

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Kosher Butchers' Association of Los Angeles, Kosher Wholesale Poultry Dealers' Association, Samuel Leventhal, Harry Iskovitz, Sheldon Fox, Benjamin Kathren, Samuel Ogner, Albert Fordis, Irving Davis, George Laskey, Max Weiss, Harry Goldstein, Daniel Berman, and Joe Boltax., U.S. District Court, S.D. California, 1955 Trade Cases ¶67,988, (Mar. 1, 1955)

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United States v. Kosher Butchers' Association of Los Angeles, Kosher Wholesale Poultry Dealers' Association, Samuel Leventhal, Harry Iskovitz, Sheldon Fox, Benjamin Kathren, Samuel Ogner, Albert Fordis, Irving Davis, George Laskey, Max Weiss, Harry Goldstein, Daniel Berman, and Joe Boltax.

1955 Trade Cases ¶67,988. U.S. District Court, S.D. California, Central Division. Civil Action No. 17914 Y. Filed March 1, 1955. Case No. 1216 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing—Kosher Meat and Poultry.—An association of kosher butchers, an association of wholesale kosher poultry dealers, and others were prohibited by a consent decree from entering into any understanding to fix, stabilize, or tamper with the price or the terms of sale to be charged or used by any kosher butcher for kosher meat or poultry. Also, the defendants were enjoined from controlling or attempting to control the prices or profit margins, or other, terms of sale, to be charged or used by any kosher butcher.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Purchase and Sale Restrictions, Refusals To Deal—False Information.—An association of kosher butchers, an association of wholesale kosher poultry dealers, and others were enjoined by a consent decree, from, entering into any understanding to ban or restrict the importation of kosher meat or poultry into the State of California. They were enjoined from entering into any agreement to restrict any kosher butcher from purchasing or selling such products and from requiring, or compelling any kosher butcher to purchase such products from any such supplier of the products. The defendants were enjoined from entering into any agreement to refuse to deal with any slaughterhouses or other suppliers of kosher meat or poultry and from requiring or compelling any supplier to refrain from dealing with any kosher butcher, from restraining the opening of any establishment for slaughtering animals or poultry, and from restraining or interfering, with the issuance or withdrawal of signs certifying to the kashruth of other persons engaged in the slaughtering of animals or poultry. Also, the defendants were enjoined from willfully and knowingly circularizing false or misleading information concerning the kashruth of any person, product, or establishment; however, the publication of information which is believed to be accurate relating to the qualifications of any recipient of or applicant for a sign certifying to kashruth was not prohibited.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Trade Association Activities—Notice of Decree.—An association of kosher butchers, an association of wholesale kosher poultry dealers, and others were enjoined by a consent decree from entering into any agreement to limit membership in the butchers' association to kosher butchers not engaging in competition with any other person in the association, and from requiring or compelling persons slaughtering, preparing, or marketing kosher meat and poultry to become members of any trade association. The kosher butchers' association was enjoined from (1) refusing or denying membership to any kosher butcher on the ground that another member is a member of the association, or on the ground that the prospective member is or may become a competitor of a member; (2) collecting any dues or assessments to be paid to any person for any kashruth supervision or certification; (3) employing or paying salaries of any individual qualified to slaughter animals or poultry in accordance with orthodox Jewish requirements; and (4) prohibiting advertising of kosher meat and poultry in newspapers, circulars, shop windows,

or by any other advertising media. The butchers' association was ordered to send a copy of the decree to each of its members.

Department of Justice Enforcement and Procedure—Consent Decrees—Modification —Application for Dissolution of Association.—A consent decree, in addition to containing a provision retaining the jurisdiction of the court, provided that the Government may file, within two years following the date of the decree, a petition with the court for the dissolution of a defendant trade association, or for the reopening of specified provisions of the decree, without showing a change of circumstances subsequent to the date of the entry of the decree. The decree further provided that the entry of the present decree shall not be deemed a bar to any of the above relief; and upon the hearing of such petition, the record of all proceedings in the case prior to the entry of this decree shall be part of the record before the court on such petition and shall be considered by the court, together with any evidence which the Government or the defendant may submit to support or oppose the relief sought, including the facts and circumstances arising before or subsequent to the date of this decree, and without any bar or estoppel arising by reason of the entry of this decree.

For the plaintiff: Herbert Brownell, Jr., Attorney General; Stanley N. Barnes, Assistant Attorney General; Laughlin E. Waters, United States Attorney; Samuel Flatow, Special Assistant to the Attorney General; and James Mi McGrath, Trial Attorney.

For the defendants: David Lyons for Kosher Butchers' Assn. of Los Angeles and others; and Samuel H. Sherman for Kosher Wholesale Poultry Dealers' Assn.

Final Judgment

LEON R. YANKWICH, District Judge [*In full text*]: The United States of America, plaintiff, having filed its complaint herein on March 1, 1955, and the plaintiff and defendants, by their attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of 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 the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter hereof and of all the parties hereto and the complaint states a cause of action against the defendants and each of them 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," as amended, commonly known as the Sherman Act (15 U. S. C. §1).

II

[*Definitions*]

As used in this Final Judgment:

- (a) "Kosher meat" means meat slaughtered, prepared and marketed in accordance with all orthodox Jewish requirements;
- (b) "Kosher poultry" means poultry slaughtered, prepared and marketed in accordance with all orthodox Jewish requirements;
- (c) "Kosher butcher" means any person engaged in the business of selling at retail kosher meat and kosher poultry and who meets the orthodox Jewish requirements for such a person;
- (d) "Kosher poultry dealer", means any person engaged in the business of selling undressed or dressed kosher poultry to kosher butchers and who meets the orthodox Jewish requirements for such a person;

- (e) "Kashruth" means the adherence to the orthodox Jewish religious requirements relating to kosher foods;
- (f) "Shochtim" means individuals qualified to slaughter animals and poultry in accordance with orthodox Jewish requirements; and
- (g) "Person" means any individual, partnership, firm, corporation, association, trustee, or other legal entity.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to each officer, director, member, agent, nominee; or employee, and to any other person acting under, through or for such defendant, and to any successor of the defendant Kosher Butchers' Association of Los Angeles or the defendant Kosher Wholesale Poultry Dealers' Association, and to those persons in active concert or participation with them who shall receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Practices Enjoined*]

The defendants are jointly and severally enjoined and restrained from entering into, maintaining or furthering, or claiming any rights under, any contract, combination, conspiracy, agreement, understanding, plan or program with any other person:

- A. To ban, prohibit, prevent, limit or restrict the importation of kosher meat or kosher poultry into the State of California;
- B. To prohibit, prevent, limit, restrict or hinder any kosher butcher from purchasing or selling kosher meat or kosher poultry;
- C. To refuse to deal with any slaughterhouses or other suppliers of kosher meat or kosher poultry;
- D. To limit membership in the Kosher Butchers' Association of Los Angeles, its successor, or any organization or group similar thereto, to Kosher butchers not engaging in competition with any other person in such association, organization or group;
- E. To fix, stabilize, or tamper with the price or other terms or conditions of sale to be charged or used by any kosher butchers for kosher meat or kosher poultry.

V

The defendants are jointly and severally enjoined from directly or indirectly:

- A. Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any kosher butcher from purchasing or selling kosher meat or kosher poultry;
- B. Controlling, or attempting to control, through the defendant-associations or otherwise, the prices or profit margins, or other terms or conditions of sale, to be charged or used by any kosher butcher in the sale of kosher meat or kosher poultry;
- C. Requiring or compelling persons slaughtering, preparing or, marketing kosher meat and kosher poultry, including kosher butchers, to become members of any trade association;
- D. Allocating or dividing with any other person, suppliers, customers, territories, or markets for the purchase, distribution or sale of kosher meat or kosher poultry;
- E. Requiring or compelling any supplier of kosher meat or kosher poultry to refrain from dealing with any kosher butcher or kosher poultry dealer;
- F. Requiring or compelling any kosher butcher to purchase kosher meat or kosher poultry from any supplier thereof;

G. Restraining, or interfering with the opening, or moving, of any establishment for slaughtering animals or poultry, or preparing or marketing kosher meat or kosher poultry;

H. Willfully and knowingly circularizing or disseminating false or misleading information concerning the kashruth of any person, product or establishment;

I. Restraining, restricting, or interfering with the issuance or withdrawal of signs certifying to the kashruth of other persons engaged in the slaughtering of animals or poultry, or preparation or marketing of kosher meat or kosher poultry.

Nothing in sections IV or V of this Final Judgment shall be construed to prevent any person (a): from lawfully buying or otherwise acquiring any kosher meat or kosher poultry business or (b) from embodying in a contract or agreement pertaining to the lawful acquisition of any such business a valid covenant that the seller shall not compete with the purchaser, or that the purchaser shall not compete with the seller.

VI

[*Association Practices Enjoined*]

The defendant Kosher Butchers' Association of Los Angeles is enjoined and restrained from:

A. Refusing or denying membership to any kosher butcher on the ground that another member or other members of his firm, partnership or corporation is or are members of the Kosher Butchers' Association, or on the ground that the prospective member is or may become a competitor of a member or members of said Association;

B. Collecting any dues, assessments, contributions, or other moneys to be paid to any person for any kashruth supervision or certification;

C. Employing or paying salaries of shochtim;

D. Prohibiting, or interfering with, advertising of kosher meat and kosher poultry, including but not limited to the advertising of prices by kosher butchers or kosher poultry dealers in newspapers, circulars, pamphlets, shop windows, show-cases, or by radio, television or any other advertising media.

VII

[*Publication of Information*]

Nothing in this Final Judgment shall be construed to prevent any person from publishing any information he believes to be accurate relating to the qualifications of any recipient of or applicant for a sign or symbol certifying to kashruth.

VIII

[*Notice of Judgment*]

The defendants Kosher Butchers' Association of Los Angeles and Kosher Poultry Dealers' Association are ordered and directed to mail to each of their respective members a copy of this Final Judgment within ten days after the date of its entry.

IX

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, be permitted access during the business or office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to the matters

contained in this Final Judgment and subject to the reasonable convenience of such defendant, and without restraint or interference from such defendant to interview officers or employees of such defendant regarding any such matters, and, upon request, any such defendant shall submit such reports with respect to any such matters as may from time to time be necessary for the enforcement of this Final Judgment; provided, however, that information obtained by the means permitted in this section 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 to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

[Jurisdiction Retained—Dissolution of Association]

A. 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 of or the carrying out of this Final Judgment, for the modification thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

B. It is expressly understood, in addition to the foregoing, that within two years following the date of this judgment and upon no less than thirty days' notice to the defendants herein named, the plaintiff may file a petition with the Court for the dissolution of the defendant Kosher Butchers' Association, or for the reopening of the provisions of Sections IV, V, and VI of this Judgment, and such other relief as may be incidental thereto, without showing a change of circumstances subsequent to the date of entry of this Judgment. In the event a petition is filed for dissolution as aforesaid, the provisions of Sections IV, V, and VI shall also be deemed reopened thereby. The entry of this judgment shall not be deemed a bar to any of the above-mentioned relief that the Court may grant after a hearing or hearings upon such petition. Upon the hearing of such petition, the record of all proceedings in this case, prior to the entry of this judgment shall be part of the record before the Court on such petition and shall be considered by the Court, together with, any evidence which the plaintiff or the defendant may submit to support or oppose the relief sought, including the facts and circumstances arising before or subsequent to the date of this judgment, and without any bar or estoppel arising by reason of the entry of this judgment.