

Complaint

IN THE MATTER OF

PUGET SOUND SALMON CANNERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 6376. Complaint, June 28, 1955—Decision, May 8, 1956*

Consent order requiring 13 corporate canners of salmon caught in Puget Sound and adjacent areas—charged in the complaint, along with their trade association, an organization of owners of Purse Seine vessels engaged in fishing for salmon in that area, and a union of salmon fishermen including those on such vessels, with collectively controlling the prices at which the salmon was purchased and sold, by means of agreements between and among themselves—to cease and desist from concerted price fixing; but providing that if the proceeding still pending against the vessel owners' association and the fishermen's union is terminated in any other way than by a similar desist order, then this order shall cease to be of any effect.

Before *Mr. William L. Pack*, hearing examiner.

*Mr. Lewis F. Depro, Mr. Fletcher G. Cohn and Mr. John J. McNally* for the Commission.

*Pillsbury, Madison & Sutro*, of San Francisco, Calif., for Alaska Packers Ass'n.

*Peyser, Cartano, Botzer & Chapman*, of Seattle, Wash., for American Packing Co.

*Mr. Herald A. O'Neill*, of Seattle, Wash., for Burk Canning Co., Inc., Dressel-Collins Fish Co., Fishermen's Packing Corp., Friday Harbor Canning Co., Sebastian-Stuart Fish Co. and Washington Fish & Oyster Co., Inc.

*Norblad, Wyatt & MacDonald*, of Astoria, Ore., for Columbia River Packers Ass'n., Inc.

*Bogle, Bogle & Gates*, of Seattle, Wash., for Farwest Fishermen, Inc. and New England Fish Co.

*Kerr, McCord, Greenleaf & Moen*, of Seattle, Wash., for Pacific American Fisheries, Inc.

*Ryan, Askren & Mathewson*, of Seattle, Wash., for Whiz Fish Products Co., Inc.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties hereinafter referred to as respondents have violated the provisions of Sec-

## Complaint

52 F. T. C.

tion 5 of the said Federal Trade Commission Act, 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 these respects as follows:

PARAGRAPH 1. Respondent Puget Sound Salmon Cannery, Inc., hereinafter referred to as respondent "Cannery," is a membership corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 304 Spring Street, Seattle 4, Washington. Respondent, its officers, directors, and members are herein named and made parties respondent to this proceeding.

The following corporations and individuals, with the possible exceptions hereinafter set forth in Paragraph 3, were members of respondent Cannery as of December 1954, and based on information and belief, each has continued such membership. Therefore, because of that present or past status, and the acts, practices and policies in which they participated, either as members of said Cannery, or in cooperation or conjunction with the other respondents, as hereinafter set forth, each such respondent member is also named herein and made a party respondent individually. Each such respondent members of respondent Cannery is described as follows:

Respondent Alaska Packers Association is a corporation organized and existing under the laws of the State of California, with its principal office and place of business located at 215 Fremont Street, San Francisco, California.

Respondent American Packing Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 711 Second Avenue Building, Seattle 4, Washington.

Respondent Burk Canning Company, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located in Bellingham, Washington.

Respondent Jay F. Carroll is an individual doing business as Anacortes Canning Company, with his principal office and place of business located at Anacortes, Washington.

Respondent Columbia River Packers Association, Inc., is a corporation organized and existing under the laws of the State of Oregon, with its principal office and place of business located in Astoria, Oregon.

Respondent Dressel-Collins Fish Company is a corporation organized and existing under the laws of the State of Washington, with

1251

## Complaint

its principal office and place of business located at Pier 67, Seattle 1, Washington.

Respondent Farwest Fishermen, Inc., is a corporation organized and existing under the laws of the State of Oregon, with its principal office and place of business located in the Central Building, Third Avenue at Columbia Street, Seattle 4, Washington.

Respondent Fishermen's Packing Corporation is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Anacortes, Washington.

Respondent Friday Harbor Canning Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Friday Harbor, Washington.

Respondent New England Fish Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located in the Exchange Building, First Avenue and Marion Street, Seattle 4, Washington.

Respondent Pacific American Fisheries, Inc., is a corporation organized under the laws of the State of Washington, with its principal office and place of business located at 401 Harris Avenue, Bellingham, Washington.

Respondent Sebastian-Stuart Fish Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 24, Seattle 4, Washington.

Respondent Washington Fish & Oyster Company, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Pier 54, Seattle 4, Washington.

Respondent Whiz Fish Products Company is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 2000 Alaskan Way, Seattle 1, Washington.

The other respondents are:

Respondent Purse Seine Vessel Owners Association is a non-profit membership corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 5301 North Ruby Street, Tacoma, Washington.

Respondent Local No. 3, Fishermen & Allied Workers Division, International Longshoremen & Warehousemen's Union is an unincorporated association, with its principal office and place of business located at 84 Union Street, Seattle 1, Washington.

## Complaint

52 F. T. C.

PAR. 2. Respondent Cannery was organized in the year 1940 and is a trade association composed of packers, canners, and processors of salmon caught in Puget Sound and adjacent areas of the State of Washington. The membership of respondent Cannery changes from year-to-year. On or about December 1, 1954, there were 14 members of respondent Cannery who represent a great majority, if not all, of the companies engaged in the processing, canning and packing of salmon in the Puget Sound area.

Therefore, the respondent members of respondent Cannery, acting in conjunction with respondent Union in the manner hereinafter set forth, have the ability to, and do, control the prices at which various types and grades of raw salmon caught in the Puget Sound and adjacent areas in the State of Washington are purchased and sold.

PAR. 3. All of the corporations and individuals, hereinbefore described in Paragraph 1 as "members" of respondent Cannery, are engaged in the business of maintaining and operating canneries in the Puget Sound area of the State of Washington, where salmon caught in the waters of Puget Sound and adjacent areas are processed, canned and packed by said respondent members of respondent Cannery.

Respondent American Packing Company claims it withdrew from membership in respondent Cannery in 1951; respondent Friday Harbor Canning Company claims to have resigned in June 1954 and respondent Pacific American Fisheries, Inc., claims it has not been a member since 1950. With these three exceptions, all the other corporations and individuals hereinbefore described as members of respondent Cannery held such membership as of December 1954. Respondents American Packing Company, Friday Harbor Canning Company and Pacific American Fisheries, Inc., were members of respondent Cannery during periods when said respondent Cannery and its members participated in the understandings, agreements, conspiracies and planned common courses of action, as hereinafter set forth, and regardless of whether they were members or not in December 1954 they have nevertheless aided and abetted and participated in one or more of the wrongful acts and practices hereinafter alleged.

Each of said respondents, including respondents American Packing Company, Friday Harbor Canning Company and Pacific American Fisheries, Inc., has authorized, participated in, adopted, confirmed, or otherwise ratified, as members of respondent Cannery and/or individually, one or more of the acts, practices and policies of said respondent Cannery or of others of its members, as hereinafter set forth.

PAR. 4. Respondent Purse Seine Vessel Owners Association, hereinafter referred to as "respondent Owners," is an organization con-

sisting of the owners of about 150 Purse Seine vessels, engaged in the fishing for salmon in the waters of Puget Sound and areas adjacent thereto. The said owners own or control approximately 60% of all of the vessels engaged in such endeavors. Substantially all of the salmon caught by the said vessels is sold to respondent members of respondent Cannery for processing, canning and packing.

Some of respondent members of respondent Cannery, directly or indirectly, own or have mortgages on some of the Purse Seine vessels engaged in fishing for salmon in the Puget Sound area. But regardless of such ownership or mortgage rights, the fishermen who form the crews of such vessels are not considered, or dealt with, as employees of respondent members of respondent Cannery, who generally make no attempt to direct where or when such vessels shall fish, or to supervise their operation.

PAR. 5. Respondent Local No. 3, Fishermen & Allied Workers Division, International Longshoremen & Warehousemen's Union, herein referred to as "respondent Union," is now and at all times herein mentioned has been engaged in transacting business on behalf of its members, including fishermen engaged in fishing for salmon in the Puget Sound and adjacent areas, on the vessels belonging to or controlled by members of respondent Owners; said Union, acting in conjunction with respondent Cannery and/or respondent members of respondent Cannery and/or members of respondent Owners, does, in the manner herein set forth, control the prices at which such raw salmon is purchased and sold.

PAR. 6. Each of the respondents herein named has, directly or indirectly, participated in, approved or adopted one or more of the alleged illegal acts and practices hereinafter set forth.

PAR. 7. The fishing for, and the canning of, salmon caught in the Puget Sound area is one of the most important business enterprises in that territory. In 1952 the value of the salmon pack from this area was approximately \$5,000,000. In 1954, approximately 400,000 cases (a case contains 48 one-pound cans) of salmon caught in the Puget Sound area, were packed and canned, having an estimated total wholesale value of about \$12,000,000.

PAR. 8. In the course and conduct of their respective businesses, respondent members of respondent Cannery purchase, directly or indirectly, the raw salmon caught by the fishermen members of respondent Union in the waters of Puget Sound and areas adjacent thereto, from said fishermen members of respondent Union and/or from members of respondent Owners; after such purchase said respondent members of respondent Cannery process, can and pack said salmon and thereafter sell large quantities of same to purchasers

Complaint

52 F. T. C.

thereof located throughout the United States, and cause said salmon, when thus sold, to be transported from the Puget Sound area of the State of Washington to purchasers located in States of the United States other than the State of Washington.

Said respondent members of respondent Cannery, as well as the fishermen members of the respondent Union and the members of respondent Owners maintain, and at all times mentioned herein have maintained, a regular course or current of trade in commerce in salmon between the State of Washington and the various States of the United States, and among and between the several States of the United States.

The respondents, Cannery, Union and Owners, have been and are media by which respondent members of respondent Cannery, fishermen members of respondent Union and members of respondent Owners have committed and performed, and are committing and performing, in commerce, the alleged illegal acts, practices and policies hereinafter set forth.

All of the respondents named herein have been, and are now, engaged in commerce in the sale and distribution of salmon as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. Respondent members of respondent Cannery, in the course and conduct of their respective businesses of purchasing salmon from the fishermen members of respondent Union and/or members of respondent Owners, are in substantial competition, except as such competition has been restrained, lessened or eliminated, as hereinafter alleged, with each other and with others engaged in the same type of business, in so purchasing raw salmon caught in the Puget Sound area.

In the course and conduct of their respective businesses, the members of respondent Owners likewise are in competition with each other and with others engaged in the same type of business in negotiating for the sale and in selling to respondent members of respondent Cannery salmon caught by fishermen members of respondent Union in the waters of the Puget Sound area, except insofar as such competition has been lessened or eliminated, as hereinafter alleged.

The fishermen members of respondent Union would be in competition one with the other and with fishermen who are not members of respondent Union in the sale of salmon caught in the Puget Sound area, were it not for the understandings, agreements, combinations, conspiracies and planned common courses of action herein set forth.

PAR. 10. The fishermen members of respondent Union who catch the raw salmon in the Puget Sound area usually are employed by the skippers of the vessels, which, in turn, are owned by members of respondent Owners.

