IN THE MATTER OF

UNITED BRANDS COMPANY

ORDERS, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT AND/OR SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 8835. Complaint, Feb. 11, 1971—Orders & Opinion, May 14, 1974.

Order dismissing a complaint against a diversified New York City based company with decided interests in the food industry. The complaint challenged respondent's acquisition of the stock or assets of six California and Arizona farming operations producing lettuce and other vegetables.

Order requiring the filing of a special report and periodic subsequent reports informing the Commission of any increase since Feb. 11, 1971, or future increase in access to land commercially suitable for the production of lettuce.

Appearances

For the Commission: *Carl J. Batter* and *Lewis F. Parker.*

For the respondent: *Howrey, Simon, Baker & Murchison,* Washington, D.C. *M. Paul Gallop* and *Paul H. Farrell,* New York, N.Y.

COMPLAINT

The Federal Trade Commission, having reason to believe that AMK Corporation has acquired United Fruit Company, and subsequently consolidated AMK into United Fruit Company and changed its name to United Brands Company, and that United Brands Company, then the United Fruit Company, has acquired Nunes Bros. of California, Inc., as well as other similar concerns and corporations, in violation of Section 7 of Clayton Act, as amended, (15 U.S.C., Section 18), and/or in violation of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C., Section 45), hereby issues this complaint pursuant to Section 11 of the Clayton Act (15 U.S.C., Section 21) and Section 5(b) of the Federal Trade Commission Act (15 U.S.C., Section 45(b)), stating its charges in that respect as follows:

I

DEFINITIONS

PARAGRAPH 1. For the purposes of this complaint the following defintions shall apply:

(a) *Fresh Produce* includes each and every vegetable and fruit specifically grown in the United States for sale at retail in fresh form, *i.e.*, not canned, not frozen, or otherwise preserved except for normal refrigeration, such as lettuce, celery, broccoli, cantaloupe, etc.

(b) *Carlot* is an actual rail car shipment, and actual truck shipments converted to a carlot unit (*e.g.*, for lettuce on the basis of 1,000 cartons per carlot).

II

RESPONDENT

PAR. 2. United Brands Company (United Brands), the respondent herein, is a corporation organized and existing under the laws of the State of New Jersey, with its offices and principal place of business at 245 Park Avenue, New York, N.Y.

PAR. 3. On or about June 30, 1970, United Brands, Inc. became a successor corporation to AMK Corporation (AMK) which was formed in 1928 under the name American Seal-Kap Corporation. It then, and for many years thereafter, primarily provided the dairy industry with milk bottle capping materials and machinery. In May of 1965, the name of the corporation was changed to AMK Corporation and subsequently AMK acquired John Morrell and Company, a wholly owned subsidiary. John Morrell & Co. ranks among the four largest meat packers in the United States, with annual sales in excess of $800,000,000. AMK was a corporation organized and existing under the laws of the State of Delaware, with its offices and principal place of business at 245 Park Avenue, New York, N.Y.

PAR. 4. For its fiscal year ending October 31, 1969, AMK had net sales and other income of almost $1,500,000,000, a net income of over $26,000,000, and total assets of over $1 billion. On the basis of the October 31, 1969 financial statements, the 1970 Fortune Directory listed AMK Corporation as the 70th largest industrial corporation in the United States.

PAR. 5. At all times relevent herein, AMK and its successor corporation, United Brands Company, sold and shipped, and is now selling and shipping, products in interstate commerce throughout the United States; hence AMK was at the time of each of the acquisitions challenged herein, and United Brands is now, engaged in commerce as "commerce" is defined in the Clayton Act and in the Federal Trade Commission Act.

PAR. 6. John Morrell & Company ranks among the four largest meat packers in the United States and is particularly strong in hog slaughtering and in processed or cured pork products (not canned or made into sausage) made in meatpacking plants, sausage and similar products (not canned) made in meatpacking plants, and canned meats (except dog and cat food) containing 20 percent or more meat and made in meatpacking plants, all of which products are or may be branded products carrying United Brand Company labels.

PAR. 7. United Fruit Company, (United Fruit), whose name was changed to United Brands Company, was a corporation organized and existing under the laws of the State of New Jersey with its head office and principal place of business in the Prudential Center, Boston, Mass.

PAR. 8. United Fruit was primarily a grower of bananas in Central and South America, and a seller and distributor of bananas in Europe, North America and Japan. United Brands, its successor corporation, has approximately 50 percent of the banana market in the United States. For the domestic distribution of bananas, United Brands maintains over 35 branch offices and has a network of distributors covering the entire United States. In recent years, it has diversified through acquisition, including (a) the acquisition in 1966 of J. Hungerford Smith Co., Inc., a syrup and flavoring concern, and its subsidiary, A & W International Inc., a root beer, restaurant and franchise operation, (b) the acquisition in 1967 of Baskin-Robbins, Inc., an ice cream and candy franchise operation, (c) the acquisition in 1968 of Nunes Bros. of California, Inc., and various other fresh produce grower-shippers in 1968 and 1969, and (d) the acquisition in 1969 of Cape Farms, Inc., and various other potted plants grower-shippers, among others.

PAR. 9. In 1968, United Fruit had total sales of $464,297,000, net earnings of $31,157,000, and total assets as of December 31, 1968, of $439,799,000.

PAR. 10. Since 1960, United Fruit and United Brands have attempted to establish, and have on a region by region basis established, a brand differentiated banana under the trade mark "Chiquita." The Chiquita banana sells, throughout the United States and in particular regions, both at wholesale and at retail, generally at price levels in excess of the prices at which other bananas sell, differentiated or undifferentiated by brand. Brand differentiation was attained and is maintained in the banana market by United Fruit by means of substantial advertising, promotional and packaging expenditures.

PAR. 11. United Fruit was, and United Brands is, among the leading firms in the fast foods industry and the leading firm in the production and sale of root beer and root beer syrup, as well as a leading supplier of fruit flavors and extracts to the institutional market and the largest grower-shipper of fresh lettuce, fresh celery and potted plants in the United States.

PAR. 12. At all times relevant herein, United Fruit and its successor corporation, United Brands, sold, and shipped, and United Brands is now selling and shipping, products in interstate commerce throughout the United States; hence United Fruit was at the time of the acquisitions challenged herein, and United Brands is now, engaged in commerce as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act.

III

NUNES BROS. OF CALIFORNIA, INC., etc.

PAR. 13. Prior to October 15, 1968, Earle Myers Co. and Demco Farms, Inc., corporations organized and existing under the laws of the State of California with their principal places of business located at Salinas, Calif., were engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 14. Prior to November 7, 1968, Nunes Bros. of California, Inc., a corporation organized and existing under the laws of the State of California with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 15. Prior to November 1, 1968, Toro Farms, a partnership of Thomas P. Nunes, Robert F. Nunes and Thomas Nunes, Jr., located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 16. Prior to February 14, 1969, Peter A. Stollich Co., Inc., a corporation organized and existing under the laws of the State of California with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 17. Prior to February 14, 1969, Monterey County Ice and Development Company, a corporation organized and existing under the laws of the State of California with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 18. Prior to March 13, 1969, Jerome Kantro Enterprises, a corporation organized and existing under the laws of the State of

California with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 19. Prior to March 15, 1969, the Salinas Valley Vegetable Exchange, a partnership of Miyoko Yuki, Thomas M. Bunn, and the administration of the estate of Takeo Yuki, with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 20. Prior to July 2, 1969, Consolidated Growers, Inc., a corporation organized and existing under the laws of the State of California with its principal place of business located at Salinas, Calif., was engaged in one or more phases of the fresh produce industry, particularly lettuce and/or celery, namely the growing, shipping and marketing of fresh produce or the providing of supplies or services to growers, shippers or marketers of fresh produce.

PAR. 21. At all times relevant herein, the corporations and concerns listed in Paragraph 13 through 21 hereinabove, sold and shipped products in interstate commerce throughout the United States, and were, at the time each such business was acquired as described herein, engaged in commerce as "commerce" is defined in the Clayton Act and the Federal Trade Commission Act.

IV

TRADE AND COMMERCE

PAR. 22. The lettuce and celery segments of the fresh produce industry consist primarily of a number of small independent concerns operating as grower-shippers and/or in some cases providing services, vacuum cooling for example, to themselves and/or other grower-shippers. No such concern was a large publicly held company with other non-related businesses. Each such concern was entirely dependent on its commercial farming operations, on local banks for credit, and upon local service companies for services and supplies.

PAR. 23. Since 1967 a merger trend has been developing in the lettuce and celery segments of the fresh produce industry. In addition to the AMK–United Fruit acquisitions, another company has acquired one or more such concerns.

PAR. 24. In 1967 and in 1968 no firm possessed more than a 10 percent market share in terms of daily shipments, or in terms of acreage controlled in the California and Arizona growing areas, or in terms of shipments in any particular season and/or from any such growing area.

PAR. 25. Prior to 1968, the grower-shipper of lettuce and/or celery marketed his fresh produce in a substantially competitive market. In that market there were constant changes in prices in response to hourly, daily or weekly changes in the fresh produce market or in the retailing of fresh lettuce and celery, nor were there any long term supply arrangements, for a week or a month or a year, stabilizing prices and removing fresh lettuce and celery from the daily competitive market pricing. Each carlot was virtually a separate sale.

PAR. 26. Both AMK and United Fruit operated and United Brands operates primarily in oligopolistic industries, namely the banana industry, among others.

V

ACQUISITIONS

PAR. 27. On or about October 25, 1968, United Fruit acquired Earle Myers Co. and Demco Farms, Inc., by the purchase of all the outstanding shares of stock of these two corporations for approximately $2,537,500.

PAR. 28. On or about November 7, 1968, United Fruit acquired Nunes Bros. of California, by the purchase of all the outstanding shares of stock of that corporation for approximately $2,500,000.

PAR. 29. On or about November 1, 1968, United Fruit acquired the business and specified assets of Toro Farms by purchase for approximately $1,500,000, and pursuant to other arrangements.

PAR. 30. On or about February 1, 1969, United Fruit and/or AMK–United Fruit acquired the business and specified assets of Peter A. Stollich Co., Inc. by purchase for approximately $2,042,000, and pursuant to other arrangements.

PAR. 31. On or about February 14, 1969, United Fruit and/or AMK–United Fruit acquired Monterey Ice and Development Company by the purchase of all the outstanding shares of stock of this corporation for approximately $2,537,500.

PAR. 32. On or about March 13, 1969, United Fruit and/or AMK–United Fruit acquired the business and specified assets of Jerome Kantro Enterprises by purchase for approximately $395,000, and pursuant to other arrangements.

PAR. 33. On or about March 15, 1969, United Fruit and/or AMK–United Fruit acquired the business and specified assets of Salinas Valley Vegetable Exchange for approximately $395,000, and pursuant to other arrangements.

PAR. 34. On or about July 2, 1969, AMK–United Fruit acquired the business and specified assets of Consolidated Growers, Inc. for approximately $3,490,000, and pursuant to other arrangements.

PAR. 35. United Fruit and/or AMK–United Fruit have, or may have, made additional acquisitions, the identity of which presently are not known, by means of purchase, lease, joint venture, full supply agreement, etc., in the fresh produce industry.

VI

EFFECTS OF THE ACQUISITIONS

PAR. 36. The effect of the acquisitions by United Fruit and/or AMK–United Fruit, or United Brands, their successor corporation, of Earle Myers Co., Demco Farms, Inc., Nunes Bros. of California, Inc., Toro Farms, Peter A. Stollich Co., Inc., Monterey Ice and Development Company, Jerome Kantro Enterprises, Salinas Valley Vegetable Exchange, Consolidated Growers, Inc., and of others, individually and collectively, may be to lessen competition substantially or to tend to create a monopoly or to restrain competition in the fresh lettuce industry, the fresh celery industry, and in the fresh produce industry in the United States, or sections thereof, in the following ways, among others:

(1) Potential competition between AMK–United Fruit, or United Brands, and the acquired concerns in the growing, shipping and marketing of fresh lettuce and of fresh celery and other fresh produce has been, or may be, eliminated.

(2) Concentration has been increased in the fresh lettuce, in the fresh celery industry, and in the fresh produce industry generally.

(3) The substitution of United Fruit and AMK–United Fruit or United Brands, for the numerous small firms acquired by them has given United Fruit, AMK–United Fruit, and United Brands decisive competitive advantages over the remaining firms in the industry due to, but not limited to, (a) subsidization of financial losses in one product line by numerous other products and over long periods of time, (b) selling through nationwide organizations, national advertising, long term contracts, and special pricing, (c) sources of credit, (d) size of company, (e) dominant market share and position, and (f) opportunities for reciprocity.

(4) The structure of the fresh lettuce industry and the celery industry has been transformed or is being transformed, from industries of small independent profitable concerns selling in a competitive market at prices determined by the short term balance of supply and demand into industries dominated by large conglomerate companies selling at stable prices arrived at outside the competitive market by means of such

control mechanisms as brand differentiation, pre-selling of consumers, long term quotes or supply arrangements, and other means.

(5) Barriers to entry into the fresh lettuce industry and the fresh celery industry have been, or may be, heightened as a result of United Fruit's and AMK–United Fruit's or United Brands (a) substantial financial resources, (b) advertising and promotional capabilities, (c) nationwide selling and distribution organizations, (d) brand differentiation, (e) long term leases in major growing areas, (f) ability to borrow money at a lower interest rate than others, (g) ability to purchase inputs directly from the manufacturer at lower prices than others, (h) reciprocity, and (i) large market share, absolutely and relative to competitors, among other things, or any one or more of these factors.

(6) AMK's and United Fruit's, or United Brands' non-competitive pricing practices characteristic of their participation in oligopolistic industries are being, or may be, transferred to the lettuce industry, the celery industry, and the fresh produce industry.

VII

VIOLATIONS

PAR. 37. The acquisition of Earle Myers Co., of Demco Farms, Inc., of Nunes Bros. of California, Inc., of Toro Farms, of Peter A. Stollich Co., Inc., of Monterey County Ice and Development Company, of Jerome Kantro Enterprises, of Salinas Valley Vegetable Exchange, of Consolidated Growers, Inc., and of others, as alleged above, constitute separately and collectively, a violation of Section 7 of the Clayton Act (15 U.S.C. 18) as amended, and/or a violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) as amended.

INITIAL DECISION BY DONALD R. MOORE, ADMINISTRATIVE LAW JUDGE

MARCH 19, 1973

CONTENTS

PRELIMINARY STATEMENT

The complaint in this proceeding, charging violation of Section 7 of the Clayton Act and of Section 5 of the Federal Trade Commission Act, was issued on Feb. 11, 1971, and was duly served on respondent. The complaint challenged respondent's acquisitions of corporations and other enterprises engaged in the fresh produce industry in Calif. and Ariz. Respondent filed answer on Mar. 29, 1971, admitting certain of the factual allegations of the complaint but denying generally any violation of law and also pleading certain affirmative defenses.

After extensive prehearing procedures, hearings were held between April 18 and July 11, 1972, in Wash., D.C., Boston, Mass., San Francisco, Calif., and Phoenix, Ariz.

At these hearings, testimony and other evidence were offered in support of and in opposition to the allegations of the complaint. The testimony and evidence presented—aggregating 4106 pages of transcript and thousands of pages of documentary exhibits—have been duly recorded and filed.

The parties were represented by counsel and were afforded full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues.

After the presentation of evidence, proposed findings of fact and conclusions of law and a proposed form of order were filed by counsel supporting the complaint and by counsel for respondent, together with supporting briefs and reply briefs. The proposed findings of the parties not adopted, either in the form proposed or in substance, have been rejected as lacking support in the record or as involving immaterial matters.

Having heard and observed the witnesses and having carefully reviewed the entire record in this proceeding, together with the proposed findings and briefs filed by the parties, the administrative law judge makes the following findings of fact, enters his resulting conclusions, and issues an appropriate order.

As required by Section 3.51(b)(1) of the Commission's Rules of Practice, the findings of fact include references to the principal supporting items of evidence in the record. Such references are intended to serve as convenient guides to the testimony and to the exhibits supporting the findings of fact, but they do not necessarily represent complete summaries of the evidence considered in arriving at such findings. Where references are made to proposed findings submitted by the parties, such references are intended to include their citations to the record unless otherwise indicated.

References to the record are made in parentheses, and certain abbreviations are used as follows:

CPF—Proposed Findings of Fact and Conclusions of Law filed by counsel supporting the complaint.

CRB—Reply Brief of complaint counsel.

CX—Commission Exhibit.

RPF—Respondent's Proposed Findings of Fact and Conclusions.

RRB—Respondent's Reply Brief.

RX—Respondent's Exhibit.

Tr.—Transcript. (References to testimony sometimes cite the name of the witness and the transcript page number without the abbreviation "Tr."—for example, Bradshaw 3868.)

FINDINGS OF FACT

United Brands Company

Respondent United Brands Company ("United Brands" or "respondent") is a corporation organized and existing under the laws of the State of New Jersey, with its office and principal place of business at 245 Park Avenue, New York, N.Y. [1] Respondent United Brands is a successor corporation to AMK Corporation (AMK).

AMK was a corporation organized and existing under the laws of the State of Delaware, with its office and principal place of business at 245 Park Avenue, New York, N.Y. AMK had been organized in 1928 under the name American Seal-Kap Corporation, which then and for many years thereafter was a supplier to the dairy industry of materials and machinery for the capping of milk bottles. Its name was changed to AMK in May 1965, and it subsequently acquired John Morrell & Company, one of the largest meat pakers in the United States, with annual sales in excess of $800 million. Total annual sales of AMK before its acquisition of United Fruit Company were approximately $850 million.

[1] The term "respondent" may be used interchangeably to refer to the present corporation or to its predecessor corporations, AMK and United Fruit, as well as subsidiaries or divisions thereof.

In 1969 AMK acquired a controlling interest in United Fruit Company. On or about June 30, 1970, the two corporations were merged, and the corporate name was changed to United Brands Company. [2]

United Fruit Company was a corporation organized and existing under the laws of the State of New Jersey, with its principal office in Boston, Mass. United Fruit was primarily a grower of bananas in Central and South America and a seller and distributor of bananas in Europe, North America and Japan.

Prior to its acquisition by AMK, United Fruit had embarked on a program of diversification through acquisition, including the acquisitions challenged by the complaint herein (*infra*). Acquisitions other than those that are the subject of this proceeding included:

(1) The acquisition in 1966 of J. Hungerford Smith Co., Inc., a syrup and flavoring concern, and its subsidiary, A&W Root Beer Co., a root beer, restaurant, and franchise operation;

(2) The acquisition in 1967 of Baskin-Robbins, Inc., an ice cream and candy franchise operation;

(3) The acquisition in 1969 of various grower-shippers of potted plants, including Cape Farms, Inc.

In 1968, United Fruit had total sales of \$464.3 million, net earnings of \$31.2 million, and total assets (as of December 31, 1968) of \$439.8 million. In that year, United Fruit had virtually no debt; it had more than \$70 million in cash; and it had a capability of borrowing up to \$150 million on the basis of its net worth.

For its fiscal year ended October 31, 1969 (after the acquisition of United Fruit), AMK had net sales and other income of about \$1.5 billion, a net income of more than \$26 million, and total assets of more than \$1 billion. It was ranked 70th in the 1969 Fortune Directory of the 500 largest industrial corporations in the United States. At the end of 1971, United Brands, as the successor corporation to AMK and United Fruit, had some \$70 million in cash and marketable securities.

At all times relevant to this proceeding, AMK, United Fruit, and United Brands sold and shipped, and United Brands is now selling and shipping, products in interstate commerce throughout the United States; hence, AMK and United Fruit were, and United Brands was and now is, engaged in commerce, as "commerce" is defined in the Clayton Act and in the Federal Trade Commission Act.

(The foregoing facts about respondent and its corporate predecessors are essentially undisputed. Salient record references include the following: Complaint and Answer, Pars. 2–5, 7–9, 12; CX 200, pp. 2–3; CX 226;

[2] The proposed complaint issued under the Commission's consent order procedure in April 1970 contained a count challenging the AMK–United Fruit merger, but that count had been eliminated when the instant complaint was issued in 1971 (CPF, Par. 2, p. 1).

CX 396, p. 32; CX 224, p. 9; CX 199, p. 14; Black 1720–23; Fox 1450, 1466–67.)

The Challenged Acquisitions

The acqusitions under challenge were the outgrowth of a diversification program instituted by United Fruit in 1960, when it announced its intention "to enter the general field of food and food processing" as an area "best suited to the Company's potentialities" (CX 152, pp. 2, 8; Fox 1451–52). By 1965, a modest beginning in diversification had been made, concentrating on the food industry in the United States and on non-banana activities in Latin American (CX 223, p. 8).

During 1968,

> * * * the Produce Group took several steps toward its objective of establishing a multinational, diversified fresh fruit and produce business which will take full advantage of the Company's strengths in the production, distribution and marketing of fresh and perishable products (CX 200, p. 10).

The plan called for an increase of tropical production, and new production in other areas of the world, while making wider use of United Fruit's shipping abilities. The 1968 Annual Report characterized as "[o]ne of the most significant steps in the Company's pursuit of a broader line of produce items" the acquisition of Nunes Bros. of California, Inc., Earle Myers Company, and Demco Farms, Inc., "firms engaged primarily in growing and marketing lettuce, celery and other produce" (CX 200, p. 10). The report emphasized that:

> Finally, but most important, the plan will open up a wider range of produce items to which the CHIQUITA marketing strategy, the most outstanding branding success in produce history, can be applied.

At the time of respondent's diversification into the fresh vegetables business, it was dependent for its income principally on one product, *i.e.*, bananas. The management of respondent felt that it should stabilize its revenues and income by diversifying into other business areas so that respondent would not be completely exposed to the ups and downs of the banana business. Bananas are grown commercially, for the most part, in Central American countries, and their production is subject to the vagaries of the weather—sometimes violent—and the vagaries of the political climate in such countries—also sometimes violent. Bananas must be transported by ships to markets, with attendant shipping difficulties. Another significant factor that created the desire of respondent to diversify was the fact that statistics indicated a continually increasing over-production of bananas world-wide which, in respondent's opinion, limited the potential growth of its profits from the banana business. (Fox 1451–52, 1480)

After extensive studies of the fresh vegetables industry and market—primarily lettuce—in 1967 and early 1968 (CPF, Pars 36–48, pp. 15–21), United Fruit's board of directors on July 22, 1968, authorized negotiations "for the purchase of the production facilities and related activities of one or more companies or partnerships [engaged in] the production, packaging, distribution, and sale of vegetable crops at an estimated price of $20,000,000 * * *" (CX 158 A).

Basic facts respecting the acquisitions challenged by the complaint are as follows:

Earle Myers Co. and Demco Farms, Inc.

The purchase of these companies was the first acquisition made by United Fruit in the vegetable crops industry. In October 1968 United Fruit purchased all the capital stock of these companies for $2,537,500. Both companies were California corporations engaged in the growing, harvesting, packing, and selling of various fresh vegetables, including celery and cauliflower. In effect, the two corporations were one entity engaged in the production and sale of fresh vegetables. Demco Farms conducted the growing operation, and Earle Myers Co. handled packing and selling.

The Myers companies grew their crops on leased land in the Salinas Valley of California. Celery was the primary crop, but the farm land was capable of producing other vegetable crops. United Fruit considered that it was acquiring through these acquisitions a "strong organization with expertise in growing, processing, quality control and marketing of vegetable crops." Purchase arrangements included a five-year noncompetition agreement on the part of David E. Myers.

(Record references: Complaint and Answer, Pars. 13, 27; CX 167 A–E; CX 173 A–O)

Nunes Brothers of California, Inc., and Toro Farms

In November 1968 respondent purchased the capital stock of Nunes Brothers of California, Inc. (a California corporation) and selected assets of Toro Farms (a partnership) for $4 million. Both the Nunes Brothers corporation and the Toro Farms partnership were owned and operated by the Nunes family (primarily two brothers). Many of the vegetable crops harvested and sold by Nunes Brothers were grown by Toro Farms. In essence, Toro Farms was a part of the Nunes Brothers' farming entity.

The Nunes companies were engaged in the growing, harvesting, packing, and selling of a wide variety of vegetable crops. Although their major crops were lettuce (1.8 million cartons in 1967), celery (312,000 cartons), and cauliflower (268,000 cartons), Nunes Brothers also grew and sold broccoli, beans, carrots, sugar beets, potatoes, onions, garlic, tomatoes, and cabbage. Production was from leased land or from joint deals with other growers.

The Nunes operations were primarily located in the Salinas and Imperial Valleys of California, with additional leased land in Arizona.

Certain of the principals in the Nunes enterprise were subject to covenants not to compete with respondent for five years.

(Record references: Complaint and Answer, Pars. 14, 15, 28, 29; CX 166 A–W; CX 174 A–M; CX 175 A–Q; CXs 182–185)

Peter A. Stolich Co., Inc.

In February 1969 respondent purchased the business and selected assets of Peter A. Stolich Co., Inc. (a California corporation) for $2,042,000. Stolich was engaged in the growing, harvesting, packing and selling of various vegetable crops, primarily lettuce, both on owned land and leased land, and through joint deals with other growers. Stolich produced crops in Salinas, Brentwood, and El Centro (Imperial Valley). Its lettuce volume was about one million cartons a year and accounted for 85 percent of revenues. About 48 percent of Stolich's lettuce volume was grown by it, and the remainder came from joint deals. Stolich lettuce was sold through Mutual Vegetable Sales, a growers' agent.

(Record references: Complaint and Answer, Pars. 16, 30; CX 170 A–I; CX 176 A–T)

Jerome Kantro Enterprises

Respondent's board of directors approved in February 1969 the purchase of the business and certain assets of Jerome Kantro Enterprises, a California corporation in which Jerome Kantro was the sole stockholder. Kantro Enterprises was the successor to a sole proprietorship formerly conducted as the Jerome Kantro Company. The acquisition was accomplished in March 1969 for a purchase price of $395.000.

Kantro was engaged in the growing, packing and shipping of lettuce and other vegetable crops. Kantro had an annual volume of 1.3 million cartons of lettuce produced in Salinas and Brentwood, Calif., and Phoenix and Yuma, Ariz. Respondent acquired, among other things, leases on land owned by Kantro, as well as the right to use the Kantro name.

(Record references: Complaint and Answer, Pars. 18, 32; CX 172 A–K; CX 178 A–S)

Monterey County Ice & Development Company

Respondent also purchased in February 1969 for $2,287,299 all of the stock of Monterey County Ice & Development Company, a California corporation that owned and operated vacuum and cooling facilities in