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FRANK H. LOWE, JR.
(1936-1983)

September 4, 1991

CERTIFIED MAIL - RECEIPT RECEIPT REQUESTED

Ms. Angela L. Hughes
Attorney
Transportation, Energy &
Agriculture Section
Judiciary Center Building
555 Fourth Street, N.W.
Washington, D.C. 20001

Re: Business Review of Southeastern Peanut Association
Trading Rules

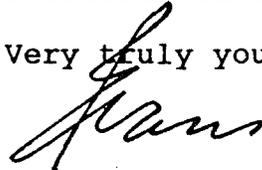
Dear Ms. Hughes:

I hope you will recall that pursuant to our request in 1988, the Department of Justice, pursuant to the Business Review Procedure 28 CFR §50.6, reviewed Southeastern Peanut Association's domestic and export trading rules. By letter of May 11, 1989, a copy of which I enclose for your information, the Department issued the result of its review.

The Southeastern Peanut Association has now developed another section of its trading rules which we have designated "Farmer Stock Trading Rules". I have been requested to ask the Department of Justice to review these rules under its business review procedure so that we may add this section to our previously reviewed rules.

If you need anything from me in connection with this review, please do not hesitate to call. I am enclosing herein the proposed new trading rules section on farmer stock.

Very truly yours,



Evans J. Plowden, Jr.

EJP:ncc
Enclosures

cc: Mr. John T. Powell
Mr. Peter Kontio



U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 11 1989

Evans J. Plowden, Esquire
Langstaff & Plowden
1500 Dawson Road
Post Office Box 1306
Albany, Georgia 31702-1306

Dear Mr. Plowden:

This letter responds to your August 5, 1988 letter requesting a statement by the Department of Justice, pursuant to the Business Review Procedure, 28 C.F.R. § 50.6, of its enforcement intentions with respect to proposed trading rules for offers, sales, and purchases of peanuts. These rules were prepared by the Southeastern Peanut Association for use by its members.

The materials you provided consist of a pamphlet setting forth domestic trading rules and export trading rules. 1/ The rules establish general contract terms, standards for various peanut grades, shipping instructions, methods of resolving weight discrepancies, methods of sampling and the handling of any resulting rejections, the effect of force majeure, arbitration procedures, 2/ and, for export trading, the

1/ By letter of May 5, 1989, you informed the Department of certain changes in proposed Rule 1, Section 7 of the Domestic Rules and Rule 7 of the Export Rules.

2/ You indicated that the apparent discrepancy between the domestic trading rules, which permit arbitration, and the export trading rules, which seem to require arbitration, was not intended. Under both the domestic and export trading rules disputes may be submitted to arbitration if certain criteria are met, but they are not required to be submitted to arbitration.

responsibilities of buyers and sellers. The rules state that they shall not prohibit or interfere with parties who wish to draft special written contracts containing other terms and conditions. In response to our inquiry, the Association has stated that the rules are not meant to mandate written contracts and that parties are free to enter into oral contracts if they wish, which can adhere to or differ from the proposed rules as the parties wish.

The preface to the rules states that the Association's intention in promulgating them was "to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale, avoiding the necessity of drafting in each instance a lengthy and cumbersome document." The Association has indicated that it does not intend to mandate or force the use of any or all of these rules by its members.

It appears that the proposed rules will have their intended effect of facilitating transactions involving the Association's members. The Department would be concerned if the rules had the purpose or effect of fixing or raising the prices charged or paid for shelled peanuts or otherwise restricting competition. Based on the materials you submitted and other information you provided, it appears that promulgation and use of the proposed trading rules would not cause these problems. Therefore, the Department of Justice has no current intention to challenge the adoption or promulgation of the proposed trading rules. In accordance with our normal practice, the Department reserves the right to bring an enforcement action if the rules prove anticompetitive in purpose or effect.

This statement of the Department's enforcement intention is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6, a copy of which was previously sent to you. Pursuant to its terms, your business review request and this response will be made publicly available on the date of this letter. Thirty days from the date of this letter any materials you submitted in support of the business review also will be made publicly available, unless you request that any of the materials be withheld in accordance with subparagraph 10(c) of the Business Review Procedure.

Sincerely,



Michael Boudin
Acting Assistant Attorney General