. is a corporation organized and existing
15 under the laws of the State of Nevada, has its principal
16 place of business in Sparks, Nevada, was incorporated in
17 October 1970, and does business as Bonanza Produce Co.
18 Prior to said incorporation, Bonanza Produce Co. was a
19 sole proprietorship owned by co-conspirator John H. Burrows.

20 5. Each of said defendants during all or part of the
21 period covered by this complaint has been engaged in business
22 as a wholesaler of produce in the Reno, Nevada and Lake
23 Tahoe area.

24 III

25 CO-CONSPIRATORS

26 6. Various persons not made defendants herein, in-
27 cluding but not limited to Eugene Bell and John H. Burrows,
28 participated as co-conspirators in the violation herein-
29 after alleged and have performed acts and made statements
30 in furtherance thereof.
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IV

DEFINITIONS

7. As used herein:

(a) the term "Reno, Nevada and Lake Tahoe area" means the Cities of Reno, Sparks, Carson City, and Fallon, Nevada, and the cities and towns in California and Nevada in the vicinity of Lake Tahoe and the environs of all these aforesaid cities;

(b) the term "produce" means fresh fruits, vegetables, and other similar food products, including but not limited to lettuce, tomatoes, bananas, lemons, onions, oranges, and potatoes;

(c) the term "Levy" means defendant A. Levy & J. Zentner Co.; and

(d) the term "Bonanza" means, subsequent to its incorporation, defendant John H. Burrows, Inc., and, prior thereto, co-conspirator John H. Burrows doing business as Bonanza Produce Co.

V

TRADE AND COMMERCE

8. Levy and Bonanza are the principal wholesale produce sellers in the Reno, Nevada and Lake Tahoe area. In 1971 produce sales of the defendants to customers in the Reno, Nevada and Lake Tahoe area were approximately \$4 million. Such customers include public schools, hospitals, the University of Nevada, the Nevada State Prison, other public institutions, retail outlets, restaurants, hotels, and casinos.

9. A substantial amount of the produce sold by Levy and Bonanza originates in foreign countries and in states other than the State of Nevada and is shipped in interstate commerce into the State of Nevada.

10. In response to or in anticipation of orders from customers, Levy and Bonanza continually purchase and receive a substantial volume of said produce from sources located outside the State of Nevada and deliver such produce to said customers located within the State of Nevada.

11. Levy and Bohanza act as conduits through which said produce flows in a continuous stream in interstate and foreign commerce from sources located outside the State of Nevada to customers located within the State of Nevada.

12. Defendant Levy has a branch office in Reno, Nevada which sells a substantial amount of produce in interstate commerce to customers located in the State of California. Bonanza has a branch office in South Lake Tahoe, California which sells a substantial amount of produce in interstate commerce to customers located in the State of Nevada. There is thus a continuous and regular flow of produce in interstate commerce from said facilities in one state to customers located in another state.

VI

VIOLATION ALLEGED

13. Beginning sometime in 1969, the exact date being to the plaintiff unknown, and continuing thereafter up to and including the date of the filing of this complaint, defendant Levy, John H. Burrows, and other co-conspirators engaged in a combination and conspiracy to eliminate and suppress competition in the sale of produce in unreasonable

1 restraint of the aforesaid interstate and foreign trade
2 and commerce in violation of Section 1 of the Sherman Act.
3 Defendant John H. Burrows, Inc. entered the aforesaid
4 combination and conspiracy in October 1970 and thereafter
5 participated therein. Said violation is continuing and
6 will continue unless the relief hereinafter prayed for is
7 granted.

8 14. The aforesaid combination and conspiracy consisted
9 of a continuing agreement, understanding, and concert of
10 action among the defendants and co-conspirators, the sub-
11 stantial terms of which have been and are:

12 (a) to raise, stabilize and maintain
13 prices of produce sold by Levy and Bonanza;

14 (b) to submit collusive and rigged bids
15 for the sale of produce to customers and
16 potential customers of Levy and Bonanza; and

17 (c) to allocate business between Levy
18 and Bonanza.

19 15. For the purpose of forming and effectuating
20 the aforesaid combination and conspiracy, the defendants
21 and co-conspirators did those things which they combined
22 and conspired to do.

23 VII

24 EFFECTS OF THE COMBINATION AND CONSPIRACY

25 16. The aforesaid combination and conspiracy has had
26 the following effects, among others:

27 (a) prices of produce sold by Levy and
28 Bonanza have been raised, stabilized, and
29 maintained, at artificial and noncompetitive
30 levels;

1 (b) competition between Levy and Bonanza
2 in the sale of produce has been suppressed and
3 restrained;

4 (c) customers of Levy and Bonanza have
5 been deprived of the opportunity to purchase
6 produce in an open and competitive market; and

7 (d) the flow of produce in interstate and
8 foreign commerce has been unreasonably burdened.

9 PRAYER

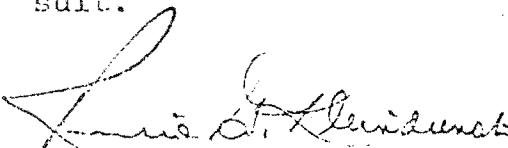
10 WHEREFORE, plaintiff prays:

11 1. That the Court adjudge and decree that the
12 defendants and co-conspirators have engaged in an unlawful
13 combination and conspiracy in restraint of the aforesaid
14 interstate and foreign trade and commerce in the sale of
15 produce in the Reno, Nevada and Lake Tahoe area in viola-
16 tion of Section 1 of the Sherman Act.

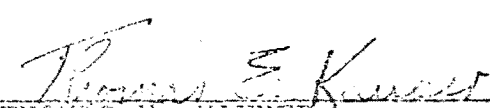
17 2. That the defendants, their officers, directors,
18 agents, and all other persons acting or claiming to act
19 on their behalf be perpetually enjoined and restrained
20 from, in any manner, directly or indirectly, continuing,
21 maintaining, or renewing the combination and conspiracy
22 hereinbefore alleged, or from engaging in any other
23 combination, conspiracy, contract, agreement, under-
24 standing, or concert of action having a similar purpose
25 or effect, and from adopting or following any practice,
26 plan, program, or device having any similar purpose or
27 effect.

28 3. That the plaintiff have such other and further
29 relief as the Court may deem just and proper.
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1 4. That the plaintiff recover the costs of this
2 suit.


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