

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNIPRO FOODSERVICE, INC.,

Plaintiff,

-vs.-

AGRI STATS, INC.; CLEMENS FOOD
GROUP, LLC; CLEMENS FAMILY
CORPORATION; HORMEL FOODS
CORPORATION; HORMEL FOODS LLC;
JBS USA FOOD COMPANY; SEABOARD
FOODS LLC; SEABOARD
CORPORATION; SMITHFIELD FOODS,
INC.; TRIUMPH FOODS, LLC; TYSON
FOODS, INC.; TYSON PREPARED
FOODS, INC.; and TYSON FRESH
MEATS, INC.,

Defendants.

**COMPLAINT FOR VIOLATION OF
THE ANTITRUST LAWS**

Jury Trial Demanded

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Plaintiff UniPro Foodservice, Inc. (“Plaintiff”), by and through its undersigned attorneys, files this Complaint against Defendants Agri Stats, Inc. (“Agri Stats”), Clemens Food Group, LLC, The Clemens Family Corporation (“Clemens”), Hormel Foods Corporation, Hormel Foods, LLC (“Hormel”), JBS USA Food Company (“JBS” or “JBS USA”), Seaboard Foods LLC, Seaboard Corporation (“Seaboard”), Smithfield Foods, Inc. (“Smithfield”), Triumph Foods, LLC (“Triumph”), Tyson Foods, Inc., Tyson Prepared Foods, Inc., and Tyson Fresh Meats, Inc. (“Tyson”). Plaintiff brings this action against Defendants for treble damages under the antitrust laws of the United States and demands a trial by jury.

I. NATURE OF ACTION

1. The pork producer defendants are the leading suppliers of pork in an industry with approximately \$20 billion in annual commerce in the United States. The United States pork industry is highly concentrated, with a small number of large companies controlling the supply. Defendants and their co-conspirators collectively control over 80 percent of the wholesale pork market.

2. Defendants Agri Stats, Clemens, Hormel, JBS, Seaboard, Smithfield, Triumph, and Tyson entered, along with Co-Conspirator Indiana Packers Corporation, into a conspiracy from at least 2009 to the present (the “Conspiracy Period”) to fix, raise, maintain, and stabilize the price of pork.¹ The defendants, other than Agri Stats, are collectively referred to here as the “Producer Defendants.”

¹ For the purposes of this complaint, “pork” includes pig meat purchased fresh or frozen, smoked ham, sausage, and bacon. From time to time in this complaint, “pork” and “swine” are used interchangeably, particularly when referring to the pork or swine industry.

3. One method by which Defendants implemented and executed their conspiracy was by coordinating output and limiting production with the intent and expected result of increasing pork prices in the United States.

4. In furtherance of their conspiracy, the Producer Defendants exchanged detailed, competitively sensitive, and closely guarded non-public information about prices, capacity, sales volume, and demand, including through their co-conspirator, defendant Agri Stats.

5. Beginning in at least 2009, Defendant Agri Stats began providing highly sensitive “benchmarking” reports to the Producer Defendants. Benchmarking allows competitors to compare their profits or performance against that of other companies. Yet Agri Stats’ reports are unlike those of lawful industry reports; rather, Agri Stats gathers detailed financial and production data from each of the Producer Defendants and their Co-Conspirator Indiana Packers, standardizes this information, and produces customized reports and graphs for the conspirators. The type of information available in these reports is not the type of information that competitors would provide each other in a normal, competitive market.

6. On at least a monthly basis, and often far more frequently (*e.g.*, weekly or every other week), Agri Stats provides the Producer Defendants with current and forward-looking sensitive information (such as profits, costs, prices and slaughter information), and regularly provides the keys to deciphering which data belongs to which participant. The effect of this information exchange was to allow the pork producers to monitor each other’s production, and therefore control supply and price in furtherance of their anticompetitive scheme.

7. The data exchanged through Agri Stats also bears all the hallmarks of the enforcement and implementation mechanism of a price-fixing scheme. First, the data is current and forward-looking – which courts have consistently held has “the greatest potential for generating

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