

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

AMORY INVESTMENTS LLC,

Plaintiff,

-vs.-

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

Defendants.

COMPLAINT

Case No. 3:21-CV-798 (GLS/ML)

Jury Trial Demanded

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Plaintiff Amory Investments LLC (“Plaintiff” or “Amory”), by and through its undersigned counsel, files this Complaint against the Defendants identified below, for their illegal conspiracy, which increased the prices of pork sold in the United States beginning at least as early as 2009 and continuing through the present. Plaintiff brings this action against Defendants for injunctive relief and treble damages under the antitrust laws of the United States, and demands a trial by jury.

I. NATURE OF ACTION

1. Defendants Clemens Food Group, LLC, The Clemens Family Corporation (“Clemens”); Hormel Foods Corporation (“Hormel”); JBS USA Food Company (“JBS”); Seaboard Foods LLC (“Seaboard”); Smithfield Foods, Inc. (“Smithfield”); Triumph Foods, LLC (“Triumph”); and Tyson Foods, Inc., Tyson Prepared Foods, Inc., and Tyson Fresh Meats, Inc. (“Tyson”) (collectively referred to at times as “pork integrator Defendants”) are the leading suppliers of pork¹ in an industry with approximately \$20 billion in annual sales. The United States pork industry is highly concentrated, with a small number of large companies controlling the supply. The pork integrator Defendants collectively control over 80 percent of the wholesale pork market.

2. The pork industry is characterized by several other factors conducive to the anticompetitive conduct alleged herein, including: vertically integrated operations; high barriers to entry preventing competitors from coming into the market; consolidation and concentration; inelastic supply and demand; and homogeneity of pork products.

3. Defendant Agri Stats, Inc. (“Agri Stats”) is a specialized information-sharing service that, among other things, obtains data from participating industry producers and develops

¹ For the purposes of this complaint, “pork” includes pig meat purchased fresh or frozen, smoked ham, sausage, and bacon. In this complaint, “pork” and “swine” are often used interchangeably.

comprehensive reports based on that data. Agri Stats provides its reports and findings to the participating industry producers.

4. From at least 2009 to the present (the “Relevant Period”), the pork integrator Defendants and Defendant Agri Stats entered into a conspiracy to fix, raise, maintain, and stabilize the price of pork.

5. 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.

6. In furtherance of their conspiracy, 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.

7. Beginning in at least 2009, Agri Stats began providing highly sensitive “benchmarking” reports to the majority of pork integrators. Benchmarking allows competitors to compare their profits or performance against that of other companies. However, Agri Stats’ reports are unlike those of lawful industry reports. Agri Stats gathers detailed financial and production data from each of the pork integrators, standardizes this information, and produces customized reports and graphs for the pork integrator Defendants. 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.

8. Agri Stats collected the pork integrators’ competitively sensitive supply and pricing data and intentionally shared that information through detailed reports it provided to the pork integrators. On a weekly and monthly basis, Agri Stats provides the pork integrators 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

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