UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

OLEAN WHOLESALE GROCERY COOPERATIVE, INC.,

Plaintiff,

v.

CARGILL, INC., CARGILL MEAT SOLUTIONS CORPORATION, JBS USA FOOD COMPANY HOLDINGS, J.B.S. S.A., JBS PACKERLAND, INC., NATIONAL BEEF PACKING COMPANY, TYSON FOODS, INC., and TYSON FRESH MEATS, INC.,

Defendants.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Olean Wholesale Grocery Cooperative, Inc. ("Olean" or "Plaintiff") hereby brings this antitrust class action lawsuit, on behalf of itself and all persons and entities similarly situated, against Defendants Cargill, Inc. and Cargill Meat Solutions Corporations (a/k/a/ Cargill Protein), JBS S.A., JBS USA Food Company Holdings, JBS Packerland, Inc., National Beef Packing Company, Swift Beef Company, Tyson Foods, Inc., Tyson Fresh Meats, Inc., and unnamed co-conspirators, alleging as follows:

I. NATURE OF THE ACTION

1. This action is brought on behalf of Olean and all persons and entities who purchased beef in the United States directly from one or more Defendants from at least January 1, 2015, until the present (the putative "DPP Class" or "Class"). Olean alleges that Defendants violated Section 1 of the Sherman Act by conspiring to constrain beef supplies in the United States and thereby artificially inflate domestic beef prices to direct purchasers. As a direct result of Defendants' unlawful conduct, Olean and the other members of the DPP Class suffered antitrust injury, for which the Plaintiff seeks treble damages, injunctive relief, and demands a trial by jury of the claims asserted in this Complaint.

2. Defendants are the world's largest meat processing and packing companies. Together they sold approximately 80% of the more than 25 million pounds of fresh and frozen "boxed" and "case-ready" beef (collectively, "beef") supplied to the United States beef market in 2018.

3. Since at least the start of 2015, Defendants have exploited their market power in this highly concentrated market by operating an illegal conspiracy to limit the

supply of, and fix the price of, beef sold to Olean and others in the U.S. wholesale market (the "Conspiracy"). The principal, but not exclusive, means Defendants use to effectuate the Conspiracy is a concerted scheme to artificially constrain the supply of beef entering the domestic supply chain. Defendants' collusive restriction of beef supply has had the intended effect of artificially inflating beef prices to supra-competitive levels. As a result, Olean and others who purchase beef directly from Defendants have paid higher prices than they would have paid in a competitive market.

4. The existence of the Defendants' conspiracy is confirmed by at least one confidential witness account. A confidential witness previously employed by a Packing Defendant ("Witness 1"), has confirmed that each of the Defendants expressly agreed to reduce their respective purchase and slaughter volumes, which would have the effect of artificially raising the price of Beef sold to direct purchasers. Witness 1's account is corroborated by transactional data and slaughter volume records reported by Defendants and published by the United States Department of Agriculture ("USDA"), as well as Defendants' public calls for industry-wide slaughter and capacity reductions.

5. In addition to the high concentration in the wholesale beef market and the confidential witness statements concerning Defendants' coordination, the structure of the beef industry also facilitates the Conspiracy. Defendants sit atop the supply and distribution chain that ultimately delivers beef to the market. Their vital role is to purchase cattle (known in the industry as "fed cattle") from the nation's farmers and ranchers, process and pack it into edible beef, and sell the beef to Olean and other direct purchasers.

Defendants' gatekeeping role has enabled them to collusively control both upstream and downstream pricing throughout the Class Period.

6. Capitalizing on the fundamental market mechanism of supply and demand, Defendants have collaborated to reduce beef supplies by tactics including, but not limited to, purchasing fewer cattle than a competitive market would otherwise demand or running their processing plants at less than available capacity. These practices have the concomitant effects of surpluses in the cattle market and shortages in the wholesale beef market. These artificially created conditions, in turn, both drive down the prices Defendants pay for cattle and boost the prices they command for beef. The result is to swell Defendants' profit margin (or "meat margin").

7. This growth of Defendants' margins is aided by the particular way supply and demand operate in the beef industry. The supply of cattle is insensitive to short-term price changes because of the long-life cycle of livestock, their perishable nature, and the lack of any alternative use. In turn, beef demand is also relatively insensitive to price fluctuations. As a result, Defendants' margins are very responsive to changes in the aggregate volume of cattle slaughter.

8. Other market characteristics in the sale of beef serve as "plus factors" supporting the inference of collusion among Defendants during the Class Period. These plus factors include the extreme market concentration already discussed, high barriers to entry, inelastic demand, and the commodity nature of beef. Collectively, these economic factors encouraged the formation of the Conspiracy and continue to foster its successful operation.

9. Another form of interaction conducive to Defendants' collusion are frequent meetings between each other's executives and other key employees. Trade association conferences and other industry events offer convenient opportunities to exchange information, plans and strategies, and build relationships. As described in more detail throughout this Complaint, Defendants took advantage of these opportunities to further their collusive supply restrictions.

10. Defendants began exploiting these favorable market conditions to launch the Conspiracy by the start of 2015. At that time, they undertook a campaign of throttling the beef supply that has endured to the present. Defendants' abrupt transition from competition to collusion is vividly documented by publicly available industry data.

11. One source of evidence is the beef sales volume of Defendants. An example is data comparing the average annual beef cattle slaughter by each Defendant before the Class Period (from 2007 through 2014) to the same average during the first three years of the Class Period (from 2015 through 2017). The data shows that all Defendants curtailed their annual slaughter volumes during the Class Period, while smaller beef, non-defendant, processors *increased* their slaughter volumes during the same period.

12. As an immediate consequence of this reduced supply, the beef market experienced a dramatic change of price behavior, another symptom of the Conspiracy. Before 2015, the prices of cattle and beef predictably moved in tandem. That correlation reflects the natural economic relationship in a competitive market because beef is simply the product of cattle.

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