

IN THE MATTER OF

SAN PEDRO FISH EXCHANGE, SEAFOOD BROKERAGE, INC., SOUTHERN CALIFORNIA WHOLESALE FISH DEALERS ASSOCIATION AND THE RESPECTIVE OFFICERS, ETC., OF SAID ASSOCIATIONS AND CORPORATION, AND LOS ANGELES FISH EXCHANGE, M. N. BLUMENTHAL AND SOUTHERN SEA PRODUCTS BROKERAGE CORPORATION, AND OFFICERS, DIRECTORS AND STOCKHOLDERS THEREOF

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3739. Complaint, Mar. 17, 1939—Decision, July 13, 1940

Where distributors or wholesale fish dealers who (1) were engaged in purchasing, selling, and distributing fish and sea products from their respective places of business on the Municipal Wharf in San Pedro, Calif., 20 miles from city proper in metropolitan Los Angeles, and principal fresh fish market in southern California, through which pass most of fish caught locally and marketed in commerce, (2) purchased, until recently, when situation was affected by demands and activities of one of unions of fishermen who had brought fish to said point, entire supply of fish caught locally and moving across San Pedro wharf, and part of which was shipped to customers in States lying east and northeast of southern California and to dealers in San Francisco and other places in State, (3) handled, prior to unaccommodated price demand of one of fishermen's unions, through their Fish Exchange, the entire commercial supply of fresh fish caught locally and coming to said point, (4) bought fish and sea products originating elsewhere from shippers, and usually through their Seafood Brokerage concern, and (5) sold fresh fish moving across said wharf to wholesalers in Los Angeles and other California points, to retailers in states outside of California and those within said State, and to stock wagons and peddlers operating in Los Angeles area—

- (a) Entered into an understanding and agreement, as members of their said San Pedro Fish Exchange association, organized and composed of all wholesale fish and sea food dealers at said point, to effect that each would observe prices fixed by price committee of Exchange, and that each should pay to Exchange, as liquidated damages for all fish sold other than in accordance with uniform price quotation of executive committee thereof, 5 cents per pound for entire shipment wherein any item thereof was so sold in violation of such quotations, and with minimum penalty of \$5; and

Where aforesaid unincorporated association, organized in December 1936, under laws of said State, as San Pedro Fish Exchange, with principal office and place of business at said point, composed as aforesaid, and to which no new members, under agreement and articles of association limiting such members to those receiving two-thirds favorable vote and paying initiation fee of \$5,000, had been admitted since organization, and executive committee of

which, under such agreement, was to keep all members posted "upon price conditions, necessary overhead expense * * * for the purpose of giving the members accurate information as to the margin of profit they should have so that the members may be better enabled to proceed to some degree of uniformity," and with all members agreeing thereunder "that they shall accept the advice given them by the executive committee and conduct their respective businesses accordingly"—

- (b) Issued weekly price lists which (1) showed buying prices for various varieties of fish and sea food, and selling prices therefor, including wholesale, stock wagon, shipping, and peddling prices, with understanding among members that such prices would be adhered to as a minimum, and (2) included selling prices not only for fish caught locally coming over San Pedro wharf, but also for fish and shell food shipped in from northern California and points outside, with selling based on buying prices; and

Where an association, members of which were distributor or wholesale fish dealers engaged in purchasing, selling, and distributing fish and sea food products from their respective places of business in Los Angeles, and which, (1) under name Southern California Wholesale Fish Dealers' Association, embraced practically all the wholesalers in said city, whose business consisted in selling fish and sea products at wholesale in Los Angeles area principally, and in supplying, also, customers in States to north and northeast of southern California and in other parts of State, and who (a) purchased local fish from San Pedro dealers, and (b) from market set up by one of fishermen's union following price disagreement with San Pedro dealers, and (c) from other southern California markets, and who (d) obtained other fish and sea food from shippers located in other parts of the United States and in foreign countries through purchase through their Southern Sea Products Brokerage Corporation, as below more particularly referred to, or through other brokers; and which (2) succeeded, in spring of 1937, to similar association formed by Los Angeles fish wholesalers in preceding October, and used somewhat same policies as those of latter, activities or policies of which had included limitation of broker members' activities to handling sea products on brokerage basis only, discussions relative to activities of certain firms doing combined wholesale and retail business, handling of trade practice matters with dealers in San Pedro and other California points and in Seattle, employment of investigator relative to violation of its rules and regulations, establishment of price committee and fixing of selling prices, expulsion of member for price cutting, and attempts to prevent price cutting by retailers and solicitation by one member of another's accounts—

- (c) Issued weekly minimum selling prices on all varieties of sea food handled by its members, and consisting of "trade" or prices to retailer and "stock wagon" prices, which various prices, as thus published, but with no penalty imposed by association for nonconformance, were, in the main, accepted and adhered to by association members; and

Where said San Pedro dealers, acting with and through their Seafood Brokerage, Inc., purchasing and brokerage agency, stock of which they owned and controlled, and with and through its manager—

- (d) Entered into a combination and agreement to eliminate price competition in sale of Mexican sea bass in market concerned, through series of transactions under which, with money raised on note of said dealers, contract was secured with Mexican cooperatives of fishermen through loan of money thereto and offer of more favorable terms than those under consideration, and

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under which contract and outlet, as assisted by Mexican government in interest of stabilizing sea bass industry in behalf of Mexican fishermen, control of at least 95 percent of all said choice fish sold to trade in southern California territory, on basis of minimum contract price, and with selling price from day to day dependent upon price dealers were willing to pay and figure asked by cooperatives' representative, was secured by aforesaid individual, manager of said brokerage and purchasing agency, in its behalf and interest and in that of said San Pedro dealers, its owners, and under which supply of said bass was allotted by such individual to wholesalers in Los Angeles, San Pedro, or Long Beach, or to any buyer, according to needs and conditions which said individual considered to be fair and equitable; and

Where Los Angeles dealers here involved, members of aforesaid Southern California Association—

- (e) Made use of their Southern Sea Products Brokerage Corporation, purchasing and brokerage agency, stock of which they owned and controlled, to supersede arrangements theretofore made under which they designated as their sole and exclusive purchasing agent and broker, for period of 5 years, corporation formed by their predecessor association under designation Los Angeles Fish Exchange, for use, in various ways, of said association; and

Where said Los Angeles and San Pedro dealers herein concerned—

- (f) Agreed on plan to employ as broker to purchase all their supplies except local fish bought at San Pedro wharf, one Blumenthal, by whom letters were sent to suppliers notifying them of arrangement and threatening that they would not get their share of business unless they recognized and adhered to such agreement, and under which contract or arrangement purchase and sale of commodity was controlled and directed by buyers herein concerned, through acts and agency of said broker individual; and

Where said Los Angeles Fish Exchange and said San Pedro dealers—

- (g) Drew, or caused to be drawn, up contract between them in which said dealers engaged said exchange to act as their sole and exclusive broker for 3 months' period; and

Where said Sea Food Brokerage, Inc., owned, controlled and directed, as above noted, by said San Pedro dealers, along with said manager, and as a result of transactions indicated with respect to supply of Mexican sea bass coming into southern California market—

- (h) Contracted at least 95 percent of said supply of Mexican sea bass;
- With result that, through operations of said Sea Food Brokerage, Inc., and Southern Sea Products Brokerage Corporation, instrumentalities owned, controlled, and made use of as purchasing agents and brokers by said San Pedro and Los Angeles dealers respectively, as hereinbefore indicated, many shippers were forced to discontinue relations with independent brokers and were compelled to give their accounts to said brokerage companies, general brokerage business in area concerned was adversely affected through their said plan of operation, which enabled wholesalers to secure brokerage fees on their purchases of sea products as a result of operations in question of such corporate purchasing agencies, with their respective stockholder wholesalers constituting practically only customers and buyers, and by whom were determined their policies and to whom net profits realized by said corporate brokerage and purchasing agencies on purchases made, in effect, for their stockholders; and

Where said various dealers, banded and allied together in said associations, organizations, and corporations to carry into effect programs and policies described, and during and in period of three or more years last past, as hereinbefore noted—

- (i) Combined and agreed, together and with others, and united in and pursued a common and concerted course of action among themselves and with others, to adopt, carry out, and maintain, in the trade areas above referred to, a program, and policy of establishing, fixing, and maintaining the prices at which, and the conditions upon which, fish and sea products were sold by said distributors to other dealers and to consumers, of seeking to acquire and maintain a monopoly in sale and distribution of fish and sea products in said trade territory, and of seeking to impose said prices and policies on all dealers in fish and sea products therein and require observance thereof and adherence thereto; and

Where said members of San Pedro Fish Exchange, stockholders of said Sea Food Brokerage, Inc., banded and allied together to carry into effect program and policies herein described—

- (j) Agreed and combined together and with others, and initiated and pursued a common and concerted course of action and undertaking among themselves and with others, to adopt, carry out, maintain in trade area above referred to a plan and policy of establishing, fixing, and maintaining prices at which and conditions upon which fish and sea food products were purchased by said distributors from shippers and producers, of establishing, fixing, and maintaining the prices at which, and the conditions upon which, Mexican sea bass was sold by said distributors to other dealers and to consumers, and of acquiring and maintaining, as aforesaid, a monopoly in the purchase, sale, and distribution of Mexican sea bass in said trade territory;

With result that capacity, tendency, and effect of said agreements, combinations, and undertakings, and their said acts and practices, as set forth, were and had been, in said trade area and other related or connected territory, frequently comprising more than one State—

(1) To tend to monopolize, in said various dealers, etc., the business of dealing in and distributing fish and sea products;

(2) To unreasonably lessen, eliminate, restrain, hamper, and suppress competition in said sea products trade and industry, and to deprive the purchasing and consuming public of advantages in price, service, and other consideration which they would receive and enjoy under conditions of normal and unobstructed, or free and fair, competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry;

(3) To oppress, eliminate, and discriminate against small business enterprises which were or had been engaged in purchasing, selling, and distributing such products;

(4) To obstruct, hamper, and interfere with the normal and natural flow of trade and commerce in Mexican sea bass in, to, and from such trade area; and to injure competitors of said individual dealers in unfairly diverting business and trade from them, depriving them thereof, and otherwise oppressing or driving them out of business; and

(5) To prejudice and injure the public and shippers, producers, dealers, distributors, wholesalers, and others who do not conform to program of said various dealers, etc., or who do not desire, but are compelled to conform therewith:

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Held, That said acts and practices of said various dealers, etc., as above set forth, were all to the prejudice of the public and had a dangerous tendency to and actually did hinder and prevent price competition between and among themselves in sale of fish and seafood products in commerce, and placed in themselves power to control and enhance prices and created in themselves monopoly in sale of Mexican sea bass in said commerce, and unreasonably restrained such commerce in sea products, and constituted unfair methods of competition; and

Where members of said San Pedro Fish Exchange, in course of their said purchasing transactions, which resulted in delivery of fish and sea products from one or more of the producers, suppliers or shippers to members of said Exchange by means of the purchasing services of their said Sea Food Brokerage, Inc., or without such services—

- (a) Caused and required said producers, suppliers, and shippers, and each of them, to transmit, pay to, and deliver to said Sea Food Brokerage, Inc., brokerage fee or commission, consisting of a certain percentage of purchase price agreed upon by buyers concerned and seller; and

Where said Sea Food Brokerage, Inc., in course of such purchasing transactions—

- (b) Received and accepted such fees and commissions, for which no services connected with said purchases by members of said Exchange were rendered to said producers, etc., and in receipt and acceptance of which it acted as agent for and for the use and benefit of said purchaser members of said Fish Exchange and under their control:

Held, That receipt and acceptance of such brokerage fees and commissions by said Sea Food Brokerage, Inc., and plan and policy of aforesaid members, and of said Seafood Brokerage, Inc., of exacting such fees and commissions from sellers of said products, were in violation of Subsection (c) of Section 2 of Clayton Act, as amended; and

Where members of said Southern California Wholesale Fish Dealers' Association and of said San Pedro Fish Exchange, purchasing fish and sea products from various producers, suppliers and shippers, directly or through the agency of said Los Angeles Fish Exchange and said Blumenthal, upon orders which were placed by said various members with said Los Angeles Exchange and said Blumenthal, and caused such producers, etc., to ship or transport said products from places of origin outside of State into said State, and resulted in delivery thereof from one or more of said producers, etc., to such members through means of purchasing services of said Los Angeles Exchange and said Blumenthal, or without such services—

- (a) Caused and required said producers, etc., to pay to and deliver to said Blumenthal brokerage fee or commission consisting of certain percentage of purchase price agreed upon by said various buyers and seller; and

Where said Blumenthal, in course of such purchasing transactions—

- (b) Received and accepted such fees and commissions, for which no services connected with purchase of said products by such members were rendered to said producers, etc., and in receipt and acceptance of which fees and commissions said Blumenthal was agent for said purchaser members and their representative, acting for them and in their behalf and under their control:

Held, That such receipt and acceptance of said brokerage fees and commissions by said individual was in violation of Subsection (c) of Section 2 of Clayton Act, as amended; and

Where members of said Southern California Wholesale Fish Dealers' Association, purchasing fish and sea products from various producers, suppliers, and shippers, directly or through agency of their said Sea Products Brokerage Corporation or through said corporation as intermediary, upon orders placed by such members with said corporation, and which caused, as result of such purchases, such producers, etc., to ship or transport said products from place of origin thereof outside of State into said State, and resulted in delivery of said products from one or more of said producers, etc., to said members by means of the purchasing services of their said brokerage corporation, or without such services—

- (a) Caused and required said producers, etc., and each of them, to transmit, pay to, and deliver to their said Brokerage Corporation, brokerage fee or commission constituting certain percentage of purchase price agreed upon by such buyer members and the seller; and

Where said Southern Sea Products Brokerage Corporation, in course of such purchasing transactions—

- (b) Received and accepted such fees and commissions, for which no services in connection with said purchases were rendered by members in question of said Wholesale Fish Dealers' Association to said producers, etc., and in which receipt and acceptance it was agent for said purchasers and at all times, in conduct of its said business, their agent and representative, and acting for them and in their behalf and under their control:

Held. That such receipt and acceptance of such so-called brokerage fees and commissions by said brokerage corporation for use and benefit of members herein of said Wholesale Fish Dealers' Association in the manner and under the circumstances above set forth, and the plan and policy of said members and said Association of exacting such fees and commissions from said sellers of such fish and seafood products, were in violation of Subsection (c) of Section 2 of Clayton Act, as amended.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Allen C. Phelps for the Commission.

Mr. Clifton A. Hix, of San Pedro, Calif., for San Pedro Fish Exchange, its officers and members, Seafood Brokerage, Inc., its officers and stockholders, and, along with *Mr. Ben A. Hill*, of San Pedro, Calif., for Paul A. Marencovich.

Mr. Vernon S. Gray and Covey & Covey, of Los Angeles, Calif., for Southern California Wholesale Fish Dealers Ass'n, Los Angeles Fish Exchange, Southern Sea Products Brokerage Corp., various officers, members, and stockholders, thereof, and M. N. Blumenthal.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and pursuant to the provisions of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (U. S. C., title 15, sec. 13, the Clayton Act), as amended, and by virtue of the authority vested in it by said acts, the Federal Trade Com-

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mission, having reason to believe that respondents named herein, and each of them have violated the provisions of said Federal Trade Commission Act and of subsection (a) of section 2 of said Clayton Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in those respects as follows:

Charge 1

PARAGRAPH 1. Respondent San Pedro Fish Exchange, is an unincorporated association organized under the laws of the State of California, with its principal office and place of business at the Municipal Wharf, Los Angeles Harbor, San Pedro, Calif.

The officers of said San Pedro Fish Exchange are, or have been, respondents Anthony B. Jaconi, president, Giosue Di Massa, vice president, and Albert H. Finch, secretary, all of the Municipal Wharf, San Pedro, Calif. Respondent Hugh Reves is, and has been, the manager of said respondent Seafood Brokerage, Inc., and as such manager has been in immediate charge of its business.

The members of said Exchange are distributors or wholesale fish dealers engaged in purchasing, selling, and distributing fish and sea products from their respective places of business on the Municipal Wharf in San Pedro, Calif. Among the members of said San Pedro Fish Exchange are the following respondents:

American Fisheries, Inc., a corporation.

Star Fisheries, Inc., a corporation.

Mutual Fish Company, Ltd., a corporation.

Seiichi Nakahara, trading as Pacific Coast Fish Company.

Gennaro Mineghino, trading as Independent Fish Company.

Vincent DiMeglio, trading as Ocean Fish Company.

Standard Fisheries Company, a copartnership consisting of John Ivancich, John Sulentor, and Andrew Fishtonich.

Central Fish Company, a corporation, consisting of Yoshitsura Kamiya, Leo T. Toyama, and Y. Uyeda.

Tomich Brothers Fish Company, a copartnership, consisting of Peter Tomich and Frank Tomich.

Catalina Fish Company, a copartnership, consisting of Vincent Vitalich and George Stanovich.

Harbor Seafood Company, a copartnership, consisting of Andrew Petrasich, Martin Zuanich, and Joe Evich.

State Fish Company, a copartnership, consisting of Gerald Cigliano and Jack Deluca.

Los Angeles Fish and Oyster Company, a copartnership, consisting of Giosue Di Massa, John DiMeglio, and Frank Glynn.

Zankich Brothers Fish Company, a copartnership, consisting of Jerry Zankich and Vincent Zankich.

Pioneer Fisheries, a copartnership, consisting of Anthony B. Jaconi and Paul A. Marencovich.

PAR. 2. Respondent Seafood Brokerage, Inc., is a corporation organized and doing business under the laws of the State of California, with its principal office and place of business located at the Municipal Wharf in San Pedro, Calif. This respondent is engaged in acting as purchasing agent and broker for the members of the respondent San Pedro Fish Exchange enumerated in paragraph 1 above. All of the outstanding stock of Seafood Brokerage, Inc., is held and owned by said respondent members of San Pedro Fish Exchange, or by representatives of said members, and collectively they own and control said respondent Seafood Brokerage, Inc.

The officers of respondent Seafood Brokerage, Inc., are or have been, respondents John Ivancich, president, Giosue Di Massa, vice president, and Yoshitsura Kamiya, secretary-treasurer; and the stockholders are, or have been, the following respondents:

Arthur W. Ross, who is also president of respondent American Fisheries, Inc.

Peter A. Kuglis, who is also president of respondent Star Fisheries, Inc.

Tokutaro Furukawa, who is also president of respondent Mutual Fish Co., Ltd.

Seiichi Nakahara, who owns and operates the Pacific Coast Fish Company.

Gennaro Mineghino, who owns and operates the Independent Fish Co.

Vincent DiMeglio, who owns and operates The Ocean Fish Company.

John Ivancich, who is also a partner in respondent Standard Fisheries Company.

Yoshitsura Kamiya, who is also a partner in respondent Central Fish Company.

Peter Tomich, who is also a partner in respondent Tomich Bros. Fish Company.

Vincent Vitalich, who is also a partner in respondent Catalina Fish Company.

Andrew Petrasich, who is also a partner in respondent Harbor Seafood Company.

Gerald Cigliano, who is also a partner in respondent State Fish Company.

Giosue Di Massa, who is also a partner in respondent Los Angeles Fish and Oyster Company.

Jerry Zankich, who is also a partner in respondent Zankich Bros. Fish Company.

Anthony B. Jaconi, who is also a partner in respondent Pioneer Fisheries.

PAR. 3. Respondent Southern California Wholesale Fish Dealers Association is an unincorporated association with its headquarters at 1211 East Olympic Boulevard, Los Angeles, Calif. Respondent Chas. Rennick is secretary and manager of said association. The members of said association are distributors or wholesale fish dealers engaged in purchasing, selling, and distributing fish and seafood products from their respective places of business in Los Angeles, Calif. Among the members of said Southern California Wholesale Fish Dealers Association are the following respondents:

Superior Seafood Company, Ltd., a corporation, 624 Ceres Ave., Los Angeles.

Los Angeles Fish and Oyster Company, Inc., Ltd., a corporation, 1320 Newton St., Los Angeles.

Central Fish and Oyster Company, a corporation, 1217 Birch St., Los Angeles.

Western Fish Company, a copartnership, consisting of Stephen Gentry and George Kriste, 514 Gladys Avenue, Los Angeles.

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Morris Isenberg, trading as Mermaid Fish and Oyster Company, 1246 East 6th Street, Los Angeles.

National Seafood Company, a copartnership, of which John Di Massa is a partner, 1812 South Central Street, Los Angeles.

Respondent Southern California Wholesale Fish Dealers Association is a successor to the Los Angeles Wholesale Fish Dealers Association, which was disbanded about April 1, 1937.

PAR. 4. Respondent Los Angeles Fish Exchange is a corporation, organized and existing under the laws of the State of California, with its principal office and place of business located at 914 Bankers Building, Los Angeles, Calif. This respondent was during 1937 employed as purchasing agent and broker by the members of respondent Southern California Wholesale Fish Dealers Association enumerated in paragraph 3 above and for the members of respondent San Pedro Fish Exchange, enumerated in paragraph 1 above.

Respondent M. N. Blumenthal, 405 Stanford Avenue, Los Angeles, Calif., is a broker and in 1937 he was employed by respondent Los Angeles Fish Exchange and by respondent members of said Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange.

PAR. 5. Respondent, Southern Sea Products Brokerage Corporation, is a corporation organized and existing under the laws of the State of California, with its principal office and place of business located at 415½ South Central Avenue, Los Angeles, Calif. This respondent is engaged in the business of acting as purchasing agent and broker for respondent members of the Southern California Wholesale Fish Dealers Association, enumerated in paragraph 3 above. The outstanding capital stock of this respondent has been issued to, and is owned by, or is controlled by, said respondent members of the Southern California Wholesale Fish Dealers Association. Respondent Elmo C. Jack is manager of the Southern Sea Products Brokerage Corporation, and as such manager, is in immediate charge of its operations.

The stockholders of said Southern Sea Products Brokerage Corporation are the following respondents:

Max Freeman and Arthur Freeman, 624 Ceres Ave. Los Angeles, Calif., who are also holders of a majority of the stock in respondent Superior Sea Food Co., Ltd.

Jack De Luca, 1320 Newton St., Los Angeles, Calif., who is also the sole owner of the stock of respondent Los Angeles Fish and Oyster Co., Ltd.

Louis G. Beverino, 1012 Central Ave., Los Angeles, Calif., who is secretary, treasurer, and manager of respondent Central Fish and Oyster Co.

Stephen Gentry and George Kriste, 514 Gladys Ave., Los Angeles, Calif., who compose the partnership of respondent Western Fish Co.

Morris Isenberg, 1246 East 6th St., Los Angeles, Calif., who owns and operates respondent Mermaid Fish and Oyster Co.

John Di Massa, 1812 South Central Ave., Los Angeles, Calif., who is a partner in respondent National Seafood Co.

Guisepppe Alioto, 535 Washington St., San Francisco, California, who is also the president of the San Francisco International Fish Company, which owns one-third of the stock of respondent Central Fish and Oyster Company.

PAR. 6. Respondent distributors and wholesale fish dealers, members of said San Pedro Fish Exchange and Southern California Wholesale Fish Dealers Association, purchase their fish and sea products, in the course and conduct of their respective businesses, from producers, shippers, and distributors located in various States and foreign countries, and cause such fish and sea products to be shipped and transported to their respective headquarters and places of business and/or to their customers, from points in States other than the State of California and from foreign countries and from waters adjacent to the United States and foreign countries. In the course of the sale and distribution of their fish and sea products such respondent members of said San Pedro Fish Exchange and Southern California Wholesale Fish Dealers Association, cause such fish and sea products when sold to be shipped and transported, pursuant to purchase orders, from their headquarters or places of business, or direct from their suppliers, to their customers at points in States other than the State of California or the place or origin of such shipments. There is a continuous flow and current of commerce in fish and sea products from respondent members' suppliers, through respondent members, to dealers and consumers located within and without the State of California. In the course and conduct of their respective business, respondent members are and have been engaged in commerce among the several States and with foreign countries and in trade, business, and commerce, directly affecting interstate and foreign commerce in fish and sea products. Except insofar as competition has been restrained, stifled, lessened, suppressed, eliminated or destroyed by the respondent members, as hereinafter alleged, each of said respondent members is and has been in actual and potential competition with the other respondent members and other dealers in the purchase, sale, and distribution of fish and sea products. Respondents Seafood Brokerage, Inc., Los Angeles Fish Exchange, M. N. Blumenthal and Southern Sea Products Brokerage Corporation act, or have acted, as purchasing agents for respondent members, or some of them, and are, or have been, likewise engaged in interstate and foreign commerce in fish and sea products and in providing facilities and performing functions in connection with the flow of such commerce.

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PAR. 7. The distributors and wholesale fish dealers making up the memberships of respondents San Pedro Fish Exchange and Southern California Wholesale Fish Dealers Association together hold a monopoly on the purchase, sale, and distribution of certain varieties of fish and sea products in the trade territory extending inland from San Pedro and Los Angeles, Calif., through adjacent parts of California and into various States of the United States to the eastward, and together they constitute a group so powerful as to be able to dominate and control the sources of supply and channels of distribution in all fresh fish and sea products in such trade territory.

PAR. 8. Respondents are banded and allied together in the aforesaid associations, organizations, and corporations to carry into effect the program and policies hereinbelow described and to enhance and promote the volume of trade, business and profits of respondent distributors and wholesale fish dealers; and the respondents, namely the said associations, corporations, partnerships, and individuals, and the officers, members, agents, and employees thereof, parties respondent herein, during and in the period of three or more years last past, have agreed, conspired, combined, and confederated together and with others, and have united in and pursued a common and concerted course of action and undertaking among themselves and with others, to adopt, follow, carry out, enforce, and maintain, in the trade areas above referred to, a program, and certain policies and practices, to wit:

1. To establish, fix, and maintain the prices at which and conditions upon which fish and sea products were purchased by respondent members and competing dealers from shipper and producers.

2. To establish, fix, and maintain the prices at which, and the conditions upon which, fish and sea products were sold by respondent members and competing dealers to other dealers and to consumers.

3. To interfere with and shut off the sources of supply of some varieties of fish and sea products, particularly Mexican sea bass, to dealers, distributors, and wholesalers competing with respondent members in the purchase of such products and the sale and distribution thereof, or to dealers desiring to so compete.

4. To acquire and maintain a monopoly in the purchase, sale, and distribution of fish and sea products in said trade territory.

5. To impose said prices and policies on all dealers in fish and sea products in said trade territory and to require universal observance and adherence thereto.

PAR. 9. The parties respondent herein have agreed, combined, confederated, and conspired together for the purpose and with the intent of carrying out the aforesaid program and policies, and they have been and are now engaged in carrying into effect and maintaining said

program and policies, and the said agreement, combination, confederation, conspiracy, and undertaking as set forth in paragraph 8 hereof. Pursuant to and for the purpose of effecting and carrying out the said program and policies and said agreement, combination, confederation, conspiracy, and undertaking, the respondents have, among other things, done the following:

(a) Mutually pledged and promised to support, adhere to, and enforce the foregoing program and policies, alleged in paragraph 8 above, and entered into contracts and agreements relating thereto.

(b) Used and continued to use, in concert and agreement among themselves, and with others, coercive and concerted action, boycott, threats of boycott, and other united action against producers, shippers, wholesalers, distributors, dealers, and others to induce and require them, and to attempt so to induce and require them, to agree and conform to, and to support and enforce the said program and policies of respondents.

(c) Held meetings of respondent associations and organizations, their officers and members, to devise means of exerting influence, pressure, coercion or other means of inducing, coercing, and requiring shippers, producers, distributors, dealers, and others engaged in said fish and sea products trade and industry to abide by and adhere to said program and policies.

(d) Respondent members of San Pedro Fish Exchange have acted in concert and agreement to control the policies and practices of respondent Seafood Brokerage, Inc., and by exercising such control and have caused it to adopt and pursue policies and practices conforming to and in harmony with the program and policies above described.

(e) Respondent members of Southern California Wholesale Fish Dealers Association have acted in concert and agreement to control the policies and practices of respondents Los Angeles Fish Exchange, M. N. Blumenthal, and Southern Sea Products Brokerage Corporation, and by exercising such control have caused said corporations and said individual to adopt and pursue policies and practices conforming to and in harmony with the program and policies above described.

(f) Excluded from membership in said respondent associations and organizations distributors and dealers who failed or refused to support, abide by or cooperate in carrying out said program and policies of respondents.

(g) Disciplined certain members and imposed penalties on them for acts in violation of the tenets and requirements of said program and policies.

(h) Exchanged information between one another concerning the prices and trade policies and practices used by them individually

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and issued and distributed bulletins, circulars, letters, price lists, and other printed matter and distributed the same among the members of said associations and others, announcing the adoption of said policies, practices, and requirements and the imposition of the same upon all those affected thereby.

(i) Used and engaged in other acts, cooperative and concerted action, and coercive methods and practices in promoting, establishing, and carrying out the foregoing program and agreement, policies, combinations, conspiracy, confederation, and undertaking set forth in paragraph 8 hereof.

PAR. 10. The capacity, tendency, and effect of said agreement, combination, conspiracy, confederation, and undertaking, and the said acts and practices of respondents, set forth above, are and have been in said trade area and other related or connected territory, frequently comprising more than one State or portions of more than one State, are and have been:

(a) To tend to monopolize, in said respondents, the business of dealing in and distributing fish and sea products.

(b) To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in said fish and sea products trade and industry, and to deprive the purchasing and consuming public of advantages in price, service, and other consideration which they would receive and enjoy under conditions of normal and unobstructed, or free and fair, competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

(c) To substantially increase the cost to purchasers of such fish and sea products.

(d) To oppress, eliminate, and discriminate against small business enterprises which are or have been engaged in purchasing, selling, and distributing such products.

(e) To obstruct, hamper, and interfere with the normal and natural flow of trade and commerce in fish and sea products in, to, and from such trade area; and to injure respondent's competitors in unfairly diverting business and trade from them, depriving them thereof, and otherwise oppressing or driving them out of business.

(f) To prejudice and injure the public and shippers, producers, dealers, distributors, wholesalers, and others who do not conform to respondent's program or who do not desire, but are compelled to conform therewith.

PAR. 11. The acts and practices of the respondents as herein alleged are all to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented price competition between

and among respondents in the sale of fish and sea products in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices; have created in the respondents a monopoly in the sale of fish and sea products in such commerce; have unreasonably restrained such commerce in fish and sea products, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

Charge 2

PARAGRAPH 1. The pertinent allegations of charge 1 hereof are hereby incorporated herein as though fully set forth verbatim.

PAR. 2. Respondent members of the respondent San Pedro Fish Exchange, in the ordinary course and conduct of their respective businesses, purchase fish and sea products from various producers, suppliers, and shippers, directly, or through the agency of respondent Seafood Brokerage, Inc., or through respondent Seafood Brokerage, Inc., as intermediary, upon orders placed by said respondent members with said Seafood Brokerage, Inc.; and as a result of such purchases or orders respondent members, and each of them, cause such producers, suppliers, and shippers to ship or transport fish and sea products from the places of origin thereof outside of the State of California into said State.

PAR. 3. In the course of said purchasing transactions above referred to, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members by means of the purchasing services of respondent Seafood Brokerage, Inc., or without such services, respondent members of said San Pedro Fish Exchange have and do cause and require said producers, suppliers, and shippers, and each of them, to transmit, pay to, and deliver to respondent Seafood Brokerage, Inc., a so-called brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of such purchasing transactions, respondent Seafood Brokerage, Inc., has received and accepted, and is receiving and accepting, such fees and commissions for which no services connected with such purchases of said products by respondent members of San Pedro Fish Exchange were rendered to said producers, suppliers, or shippers, and the said Seafood Brokerage, Inc., has and does receive and accept such so-called brokerage fees and commissions as agent for and for the use and benefit of said purchasers, being respondent members of San Pedro Fish Exchange, or one or more of them. In receiving and accepting said so-called brokerage fees and commissions, and at all

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times in the conduct of its business respondent Seafood Brokerage, Inc., is the representative or purported representative of respondent members of San Pedro Fish Exchange and acts for them and in their behalf and is under their control.

PAR. 4. The receipt and acceptance of such so-called brokerage fees and commissions by respondent Seafood Brokerage, Inc., for the use and benefit of respondent members of San Pedro Fish Exchange, in the manner and under the circumstances hereinabove set forth, and the plan and policy of said respondent members and said Seafood Brokerage, Inc., of exacting such fees and commissions from the sellers of said products is in violation of subsection (c) of Section 2 of said Clayton Act, as amended.

Charge 3

PARAGRAPH 1. The pertinent allegations of charge 1 hereof are hereby incorporated herein as though fully set forth verbatim.

PAR. 2. During part of the year 1937, respondent members of respondents Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, in the course and conduct of their respective businesses, purchased fish and sea products from various producers, suppliers, and shippers, directly, or through the agency of respondents Los Angeles Fish Exchange and M. N. Blumenthal, upon orders placed by said respondent members with said Los Angeles Fish Exchange and M. N. Blumenthal; and as a result of such purchases and orders respondent members, and each of them, caused such producers, suppliers, and shippers to ship or transport fish and sea products from the places of origin thereof outside of the State of California into said State.

PAR. 3. In the course of said purchasing transactions above referred to, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members, by means of the purchasing services of respondents Los Angeles Fish Exchange and M. N. Blumenthal, or without such services, respondent members of Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, caused and required said producers, suppliers, and shippers to transmit, pay to, and deliver to respondents Los Angeles Fish Exchange and M. N. Blumenthal, a so-called brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of such purchasing transactions respondents Los Angeles Fish Exchange and M. N. Blumenthal received and accepted such fees and commissions for which no services connected with the purchase of such products by said respondent members were rendered to said producers, shippers,

or suppliers, and the said Los Angeles Fish Exchange and M. N. Blumenthal received and accepted such so-called brokerage fees and commission as agent for and for the use and benefit of said purchasers, being said respondent members above referred to, or one or more of them. In receiving and accepting said fees and commissions, respondents Los Angeles Fish Exchange and M. N. Blumenthal were the representatives or purported representatives of respondents' members of said Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, and acted for them and in their behalf and under their control.

PAR. 4. The receipt and acceptance of such so-called brokerage fees and commissions by respondents Los Angeles Fish Exchange and M. N. Blumenthal, for the use and benefit of said respondent members of said associations, in the manner and under the circumstances hereinabove set forth, was in violation of subsection (c) of section 2 of said Clayton Act, as amended.

Charge 4

PARAGRAPH 1. The pertinent allegations of charge 1 hereof are hereby incorporated herein as though fully set forth verbatim.

PAR. 2. Respondent members of the respondent Southern California Wholesale Fish Dealers Association, in the ordinary course and conduct of their respective businesses, purchase fish and sea products from various producers, suppliers, and shippers, directly, or through the agency of respondent Southern Sea Products Brokerage Corporation, or through respondent Southern Sea Products Brokerage Corporation, as intermediary, upon orders placed by said respondent members with said Southern Sea Products Brokerage Corporation; and as a result of such purchases or orders respondent members, and each of them, cause such producers, suppliers, and shippers to ship or transport fish and sea products from the places of origin thereof outside of the State of California into said State.

PAR. 3. In the course of said purchasing transactions above referred to, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members by means of the purchasing services of respondent Southern Sea Products Brokerage Corporation, or without such services, respondent members of said Southern California Wholesale Fish Dealers Association have and do cause and require said producers, suppliers and shippers, and each of them, to transmit, pay to and deliver to respondent Southern Sea Products Brokerage Corporation a so-called brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of

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such purchasing transactions, respondent Southern Sea Products Brokerage Corporation has received and accepted, and is receiving and accepting, such fees and commissions for which no services connected with such purchases of said products by respondent members of Southern California Wholesale Fish Dealers Association were rendered to said producers, suppliers, or shippers, and the said Southern Sea Products Brokerage Corporation has and does receive and accept such so-called brokerage fees and commissions as agent for and for the use and benefit of said purchasers, being respondent members of Southern California Wholesale Fish Dealers Association, or one or more of them. In receiving and accepting said so-called brokerage fees and commissions, and at all times in the conduct of its business respondent Southern Sea Products Brokerage Corporation is the representative or purported representative of respondent members of Southern California Wholesale Fish Dealers Association and acts for them and in their behalf and is under their control.

PAR. 4. The receipt and acceptance of such so-called brokerage fees and commissions by respondent Southern Sea Products Brokerage Corporation, for the use and benefit of respondent members of Southern California Wholesale Fish Dealers Association, in the manner and under the circumstances hereinabove set forth, and the plan and policy of said respondent members and said Southern Sea Products Brokerage Corporation of exacting such fees and commissions from the sellers of said products is in violation of subsection (c) of section 2 of said Clayton Act, as amended.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, and pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (U. S. C., title 15, sec. 13, the Clayton Act), as amended, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that respondents named herein, and each of them have violated the provisions of said Federal Trade Commission Act and of subsection (c) of section 2 of said Clayton Act, as amended, the Federal Trade Commission on March 17, 1939, issued and served its complaint in this proceeding upon the parties respondent, named in the caption hereof, charging them with violation of the provisions of the said act, and the said amendment thereto. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Allen C. Phelps, attorney for the Commis-

sion, before Robert S. Hall, an examiner for the Commission theretofore duly designated by it, and in opposition to the allegations of the complaint by Jules J. Covey, Vernon S. Gray, and Clifton A. Hix, attorneys for the said respondents, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, answers, testimony, and other evidence, briefs in support of the complaint and in opposition thereto, and the oral arguments of the said Allen C. Phelps for the Commission and Clifton A. Hix for some of the respondents, and the Commission having duly considered the same and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent San Pedro Fish Exchange, is an unincorporated association organized under the laws of the State of California, with its principal office and place of business at the Municipal Wharf, Los Angeles Harbor, San Pedro, Calif. The officers of said San Pedro Fish Exchange have been respondents Anthony B. Jaconi, president, Giosue Di Massa, vice president, and Albert H. Finch, secretary, all of the Municipal Wharf, San Pedro, Calif. The members of said Exchange are distributors or wholesale fish dealers engaged in purchasing, selling, and distributing fish and sea products from their respective places of business on the Municipal Wharf in San Pedro, Calif. Among the members of said San Pedro Fish Exchange are the following respondents:

American Fisheries, Inc., a corporation.

Star Fisheries, Inc., a corporation.

Mutual Fish Company, Ltd., a corporation.

Seiichi Nakahara, trading as Pacific Coast Fish Co.

Gennaro Mineghino, trading as Independent Fish Co.

Vincent DeMeglio, trading as Ocean Fish Company.

Standard Fisheries Company, a copartner consisting of John Ivancich, John Sulentor, and Andrew Fishtonich.

Central Fish Company, a copartnership, consisting of Yoshitsura Kamiya, Leo T. Toyama, and Y. Uyeda.

Tomich Brothers Fish Company, a copartnership, consisting of Peter Tomich and Frank Tomich.

Catalina Fish Company, a copartnership, consisting of Vincent Vitalich and George Stanovich.

Harbor Seafood Company, a copartnership, consisting of Andrew Petrasich, Martin Zuanich and Joe Evich.

State Fish Company, a copartnership, consisting of Gerald Cigliano and Jack Deluca.

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Los Angeles Fish and Oyster Company, a copartnership, consisting of Giosue Di Massa, John DiMeglio, and Frank Glynn.

Zankich Brothers Fish Company, a copartnership, consisting of Jerry Zankich and Vincent Zankich.

Pioneer Fisheries, a copartnership, consisting of Anthony B. Jaconl and Paul A. Marencovich.

PAR. 2. Respondent Seafood Brokerage, Inc., is a corporation. Respondent Hugh Reves is, and has been, the manager of said respondent Seafood Brokerage, Inc., and as such manager has been in immediate charge of its business. The corporation is organized and doing business under the laws of the State of California with its principal office and place of business located at the Municipal Wharf in San Pedro, Calif. This respondent is engaged in acting as purchasing agent and broker for the members of the respondent San Pedro Fish Exchange enumerated in paragraph 1 above. All of the outstanding stock of Seafood Brokerage, Inc., is held and owned by said respondent members of San Pedro Fish Exchange, or by representatives of said members, and collectively they own and control said respondent Seafood Brokerage, Inc.

The officers of respondent Seafood Brokerage, Inc., are or have been, respondents John Ivancich, president, Giosue Di Massa, vice president, and Yoshitsura Kamiya, secretary-treasurer; and the stockholders are, or have been, the following respondents:

Arthur W. Ross, who is also president of respondent American Fisheries, Inc.

Peter A. Kuglis, who is also president of respondent Star Fisheries, Inc.

Tokutaro Furukawa, who is also president of respondent Mutual Fish Co., Ltd.

Selichi Nakahara, who owns and operates the Pacific Coast Fish Company.

Gennaro Mineghino, who owns and operates the Independent Fish Co.

Vincent DiMeglio, who owns and operates The Ocean Fish Company.

John Ivancich, who is also a partner in respondent Standard Fisheries Company.

Yoshitsura Kamiya, who is also a partner in respondent Central Fish Company.

Peter Tomich, who is also a partner in respondent Tomich Bros. Fish Company.

Vincent Vitalich, who is also a partner in respondent Catalina Fish Company.

Andrew Petrasich, who is also a partner in respondent Harbor Seafood Company.

Gerald Cigliano, who is also a partner in respondent State Fish Company.

Giosue Di Massa, who is also a partner in respondent Los Angeles Fish and Oyster Company.

Jerry Zankich, who is also a partner in respondent Zankich Bros. Fish Company.

Anthony B. Jaconl, who is also a partner in respondent Pioneer Fisheries.

PAR. 3. Respondent Southern California Wholesale Fish Dealers Association is an unincorporated association with its headquarters at 1211 East Olympic Boulevard, Los Angeles, Calif. Respondent Chas. Rennick is secretary and manager of said association. The members of said association are distributors or wholesale fish dealers engaged in purchasing, selling, and distributing fish and seafood products from

their respective places of business in Los Angeles, Calif. Among the members of said Southern California Wholesale Fish Dealers Association are the following respondents:

Superior Seafood Company, Ltd., a corporation, 624 Ceres Ave., Los Angeles, Calif.

Los Angeles Fish and Oyster Company, a corporation, 1320 Newton St., Los Angeles.

Central Fish and Oyster Company, a corporation, 1217 Birch St., Los Angeles.

Western Fish Company, a copartnership, consisting of Stephen Gentry and George Kriste, 514 Gladys Avenue, Los Angeles.

Morris Isenberg, trading as Mermaid Fish and Oyster Company, 1246 East 6th Street, Los Angeles.

National Seafood Company, a copartnership, of which John Di Massa is a partner, 1812 South Central Street, Los Angeles.

Respondent Southern California Wholesale Fish Dealers Association is a successor to the Los Angeles Wholesale Fish Dealers Association, which was disbanded about April 1, 1937.

PAR. 4. Respondent Los Angeles Fish Exchange is a corporation, organized and existing under the laws of the State of California, with its principal office and place of business located at 914 Bankers Building, Los Angeles, Calif. This respondent was during 1937 employed as purchasing agent and broker by the members of respondent Southern California Wholesale Fish Dealers Association enumerated in paragraph 3 above and for the members of respondent San Pedro Fish Exchange, enumerated in paragraph 1 above.

PAR. 5. Respondent M. N. Blumenthal, 405 Stanford Avenue, Los Angeles, Calif., is a broker and in 1937 he was employed in the capacity of a broker by respondent Los Angeles Fish Exchange and by respondent members of said Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange.

PAR. 6. Respondent, Southern Sea Products Brokerage Corporation, is a corporation organized and existing under the laws of the State of California, with its principal office and place of business located at 415½ South Central Avenue, Los Angeles, Calif. This respondent is engaged in the business of acting as purchasing agent and broker for respondent members of the Southern California Wholesale Fish Dealers Association, enumerated in paragraph 3 above. The outstanding capital stock of this respondent has been issued to and is owned by the individual respondents hereafter named who manage and control the respective respondent members of the Southern California Wholesale Fish Dealers Association. Respondent Elmo C. Jack is manager of the Southern Sea Products Brokerage Corporation, and as such manager is in immediate charge of its operations.

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The stockholders of said Southern Sea Products Brokerage Corporation are the following respondents:

Max Freeman and Arthur Freeman, 624 Ceres Ave., Los Angeles, Calif., who are also holders of a majority of the stock in respondent Superior Sea Food Co., Ltd.

Jack DeLuca, 1320 Newton St., Los Angeles, Calif., who is also the sole owner of the stock of respondent Los Angeles Fish and Oyster Co.

Louis G. Beverino, 1012 Central Ave., Los Angeles, Calif., who is secretary, treasurer, and Manager of respondent Central Fish and Oyster Co.

Stephen Gentry and George Kriste, 514 Gladys Ave., Los Angeles, Calif., who compose the partnership of respondent Western Fish Co.

Morris Isenberg, 1246 East 6th St., Los Angeles, Calif., who owns and operates respondent Mermaid Fish and Oyster Co.

John Di Massa, 1812 South Central Ave., Los Angeles, Calif., who is a partner in respondent National Seafood Co.

Giuseppe Alioto, 535 Washington Street, San Francisco, California, who is also the president of the San Francisco International Fish Company, which owns one-third of the stock of respondent Central Fish and Oyster Company.

PAR. 7. San Pedro, which is a part of metropolitan Los Angeles, but which is located about 20 miles from the city proper, is the principal fresh fish market in southern California. There are, however, two other fish exchanges, one in Santa Barbara and one in San Diego. Across the San Pedro wharf come most of the fish caught locally, which are marketed in commerce. Until recently the entire supply of this fish was purchased by the members of the San Pedro Fish Exchange from the fishermen and sold by such members to the trade, i. e., to other wholesalers (including the Los Angeles wholesalers), to stock wagons, to peddlers, and to retailers. A part of this supply is shipped to customers in States lying east and northeast of southern California and to dealers in San Francisco and other places in California. Extensive supplies of fish and sea foods also come into the southern California markets from San Francisco, Seattle, Japan, Mexico, and the eastern seaboard. These products are usually bought and sold through brokers or on a brokerage basis. There are at least four fish brokers in the Los Angeles area and two brokerage concerns, the latter being respondents Seafood Brokerage, Inc., and Southern Sea Products Brokerage Corporation.

Prior to June 1939, all of the commercial supply of fresh fish caught locally and coming into San Pedro was handled by the San Pedro Fish Exchange, which includes in its membership all of the wholesale fish dealers in San Pedro. In June 1939, the Gill Net Fishermen's Union, affiliated with the C. I. O., asked the San Pedro dealers for a minimum price guarantee on fish marketed by them, and when this demand was refused a so-called C. I. O. Fishermen's Market was set up to sell fish direct to the trade in competition with the San Pedro

dealers. The San Pedro dealers continued to buy fish from other fishermen who belonged to a union affiliated with the A. F. of L. The C. I. O. market was said to be selling to Los Angeles wholesalers at lower prices than the San Pedro dealers could quote and at the time of the hearings sales of fish by the San Pedro dealers to Los Angeles wholesalers had been practically stopped for this reason.

The San Pedro dealers buy fish and sea products originating elsewhere from shippers, usually through Seafood Brokerage, Inc.

The members of the Southern California Wholesale Fish Dealers' Association constitute practically all of the wholesalers in Los Angeles. Their principal business consists of selling fish and sea products at wholesale in the Los Angeles area, but they also supply customers in the States to the north and northeast of southern California, and in other parts of California. They purchase local fish from the San Pedro dealers, the C. I. O. market and from other southern California markets. They obtain other fish and sea food from shippers located in other parts of the United States and in foreign countries, buying either through the Southern Sea Products Brokerage Corporation or through other brokers.

Fresh fish moving across the San Pedro wharf is sold by the San Pedro dealers to wholesalers in Los Angeles and other California points, to retailers in States outside of California and to retailers in California and to stock wagons and peddlers operating in the Los Angeles area.

Fish and sea food not caught locally (except Mexican sea bass which will be considered separately) move from the shipper to the Los Angeles and San Pedro wholesalers and from them to the trade. Some of this supply is sold to customers in States to the east and northeast of southern California.

Wholesalers sell these products to stock wagons, who resell to small retailers; to retailers; to peddlers who resell from house-to-house; and direct to the institutional trade, such as hotels, restaurants, institutions, etc. Stock wagons compete with wholesalers in selling the same class of trade, and in some cases may be owned by wholesalers. Wholesalers compete with retailers in selling the institutional trade.

Shippers may be wholesalers in the local market in which they operate, as for example, some shippers in Seattle and San Francisco. Shippers sell as jobbers and also as wholesalers. Wholesalers sell at wholesale and at times at retail. Large retailers and chain stores attempt to and often do buy at prices lower than the prices quoted to retailers generally. Brokers at time have bought and sold on their own account and also sold direct to stock wagons and even to the retail trade.

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Stock wagons compete with wholesalers, but do not have the overhead expense of maintaining regular establishments. The wholesalers think it is unfair for stock wagons to buy at the wholesale buying price through brokers. A distinction has been made between "first line wholesalers" and stock wagons. Both the Los Angeles wholesalers and the San Pedro dealers established prices to stock wagons. In Los Angeles those prices were midway between the wholesaler's cost price and the price to the retailer. In San Pedro the stock wagon price was about the same as the so-called wholesale price, these two prices being below the "shipping" price to outside customers and the "peddler" price, which were likewise about equal.

PAR. 8. The San Pedro Fish Exchange was organized in December 1936. It is composed of all of the wholesale fish and sea food dealers in San Pedro.

The agreement and Articles of Association of the San Pedro Fish Exchange, signed by all of the members, limits new members to those receiving a two-thirds favorable vote and paying an initiation fee of \$5,000. No new members have been admitted since organization. This agreement further provides that the Executive Committee shall keep all members posted "upon price conditions, necessary overhead expense, which shall be for the purpose of giving the members accurate information as to the margin of profit they should have so that the members may be better enabled to proceed to some degree of uniformity" * * * "and all of the members agree that they shall accept the advice given them by the Executive Committee and conduct their respective businesses according."

During 1937 and 1938 the Exchange issued weekly price lists showing the buying prices for the various varieties of fish and sea food and the selling prices therefor. Four different selling prices were shown, being the wholesale selling price, the stock wagon price, the shipping price, and the peddler price. It was the understanding among the members of the Exchange that these prices would be adhered to as a minimum and, with few exceptions, they were so followed. These price lists included selling prices not only on fish caught locally coming over the San Pedro wharf, but also for fish and shell food shipped in from northern California and points outside of California. The selling prices on such price lists were figured from the buying prices, the prices to wholesalers being from 2 cents to 4 cents per pound above the San Pedro cost price. Prices to stock wagons on local fish were practically the same as the prices to wholesalers. The "shipping" prices were prices governing sales to retailers and lot shipments to points outside of the Los Angeles area. The "peddler" prices were quoted to house-to-house peddlers selling to consumers. The

"shipping" prices and "peddler" prices tended to be the same, and were usually about a cent a pound above the wholesale and stock wagon prices.

Each member of the San Pedro Fish Exchange, by agreement, pays 1 cent per pound on all large local fish handled and $\frac{1}{2}$ cent per pound on all small local fish handled, into the treasury of the San Pedro Fish Exchange. Overhead expenses are paid out of this fund, and the balance is divided annually in equal parts among all members, except one (Harbor Sea Food Co.), which receives a $\frac{1}{2}$ share. In 1938 under this arrangement eight of the members of the Exchange paid more money into this fund than was returned to them; seven received more in payments out of the fund than they paid into it. Of \$34,167.41 collected and disbursed, only \$4,638.51 was required for expenses.

It was understood and agreed by the members of the San Pedro Fish Exchange that each would observe the prices fixed by the Price Committee of the Exchange. The agreement signed by all members provided that each member should pay to the Exchange as liquidated damages for all fish sold other than in accordance with the uniform price quotation of the Executive Committee, 5 cents per pound for the entire shipment wherein any one item of such shipment was so sold in violation of such price quotations, with a minimum penalty of \$5. On February 11, 1938, fines were levied against several members for violation of the rules of the Exchange, such fines ranging from \$5 to \$100 in amount.

PAR. 9. About October 1936, the fish wholesalers of Los Angeles formed the Los Angeles Wholesale Fish Dealers' Association. This Association continued in existence until March 31, 1937, when it was dissolved to be succeeded by the Southern California Wholesale Fish Dealers' Association, one of the respondents herein. This latter Association ceased its activities about October 21, 1938.

The original association, the Los Angeles Wholesale Fish Dealers Association, was composed of eleven wholesalers of Los Angeles, three affiliated wholesale dealers (one at Santa Barbara and two at Long Beach) and five brokers. During its lifetime this association took action:

To require broker members to handle sea products on brokerage basis only, i. e., not to buy and sell on their own account "for the purpose of speculation"; discussed questions arising from the activities of certain firms doing a combined wholesale and retail business; set initiation fees for members of the Association at \$2,500 for all except original members and later raised this to \$5,000; took up trade practice matters with dealers in San Pedro, San Diego, San Francisco, and

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Seattle; employed an investigator to handle complaints of violations of the Association's rules and regulations; set up a price committee and fixed selling prices for sea products; discussed "unfair and unethical" methods as used by some members; expelled one member (Blue Shell Oyster Co.) for alleged "lack of cooperation in association affairs and non-payment of dues"—(the real reason being the cutting of prices by this member below prices fixed by the price committee); attempted to prevent price cutting by retailers and solicitation by one member of another's accounts.

The Los Angeles Wholesale Fish Dealers Association was dissolved on April 1, 1937. The Southern California Wholesale Fish Dealers' Association was organized the same day. This association was organized by and included all members of the Los Angeles Association except the United Fish Co., Blue Shell Oyster Co., Long Beach Fish Co., and A. K. Koulouris & Co., a broker. To all intents and purposes the Southern California Wholesale Fish Dealers Association was the successor to the Los Angeles Association and the former continued to use somewhat the same policies as the latter had followed.

The Southern California Wholesale Fish Dealers Association issued weekly minimum selling prices on all varieties of sea food handled by its members. The prices quoted were "trade" (to retailers) prices and "stock wagon" prices. Prices to stock wagons were usually 2 cents per pound less than prices to the trade. The published prices were, in the main, accepted and adhered to by the members of the Association, although there was no penalty imposed by the Association for non-conformity with such prices.

PAR. 10. One of the choice varieties of fresh fish coming into the southern California market is Mexican sea bass or totoaba. This fish is caught by Mexican fishermen in the Gulf of California in Mexican waters off the coasts of Sonora and Lower California, whence it is trucked to the southern California market. Prior to the season of 1937-38 (the season is during the winter, spring, and early summer) this fish was brought into the southern California market by truckers or fishermen who sold their truckloads of fish to brokers and dealers. In the early part of 1939 the supply of this fish coming into Los Angeles and San Pedro ran from 350,000 to over 600,000 pounds per month.

By November 1937, the Mexican fishermen had been organized into cooperatives ("cooperativas") with the help of the Mexican Government. At that time a contract was made between the cooperatives and respondent Jack DeLuca, who was a wholesaler in Los Angeles, whereby the representatives agreed to sell and DeLuca agreed to buy all the Mexican sea bass caught during the 1937-38 season at 8 cents a

pound. In November 1937, after the contract was made DeLuca received some 300,000 or 400,000 pounds of this fish and the Los Angeles and San Pedro wholesalers suddenly stopped purchasing. As a result, DeLuca was unable to dispose of this supply and it became a glut on the market. DeLuca was given to understand that the dealers had encouraged the fishermen to send an unusual supply so that "they could break up my contract that much faster." Prior to that time the market had been absorbing from 200,000 to 300,000 pounds a week. As a result of this over-supply DeLuca negotiated a cancellation of his agreement with the Mexican cooperatives and made a settlement with them. At the time of the cancellation of his agreement DeLuca had on hand about 100,000 pounds of Mexican sea bass in his icebox which he sold out to his trade in 2 or 3 weeks. There were at the same time 200,000 or 300,000 pounds of this fish in trucks on which DeLuca had been unable to accept delivery. This supply was taken by the dealers in Los Angeles and San Pedro within 12 to 24 hours after DeLuca's contract with the Mexican cooperatives had been canceled.

In November 1937, while DeLuca's contract was still in effect, respondents Vincent Vitalich, Peter Tomich, and Andrew Fishtonich, San Pedro dealers, went to San Luis, Mexico (on the Arizona border), and met some of the Mexican fishermen and truckers. They went to arrange for a supply of Mexican sea bass, although they knew that Jack DeLuca had a contract with the cooperatives. However, they claimed they were not getting any sea bass, a statement contradicted elsewhere in the record. A short time afterward the DeLuca contract was canceled and the San Pedro dealers received adequate supplies after that.

DeLuca's avowed purpose in contracting for the Mexican sea bass was to stabilize the market. He resold the sea bass to wholesalers at 8½ cents or 9 cents a pound and also sold to his own trade (retailers). During the time he held his contract he controlled the available supply of this fish. After cancellation of the DeLuca contract the supply was brought in by truckers and sold by them to brokers and wholesalers during the balance of the 1937-38 season.

In November 1938, the Mexican cooperatives, with the Mexican Government, went ahead with the plan to sell all sea bass through one channel. At the request of the Minister of Agriculture, A. K. Koulouris, a wholesale broker, went to Mexico City where a contract was signed on December 10, 1938, whereby Koulouris was to act as sales agent on a commission basis. In this contract Koulouris guaranteed to dispose of 68 tons of Mexican sea bass weekly during the fishing season. This contract provided that a ratification meeting

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of the cooperatives should be called and such a meeting was held at Nogales, Sonora, on December 22, 1938. Respondent Hugh Reves, manager of respondent Sea Food Brokerage, Inc., appeared at said meeting and offered to advance the cooperatives \$15,000 or more in cash and to sell a larger percentage of fish at a better price than Koulouris. Reves got the contract in which he agreed to advance \$15,000, to sell 91 metric tons of sea bass weekly at a minimum price of 8 cents a pound. He was to receive a 3 percent commission on all sales. Reves asserted that some Mexican cooperatives exist other than those who are parties to this contract and that such other cooperatives sent sea bass into the Los Angeles market. However, at least 95 percent of all the sea bass sold to the trade in the southern California territory is handled by Reves under his contract with the Mexican cooperatives, on the basis of a minimum contract price of 8 cents per pound. The selling price from day to day depends on the price the dealers are willing to pay and the figure asked for by the cooperatives' representative. The price in July 1939, was 9 cents a pound, although it sometimes has reached 14 cents or 15 cents.

Previous to 1938, trouble had been experienced by some dealers, who advanced money to truckers to go to Mexico for a load of sea bass, in getting the truckers to deliver the fish contracted for. Sometimes the trucker did not come back and sometimes he sold the fish to other dealers. Sea bass sold to Reves is resold to Los Angeles dealers at the same price as to San Pedro dealers.

Reves acted as agent for the San Pedro dealers in making the contract with the Mexican cooperatives. The contract, in fact, was a joint venture of the San Pedro dealers and was assigned by Reves to respondent John Ivancich, who is president of respondent Sea Food Brokerage, Inc. Ivancich advanced the \$15,000 (\$17,000 actually sent) payment to Reves, who loaned it to the Mexican cooperatives. This money was borrowed from the bank on a note signed by all the San Pedro dealers. The purchase of Mexican sea bass under the terms of the Reves contract is actually made by the Sea Food Brokerage, Inc. The Mexican cooperatives pay Reves a commission or brokerage of 3 percent and all commissions received under the contract go into the treasury of Sea Food Brokerage, Inc. This sea bass is sold by Sea Food Brokerage, Inc., to dealers in southern California and in States other than the State of California. Sea Food Brokerage, Inc., has continued to aid and finance the Mexican cooperatives.

The control of the Mexican sea bass by Reves under his contract has enabled him to determine the allotment of the commodity to wholesale dealers in Los Angeles, San Pedro, Long Beach, or any buyer thereof, according to the needs and conditions which Reves con-

sidered to be fair and equitable. When Mexican sea bass is scarce Reves, acting through Sea Food Brokerage, Inc., allocates the supply on a percentage basis according to the sea bass previously purchased by the dealer. The dealer having purchased large quantities receives a larger allotment than one having purchased smaller quantities. The Los Angeles wholesale dealers have no connection with or control of the sea bass agreement between Reves and the Mexican cooperatives. The contract was suggested and assisted in by the Mexican Government in order that the sea bass industry might be stabilized in the interests of the Mexican fishermen.

PAR. 11. Early in 1937 and while the Los Angeles Wholesale Fish Dealers Association was in existence, its attorney was directed to form a corporation, the Los Angeles Fish Exchange. The original purpose of this corporation was to collect money from the members of the wholesalers association to be used for advertising the fish industry. This purpose was never carried out because of a price war that broke out upon the entry of the United Fish & Oyster Co. into business. However, a plan was later formulated to use the corporation as a brokerage company to buy sea products for both the Los Angeles and San Pedro dealers and others. It was also contemplated that the corporation would finance purchases of frozen fish from Japan and buy shrimps in carload lots and market these products as far east as Kansas City, Mo. On August 20, 1937, the members of the Southern California Wholesale Fish Dealers Association designated the Los Angeles Fish Exchange as their sole and exclusive purchasing agent and broker for a period of five years, but this arrangement was never effectuated and later was superseded by the formation of Southern Sea Products Brokerage Corporation. On June 15, 1937, the Los Angeles and San Pedro dealers, respondents herein, agreed on a plan to employ respondent M. N. Blumenthal, a broker, to purchase all their supplies, except the local fish purchased at the San Pedro wharf. Letters were sent to suppliers by Blumenthal notifying them of the arrangement and threatening that they would not get their share of the business unless they recognized and adhered to this agreement. A contract was also drawn between Los Angeles Fish Exchange and San Pedro dealers in which the San Pedro dealers engaged the Los Angeles Fish Exchange to act as their sole and exclusive broker for three months, from June 15, 1937, to September 15, 1937. A contract was also drawn between the Los Angeles Fish Exchange and the dealers of Los Angeles and San Pedro (executed only by the Los Angeles Fish Exchange and the San Pedro dealers) providing that all money received by the Los Angeles Exchange from its brokerage operations should be paid into a general welfare fund, and it was

also stipulated that the Los Angeles dealers were to receive 50 percent of this fund, and the San Pedro dealers the other 50 percent. An agreement was made between Los Angeles Fish Exchange and the Los Angeles dealers dividing up this 50 percent among the dealers. The entire arrangement, as finally agreed upon by Blumenthal and the dealers became operative.

Blumenthal acted for three months only, and had at the end of that time about \$4,000 which he still holds, but to which he disclaims title.

The purchase and sale of the commodity, therefore, was controlled and directed by the respondent buyers, through the acts and agency of M. N. Blumenthal, the broker.

PAR. 12. Respondent Seafood Brokerage Inc. and respondent Reves contract at least 95 percent of the supply of Mexican sea bass coming into the southern California market. The contract herein set out growing out of the collective action of the Mexican fishermen and the Government of Mexico in compelling the supply to be sold through one outlet on one hand and the combination and agreement among the San Pedro Fish Exchange members, who are likewise stockholders in Seafood Brokerage, Inc., and Seafood Brokerage, Inc., itself, and respondent Reves, to jointly purchase and resell this fish, on the other hand, the daily fixing of the price at which this fish is sold by the Mexican Cooperatives and purchased by respondent dealers and other dealers, by agreement between the representative of the cooperatives and Reves, acting pursuant to the contract and agreement among the San Pedro dealers to receive and sell this fish on a commission basis, constitute a combination and agreement eliminating price competition in this line of commerce.

PAR. 13. Since operations of the respondents Seafood Brokerage, Inc., and Southern Sea Products Brokerage Corporation, many shippers were forced to discontinue relations with independent brokers and they were compelled to give their accounts to respondent brokerage companies. The general brokerage businesses in this area have been adversely affected by the operations of these two respondents. Their plan of operation enables wholesalers to secure brokerage fees on their purchases of sea products. Such corporations thus created are purchasing agencies and practically the only customers they have are the respective stockholders or such wholesalers themselves.

PAR. 14. The following circumstances and conditions exist as between the Seafood Brokerage, Inc., and its stockholders, and the Southern Sea Products Brokerage Corporation and its stockholders:

The stockholders, in the case of each corporation, are the buyers of sea products; they or their representatives own the stock in the respective brokerage corporations, determine the policy of such corporations, elect the directors, who in turn designate the executive officers, agents, and employees. Brokerage fees are collected by said Seafood Brokerage, Inc., and Southern Sea Products Brokerage Corporation from sellers of sea products on purchases of such products made for and at the instance of the individual dealer respondents, who own or control the stock of said respective corporations. The net profits of said brokerage corporations belong to the stockholders and may be paid to them as dividends.

PAR. 15. Respondents have been banded and allied together in the aforesaid associations, organizations and corporations to carry into effect the program and policies hereinafter described, and during and in the period of 3 or more years last past, they have combined and agreed together and with others, and united in and pursued a common and concerted course of action among themselves and with others, to adopt, carry out, and maintain, in the trade areas above referred to, a program, and policy of establishing, fixing, and maintaining the prices at which, and the conditions upon which, fish and sea products were sold by respondent distributors to other dealers and to consumers; of seeking to acquire and maintain a monopoly in the sale and distribution of fish and sea products in said trade territory; and of seeking to impose said prices and policies on all dealers in fish and sea products in said trade territory and to require observance thereof and adherence thereto.

PAR. 16. Respondent members of San Pedro Fish Exchange and stockholders of Seafood Brokerage, Inc., have been banded and allied together to carry into effect the program and policies herein described and have agreed, and combined together and with others, and have initiated and pursued a common and concerted course of action and undertaking among themselves and with others to adopt, carry out, maintain in the trade areas above referred to a plan and policy of establishing, fixing, and maintaining the prices at which and conditions upon which products were purchased by respondent distributors from shippers and producers; of establishing, fixing, and maintaining the prices at which, and the conditions upon which, Mexican sea bass was sold by respondent distributors to other dealers and to consumers; and of acquiring and maintaining a monopoly in the purchase, sale, and distribution of Mexican sea bass in said trade territory.

PAR. 17. The capacity, tendency, and effect of said agreements, combinations, and undertakings and the said acts and practices of respondent

ents, set forth above, are and have been in said trade area and other related or connected territory, frequently comprising more than one State or portions of more than one State:

(a) To tend to monopolize, in said respondents, the business of dealing in and distributing fish and sea products.

(b) To unreasonably lessen, eliminate, restrain, hamper, and suppress competition in said sea products trade and industry, and to deprive the purchasing and consuming public of advantages in price, service, and other consideration which they would receive and enjoy under conditions of normal and unobstructed, or free and fair, competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

(c) To oppress, eliminate, and discriminate against small business enterprises which are or have been engaged in purchasing, selling, and distributing such products.

(d) To obstruct, hamper, and interfere with the normal and natural flow of trade and commerce in Mexican sea bass in, to, and from such trade area; and to injure competitors of the individual respondents in unfairly diverting business and trade from them, depriving them thereof, and otherwise oppressing or driving them out of business.

(e) To prejudice and injure the public and shippers, producers, dealers, distributors, wholesalers, and others who do not conform to respondent's program or who do not desire, but are compelled to conform therewith.

PAR. 18. The acts and practices of the respondents as herein alleged are all to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented price competition between and among respondents in the sale of fish and sea products in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices; have created in the respondents a monopoly in the sale of Mexican sea bass products in such commerce; have unreasonably restrained such commerce in sea products, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 19. Respondent members of the respondent San Pedro Fish Exchange in the course of said purchasing transactions referred to herein, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members by means of the purchasing services of respondent Seafood Brokerage, Inc., or without such services, respondent members of

said San Pedro Fish Exchange have and do cause and require said producers, suppliers, and shippers, and each of them, to transmit, pay to, and deliver to respondent Seafood Brokerage, Inc., a brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of such purchasing transactions, respondent Seafood Brokerage, Inc., has received and accepted, and is receiving and accepting, such fees and commission for which no services connected with such purchases of said products by respondent members of San Pedro Fish Exchange were rendered to said producers, suppliers, or shippers, and the said Seafood Brokerage, Inc., has and does receive and accept such brokerage fees and commissions as agent for and for the use and benefit of said purchasers, being respondent members of San Pedro Fish Exchange, or one or more of them. In receiving and accepting said brokerage fees and commissions, and at all times in the conduct of its business, respondent Seafood Brokerage, Inc., is the agent and representative of respondent members of San Pedro Fish Exchange and acts for them and in their behalf and is under their control.

PAR. 20. The receipt and acceptance of such brokerage fees and commissions by respondent Seafood Brokerage, Inc., and the plan and policy of said respondent members and said Seafood Brokerage, Inc., of exacting such fees and commissions from the sellers of said products is in violation of subsection (c) of section 2 of said Clayton Act, as amended.

PAR. 21. Respondent members of respondents Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, in the course and conduct of their respective businesses, purchased fish and sea products from various producers, suppliers, and shippers, directly, or through the agency of respondents Los Angeles Fish Exchange and M. N. Blumenthal, upon orders placed by said respondent members with said Los Angeles Fish Exchange and M. N. Blumenthal; and as a result of such purchases and orders respondent members, and each of them, caused such producers, suppliers, and shippers to ship or transport fish and sea products from the places of origin thereof outside of the State of California into said State.

PAR. 22. In the course of said purchasing transactions above referred to, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members, by means of the purchasing services of respondents Los Angeles Fish Exchange and M. N. Blumenthal, or without such services, respondent members of Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, caused and required said producers, suppliers, and shippers to transmit, pay to

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and deliver to respondent M. N. Blumenthal, a brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of such purchasing transactions respondent M. N. Blumenthal received and accepted such fees and commissions for which no services connected with the purchase of such products by said respondent members were rendered to said producers, shippers, or suppliers, and the said M. N. Blumenthal received and accepted such brokerage fees and commissions as agent for said purchasers, being said respondent members above referred to, or one or more of them. In receiving and accepting said fees and commissions, respondent M. N. Blumenthal was the agent and representative of respondent members of said Southern California Wholesale Fish Dealers Association and San Pedro Fish Exchange, and acted for them and in their behalf and under their control.

PAR. 23. The receipt and acceptance of such brokerage fees and commissions by respondent M. N. Blumenthal, was in violation of subsection (c) of section 2 of said Clayton Act, as amended.

PAR. 24. Respondent members of the respondent Southern California Wholesale Fish Dealers Association, in the ordinary course and conduct of their respective businesses, purchase fish and sea products from various producers, suppliers, and shippers, directly, or through the agency of respondent Southern Sea Products Brokerage Corporation, or through respondent Southern Sea Products Brokerage Corporation, as intermediary, upon orders placed by said respondent members with said Southern Sea Products Brokerage Corporation; and as a result of such purchases or orders respondent members and each of them, cause such producers, suppliers, and shippers to ship or transport fish and sea products from the places of origin thereof outside of the State of California into said State.

PAR. 25. In the course of said purchasing transactions referred to herein, resulting in the delivery of fish and sea products from one or more of said producers, suppliers, or shippers to said respondent members by means of the purchasing services of respondent Southern Sea Products Brokerage Corporation, or without such services, respondent members of said Southern California Wholesale Fish Dealers Association have and do cause and require said producers, suppliers, and shippers, and each of them, to transmit, pay to, and deliver to respondent Southern Sea Products Brokerage Corporation a brokerage fee or commission, being a certain percentage of the purchase price agreed upon by buyer respondents and the seller. In the course of such purchasing transactions, respondent Southern Sea Products Brokerage Corporation has received and accepted, and is

receiving and accepting, such fees and commissions for which no services connected with such purchases of said products by respondent members of Southern California Wholesale Fish Dealers Association were rendered to said producers, suppliers, or shippers, and the said Southern Sea Products Brokerage Corporation has and does receive and accept such brokerage fees and commissions as agent for said purchasers, being respondent members of Southern California Wholesale Fish Dealers Association, or one or more of them. In receiving and accepting said brokerage fees and commissions, and at all times in the conduct of its business respondent Southern Sea Products Brokerage Corporation is the agent and representative of respondent members of Southern California Wholesale Fish Dealers Association and acts for them and in their behalf and is under their control.

PAR. 26. The receipt and acceptance of such so-called brokerage fees and commissions by respondent Southern Sea Products Brokerage Corporation, for the use and benefit of respondent members of Southern California Wholesale Fish Dealers Association, in the manner and under the circumstances hereinabove set forth, and the plan and policy of said respondent members and said Southern Sea Products Brokerage Corporation of exacting such fees and commissions from the sellers of said products is in violation of subsection (c) of section 2 of said Clayton Act, as amended.

CONCLUSION

The aforesaid acts and practices of respondents, constitute either unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act, or violations of subsection (c) of section 2 of the Clayton Act, as amended, as hereinabove specified.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answers of the parties respondent named in the caption hereof, testimony and other evidence taken before Robert S. Hall, an examiner for the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed in support of the allegations of said complaint and in opposition thereto, and the oral arguments of Allen C. Phelps, counsel for the Commission and Clifton A. Hix, counsel for respondents, San Pedro Fish Exchange and Seafood Brokerage, Inc., and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the pro-

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visions of the Federal Trade Commission Act and of subsection (c) of section 2 of the Clayton Act, as amended, by an Act of Congress approved June 19, 1936 (the Robinson-Patman Act);

It is ordered, That the respondent, San Pedro Fish Exchange, an unincorporated association, its officers:

Anthony B. Jaconi, president,
Giosue Di Massa, vice president,
Albert H. Finch, secretary,

and their successors; and the following named members of said San Pedro Fish Exchange:

American Fisheries, Inc., a corporation.

Star Fisheries, Inc., a corporation.

Mutual Fish Company, Ltd., a corporation.

Seiichi Nakahara, trading as Pacific Coast Fish Co.

Gennaro Mineghino, trading as Independent Fish Co.

Vincent DiMeglio, trading as Ocean Fish Co.

Standard Fisheries Co., a copartnership, and John Ivancich, John Sulentor and Andrew Fishtonich, partners thereof.

Central Fish Co., a copartnership, and Yoshitsura Kamiya, Leo T. Toyama, and Y. Uyeda, partners thereof.

Tomich Brothers Fish Co., a copartnership, and Peter Tomich and Frank Tomich, partners thereof.

Catalina Fish Co., a copartnership, and Vincent Vitalich and George Stanovich, partners thereof.

Harbor Seafood Co., a copartnership, and Andrew Petrasich, Martin Zaunich, and Joe Evich, partners thereof.

State Fish Co., a copartnership, and Gerald Cigliano and Jack DeLuca, partners thereof.

Los Angeles Fish and Oyster Co., a copartnership, and Giosue Di Massa, John DiMeglio, and Frank Glynn, partners thereof.

Zankich Brothers Fish Co., a copartnership, and Jerry Zankich and Vincent Zankich, partners thereof.

Pioneer Fisheries, a copartnership, and Anthony B. Jaconi and Paul A. Marencovich, partners thereof.

and their agents, servants, and employees; and the Southern California Wholesale Fish Dealers Association, an unincorporated association, and Charles Rennick, its secretary and manager, and the following members of said association:

Superior Seafood Co., Ltd., a corporation.

Los Angeles Fish and Oyster Co., a corporation.

Central Fish and Oyster Co., a corporation.

Western Fish Co., a copartnership, and Stephen Gentry and George Kriste, partners thereof.

Morris Isenberg, trading as Mermaid Fish and Oyster Co.

National Seafood Co., a copartnership, and John Di Massa, a partner thereof.

and their agents, servants, and employees: .

Cease and desist, From directly or indirectly, jointly or severally, entering into or carrying out any understanding, arrangement, agreement, combination or conspiracy with each other, or with any other person, association or corporation, to hinder or suppress competition in the interstate sale and distribution of fish or sea products; or to hinder or suppress competition among producers, suppliers, wholesalers, stock wagons, or retailers of such fish or sea products in the sale and distribution thereof, and particularly from directly or indirectly in pursuance of any such understanding, arrangement, agreement, combination or conspiracy, from:

1. Establishing, fixing, or maintaining the prices at which and conditions upon which fish and sea products are purchased from the shippers or producers thereof by respondent members of the San Pedro Fish Exchange, or others.

2. Establishing, fixing, or maintaining the prices at which and the conditions upon which fish and sea products are sold by the members of the San Pedro Fish Exchange or Southern California Wholesale Fish Dealers Association, or either or any of them.

3. Issuing, publishing, or circulating price lists or price information for the purpose of or with the effect of establishing, fixing or maintaining prices as herein prohibited.

4. Interfering with or monopolizing the sources of supply of fish or sea products to the detriment of dealers, distributors, or wholesalers competing with respondent members of the San Pedro Fish Exchange or others.

5. Acquiring or maintaining a joint control over the purchase, sale or distribution of fish or sea products in any trade territory in which any of the members of the San Pedro Fish Exchange or the Southern California Wholesale Fish Dealers conduct their individual businesses.

6. Imposing prices or policies on any dealer, distributor or wholesaler competing in the sale of fish or sea products with the members of the San Pedro Fish Exchange or the Southern California Wholesale Fish Dealers Association.

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It is further ordered, That Seafood Brokerage, Inc., a corporation, and its officers as follows:

John Ivancich, president,
Giosue Di Massa, vice president,
Yoshitsura Kamiya, secretary-treasurer,
Hugh Reves, manager, ·

and the following named stockholders of said Seafood Brokerage, Inc. :

Arthur W. Ross, president of respondent American Fisheries, Inc.
Peter A. Kuglis, president of respondent Star Fisheries, Inc.
Tokutaro Furukawa, president of respondent Mutual Fish Co., Ltd.
Seiichi Nakahara, owning and operating the Pacific Coast Fish Co.
Gennaro Mineghino, owning and operating the Independent Fish Co.
Vincent DiMeglio, owning and operating The Ocean Fish Co.
John Ivancich, a partner in respondent Standard Fisheries Co.
Yoshitsura Kamiya, a partner in respondent Central Fish Co.
Peter Tomich, a partner in respondent Tomich Bros. Fish Co.
Vincent Vitalich, a partner in respondent Catalina Fish Co.
Andrew Petrasich, a partner in respondent Harbor Seafood Co.
Gerald Cigliano, a partner in respondent State Fish Co.
Giosue Di Massa, a partner in respondent Los Angeles Fish and Oyster Co.
Jerry Zankich, a partner in respondent Zankich Bros. Fish Co.
Anthony B. Jaconi, a partner in respondent Pioneer Fisheries.

and respondent Los Angeles Fish Exchange, a corporation, and respondent M. N. Blumenthal, and respondent Southern Sea Products Brokerage Corporation and Elmo C. Jack, manager, and the following-named respondents, stockholders of said Southern Sea Products Brokerage Corporation :

Max Freeman and Arthur Freeman, holders of a majority of the stock in respondent Superior Sea Food Co., Ltd.

Jack DeLuca, sole owner of the stock of respondent Los Angeles Fish and Oyster Co.

Louis G. Beverino, secretary, treasurer and manager of respondent Central Fish and Oyster Co.

Stephen Gentry and George Kriste, partners of respondent Western Fish Co.
Morris Isenberg, owning and operating respondent Mermaid Fish and Oyster Co.

John Di Massa, a partner in respondent National Seafood Co.

Guiseppe Alioto, president of the San Francisco International Fish Co., which owns one-third of the stock of respondent Central Fish & Oyster Co.

Cease and desist, In connection with purchases of fish and sea products in interstate commerce by any of respondent stockholders of either respondent Seafood Brokerage, Inc., or respondent Southern Sea Products Brokerage Corporation, or by any of respondent wholesale fish dealers whom any such stockholders owns, controls, or represents or with whom he is associated or affiliated, as hereinabove specified, from

receiving and accepting and from the practice of receiving or accepting, either directly or indirectly, from suppliers or sellers of such products, any brokerage fees or commission or any allowance or discount in lieu thereof.

It is further ordered, That respondent Seafood Brokerage, Inc., in connection with purchases of fish or sea products hereafter made by its stockholders in interstate commerce, or those respondent dealers whom such stockholders represent or are affiliated with, as hereinabove specified, through the medium of said Seafood Brokerage, Inc., cease and desist from paying or granting to such stockholders any brokerage fees or commissions, or any dividends, disbursements or payments in lieu thereof.

It is further ordered, That respondent Southern Sea Products Brokerage Corporation, in connection with purchases of fish or sea products hereafter made by its stockholders in interstate commerce, or those respondent dealers whom such stockholders represent or are affiliated with, as hereinabove specified, through the medium of said Southern Sea Products Brokerage Corporation, cease and desist from paying or granting to such stockholders any brokerage fees or commissions, or any dividends, disbursements, or payments in lieu thereof.

It is further ordered, That respondent members of San Pedro Fish Exchange or Southern California Fish Dealers Association, in connection with the purchase of fish or sea products in interstate commerce hereafter made by them or any of them, cease and desist from receiving or accepting, either directly or indirectly, from respondents Seafood Brokerage, Inc., or Southern California Sea Products Brokerage Corporation, any brokerage fees or commission, or any dividends, disbursements or payments in lieu thereof.

It is further ordered, That each of the respondents shall within 60 days of service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which he or it has complied with this order.

IN THE MATTER OF
**GEORGE G. NEFF, DOING BUSINESS UNDER THE TRADE
NAME OF PROSTEX COMPANY**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3291. Complaint, Jan. 4, 1938—Decision, July 16, 1940

Where an individual engaged in manufacture of its "Glantex" medicinal preparation and in sale and distribution thereof to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of similar preparations or others intended for similar usage in commerce as aforesaid; in advertisements of its said Glantex which it inserted in newspapers and periodicals and through circulars, booklets, form letters, and other advertising material sent through the mails and circulated among the various States and in the District of Columbia and through broadcasts from radio stations of extra-State audience—

Represented expressly and by implication that said Glantex was a safe, competent, and reliable remedy and treatment for prostatitis, cystitis, urethritis, dropsy, sugar diabetes, ilio-colitis, inflammation of the bladder, ptomaine poison, and worn out or run down feeling, and that it had curative value for diseases generally known to mankind;

Facts being that none of the drugs contained in the formula of aforesaid preparation had any proper bearing on the genito-urinary tract and such product had no value in the treatment of any diseases or disorders thereof, it was not a safe, competent, and reliable remedy or treatment for prostatitis, cystitis, or any of the other diseases and symptoms for which it was claimed to be as above set forth, was of no value whatever in treatment of hypertrophied prostrate glands and would not reduce such glands, when enlarged and congested, to normal size, no internal medication alone constitutes competent treatment for prostatic ailments, and it contained no drug that would in any way aid nature in causing the various glands of the body to function in more normal manner, but chemical composition thereof was such that it could not be expected to produce any therapeutic effect upon any known disease or pathological condition, and it had no other therapeutic value other than that, when taken internally and in large quantity, it was a laxative and nothing more;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that such false statements and representations were true, and of inducing purchase of its said product because of such belief, and with result, as consequence, that trade was diverted unfairly to it from competitors engaged in selling preparations designed for treatment of same diseases and conditions, and who do not misrepresent their preparations or effectiveness thereof; to the injury of competition in commerce: