

¶ 71,265 UNITED STATES V. GREATER NEW YORK..., Trade Cases P 71265...

Trade Cases P 71265 (C.C.H.), 1964 WL 143661

Trade Regulation Cases Archive

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Trade Regulation Reporter - Trade Cases (1932 - 1992)Case-Law

U.S. District Court, S.D. New York | November 19, 1964
62, 1964 Trade Cases ¶ 71,265

¶ 71,265 UNITED STATES V. GREATER NEW YORK ROLL BAKERS ASSN., INC.; FIELD'S BAKING CORPORATION; **FINK BAKING** CORPORATION; GOTTFRIED BAKING COMPANY, INC.; MILLER BAKERIES CORP.; OLYMPIA PROVISIONS & BAKING CO., INC.; SABRETT FOOD PRODUCTS CORP.; SABRETT FOOD PRODUCTS OF PA., INC.; SUPERIOR ROLL CO., INC. AND VIRNELSON'S BAKERY, INC.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, W. D. Kilgore, Jr., Harry G. Sklarsky, John J. Galgay, John D. Swartz, David H. Harris, and Philip F. Cody, Attorneys, Department of Justice.

For the defendants: Markewich, Rosenhaus, Beck & Garfinkel for Field's Baking Corporation, by Samuel Markewich; Sulzberger & Sulzberger for **Fink Baking** Corporation, by Myron Sulzberger, Jr.; Scribner & Miller for Gottfried Baking Company, Inc., by Robert A. Foy;; Parker, Chapin & Flattau for Miller Bakeries, by James M. Jacobson; Nicholas J. P. Tryforos for Olympia Provision & Baking Co., Inc. by Nicholas J. P. Tryforos; Rosenman, Colin, Kaye, Petschek & Freund, for Sabrett Food Products Corp. Sabrett Food Products of Pa., Inc., by Max Freund; Laporte & Meyers for Superior Roll Co., Inc. by Ernest Meyers.

United States v. Greater New York Roll Bakers Assn., Inc.; Field's Baking Corporation; **Fink Baking** Corporation; Gottfried Baking Company, Inc.; Miller Bakeries Corp.; Olympia Provisions & Baking Co., Inc.; Sabrett Food Products Corp.; Sabrett Food Products of Pa., Inc.; Superior Roll Co., Inc. and Virnelson's Bakery, Inc.

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1964 Trade Cases ¶ 71,265 1964 Trade Cases ¶ 71,265. U.S. District Court, S.D. New York. No. 62 Civ. 2030. Entered November 19, 1964. Case No. 1665 in the Antitrust Division of the Department of Justice.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, W. D. Kilgore, Jr., Harry G. Sklarsky, John J. Galgay, John D. Swartz, David H. Harris, and Philip F. Cody, Attorneys, Department of Justice.

For the defendants: Markewich, Rosenhaus, Beck & Garfinkel for Field's Baking Corporation, by Samuel Markewich; Sulzberger & Sulzberger for **Fink Baking** Corporation, by Myron Sulzberger, Jr.; Scribner & Miller for Gottfried Baking Company, Inc., by Robert A. Foy;; Parker, Chapin & Flattau for Miller Bakeries, by James M. Jacobson; Nicholas J. P. Tryforos for Olympia Provision & Baking Co., Inc. by Nicholas J. P. Tryforos; Rosenman, Colin, Kaye, Petschek & Freund, for Sabrett Food Products Corp. Sabrett Food Products of Pa., Inc., by Max Freund; Laporte & Meyers for Superior Roll Co., Inc. by Ernest Meyers.

Final Judgment

Levet, District Judge: Plaintiff, United States of America, having filed its complaint herein on June 7, 1962, and defendants having appeared through their attorneys, and the parties through their respective attorneys having consented to the entry of this Final Judgment, without any admission by any party in respect to the facts or issues herein, and without trial or adjudication of any fact or law:

Now, therefore, it is hereby

Ordered, adjudged and decreed as follows:

I.

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and the defendants consenting hereto. The complaint states a cause of action against those defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890 (15 U. S. C. §§ 1, 2), as amended, commonly known as the Sherman Act.

II.

[*Definitions*]

As used in this Final Judgment:

- a. "Person" means any individual, association, firm corporation or other legal entity;
- b. "Rolls" mean frankfurter rolls, hamburger rolls and other baked products known as rolls;
- c. "Subsidiary" means any corporation more than 50% of whose stock entitled to vote for directors is, directly or indirectly, owned or controlled by a defendant;
- d. "Defendant" means any defendant consenting to the entry of this Final Judgment.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall also apply to each of its officers, directors, agents, subsidiaries, successors and assigns, and to all persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment a defendant and each of its subsidiaries, officers, directors, agents, servants and employees shall be deemed to be one person.

IV.

[*Fixing Prices, Allocating Customers*]

Defendants are enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, combination, conspiracy, understanding, plan or program with any other person to:

- a. Fix, establish, maintain or adhere to prices, discounts, or other terms or conditions for the sale and distribution of rolls to any third person;
- b. Allocate, divide or assign customers, territories or markets for the sale or distribution of rolls;
- c. Restrict or limit the production, sale or distribution of rolls; and
- d. Eliminate any person from the business of producing, selling or distributing rolls.

V.

[*Dissolution of Association*]

The defendants are ordered and directed:

- a. To institute such action as may be necessary to dissolve the defendant Greater New York Roll Bakers Assn. Inc. under the laws of the State of New York within 90 days from the entry of this Final Judgment, and to complete such dissolution within 120 days of the entry of this Final Judgment;
- b. Upon completion of such dissolution, to file with this Court and with the plaintiff a Certificate of Dissolution of said association and an affidavit setting forth the fact of compliance with this Section V.

VI.

[*Trade Association Activities*]

Defendants are jointly and severally enjoined and restrained from, directly or indirectly, organizing, furthering, contributing anything of value to, becoming a member of, or participating in any of the activities of a trade association of persons who or which produce, distribute or sell rolls, or any other trade association or organization, the purpose, conduct or activities of which, in any manner, are inconsistent with any of the provisions of this Final Judgment.

VII.

[*Inspection*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendants, made to their principal office, be permitted subject to any legally recognized privilege:

- a. Access, during office hours of such defendants, to such books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendants, relating to any subject matters contained in this Final Judgment;
- b. Subject to the reasonable convenience of such defendants and without restraint or interference from them to interview officers or employees of defendants, who may have counsel present, regarding any such subject matters.,

Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, said defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

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 plaintiff,, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII.

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any of the parties of 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, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Sherman Act

Price Fixing—Bakery Products—Consent Judgment.—Bakers would be prohibited under the terms of a consent judgment from fixing prices, discounts or other terms or conditions for the sale and distribution of frankfurter and hamburger rolls, allocating markets or customers, and eliminating others from producing, selling or distributing rolls, and required to dissolve a trade association to which they belonged.