

FILED & ENTERED

Date: 3/10/78

Attest:

*Wally A. Wallace*

Clerk

STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. 77-630

STATE OF MAINE,  
Plaintiff  
v.  
GREAT NORTHERN NEKOOSA  
CORPORATION,  
Defendant

ORDER

By consent decree dated November 3, 1977 the undersigned Justice of the Superior Court directed the office of the Attorney General to file with the court an accounting of the distribution of the monies paid to the Attorney General's office by the Defendant pursuant to said consent decree. Such an accounting has been filed and by letter dated February 28, 1978 counsel for the Defendant has stated that he does not have any objection to the accounting as presented. The court having reviewed the accounting:

It is hereby ORDERED that said accounting be and the same is hereby approved.

March 9, 1978

*Harry D. Lussner*  
Justice of the Superior Court

STATE OF MAINE  
PENOBSCOT, ss.

11/3/11  
Test: *Sally A. Wallace* Clerk  
SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. 77-630

STATE OF MAINE )  
                  Plaintiff )  
                                  ) )  
                  v.                  ) )  
                                  ) )  
GREAT NORTHERN NEKOOSA )  
CORPORATION a corporation )  
duly organized under the )  
laws of the State of )  
Maine and having a place )  
of business at Millinocket, )  
Maine. )  
                  Defendant )

CONSENT DECREE

Plaintiff, State of Maine, having filed its Complaint herein, and Defendant having filed its Answer thereto denying the material allegations of the Complaint, and Plaintiff and Defendant, by their respective attorneys, having consented to entry of this Consent Decree without trial or adjudication of any issue of fact or law herein and without this Consent Decree constituting any evidence or admission by any party hereto with respect to any such issue;

NOW THEREFORE, before the taking of any testimony and upon consent of the parties hereto:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over the subject matter and the parties consenting hereto. The Complaint states claims upon which relief may be granted against Defendant

under 5 M.R.S.A. §206 et seq., as amended, commonly known as the Maine Unfair Trade Practices Act.

2. The Attorney General acknowledges his right and duty to prosecute violations of the laws of the State of Maine and expressly agrees that this Consent Decree is in the best interest of the people of the State of Maine. Unless this Consent Decree shall be violated and the enforcement provisions of Paragraph 12 are determined by the Attorney General to be inadequate, no civil or criminal proceeding shall be instituted against Great Northern Nekoosa Corporation or its officers or employees based upon the alleged practices, specified in Paragraph 6 of this Consent Decree, engaged in prior to the date of this Consent Decree.

3. As used in this Consent Decree:

(a) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity.

(b) "Great Northern Nekoosa Corporation" means the corporation by that name duly organized under Maine law, its predecessor organizations, and its divisions, subsidiaries and affiliated companies.

(c) "Pulpwood" means wood of various shapes, sizes, and species used in the manufacture of paper.

(d) "Sawlog" means a log of spruce or fir of specified size (e.g. Great Northern Nekoosa Corporation's most common specifications are 16 feet in length and at least 8 inches in diameter) and quality for sawing into lumber.

(e) "Tree length hygrade" means a full spruce or fir tree from which a sawlog or logs of specified length and diameter may be cut with the top being used as pulpwood.

4. Defendant acknowledges its right under 5 M.R.S.A. §209 to notice of the intention of the Attorney General to commence an action under 5 M.R.S.A. §206 et seq. and acknowledges that it has received notice of the intention of the Attorney General more than ten days prior to the filing of the Complaint in this matter and otherwise waives its right to formal written notice of the intended action of the Attorney General.

5. Defendant acknowledges its right under 5 M.R.S.A. §208(2) to claim and to prove exemption from the provisions of 5 M.R.S.A. §206 et seq. and expressly states that it does not claim exemption under that provision and hereby waives any rights it may have to claim such an exemption with respect to the practices alleged in the Complaint.

6. Nothing herein contained shall be construed to prohibit Great Northern Nekoosa Corporation from negotiating the purchase of, and from purchasing, sawlogs or tree length hygrade from any person from whom it also purchases pulpwood or from refusing to purchase, or contract for the purchase, of sawlogs, pulpwood, or tree length hygrade from any person who has failed to perform any lawfully negotiated and valid contractual obligation entered into after the date of this Decree; however, Great

Northern Nekoosa Corporation, its officers, employees, agents, successors, assigns, and all other persons acting under the control of Great Northern Nekoosa Corporation are permanently enjoined and restrained from engaging in the State of Maine in the following acts and practices:

(a) Representing to any supplier or potential supplier of purchased pulpwood that it will buy pulpwood from said supplier on the condition that said supplier also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(b) Refusing to buy pulpwood from any supplier or potential supplier of purchased pulpwood for the primary reason that said supplier refuses or fails to sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(c) Including in any contract for the purchase of pulpwood, a requirement that a quantity of sawlogs or tree length hygrade be supplied, unless the requirement for sawlogs or tree length hygrade shall have been negotiated between the parties to the contract.

(d) Requiring that as a condition of buying pulpwood from a supplier or a potential supplier of purchased pulpwood that said supplier also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

7. Pursuant to 5 M.R.S.A. §209, Great Northern Nekoosa Corporation shall pay to the Office of the Attorney General within 30 days of the date of this Consent Decree the sum of

\$5,439.95 which shall be used by the Attorney General to restore any ascertainable compensatory loss arising out of the alleged acts and practices engaged in prior to the date of the Consent Decree, described in the Complaint filed by the Attorney General in this matter. The Office of the Attorney General agrees with Court approval that it will return to Great Northern Nekoosa Corporation any amount of said sum that it does not disburse after reporting to the Court the name of any claimant, the amount paid the claimant, and the balance remaining as provided herein within 120 days of the date of this Consent Decree.

8. Pursuant to 5 M.R.S.A. §209, Great Northern Nekoosa Corporation shall pay to the Office of the Attorney General within 30 days of the date of this Consent Decree the sum of \$4,400 representing the costs of its investigation and of this suit.

9. Within 30 days of the issuance of the Consent Decree, Great Northern Nekoosa Corporation shall distribute copies of this Decree to those of its employees directly involved in the purchasing of pulpwood in the State of Maine, including its Manager of Woodlands, his assistants and associates, and the Superintendents and Assistant Superintendents in the District Offices of its Woodlands Department. Great Northern Nekoosa Corporation shall be under a continuing obligation to advise newly hired or transferred employees directly involved in the purchasing of pulpwood of the terms of this Consent Decree.

- 6 -

10. For the purpose of determining or securing compliance with this Consent Decree and for no other purpose, Great Northern Nekoosa Corporation shall permit duly authorized representatives of the Office of the Attorney General, on written request of the Attorney General or a Deputy Attorney General, and on reasonable notice to Great Northern Nekoosa Corporation at its principal office subject to any legally recognized privilege:

(a) To have access during office hours to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Great Northern Nekoosa Corporation which relate to any matters which are enjoined by this Consent Decree; and

(b) Subject to the reasonable convenience of Great Northern Nekoosa Corporation and without restraint or interference from it, to interview officers or employees of Great Northern Nekoosa Corporation, who may have counsel present, regarding such matters.

11. No information obtained by the means provided in Paragraph 10 of this Consent Decree shall be divulged by any representative of the Office of the Attorney General except in the course of legal proceedings to which the State of Maine and Great Northern Nekoosa Corporation or its officers, employees, successors, agents, and assigns are parties.

12. Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Consent Decree to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: *Nov. 3, 1977*

*Harry P. Glassman*  
Harry P. Glassman  
Justice, Superior Court

The undersigned, with knowledge of the terms of the above Consent Decree, hereby agree to those terms and to the entry of said Consent Decree:

Dated: *November 3, 1977*

For Defendant Great Northern  
Nekoosa Corporation:

*Richard K. Decker*  
Richard K. Decker, Esquire

*Phillip D. Buckley*  
Phillip D. Buckley, Esquire

*Arnold M. Nemirow*  
Arnold M. Nemirow, Esquire  
*by Richard K. Decker*

For Plaintiff State of Maine:

*Joseph E. Brennan*  
Joseph E. Brennan, Esquire  
Attorney General

*David P. Cluchey*  
David P. Cluchey, Esquire  
Assistant Attorney General



STATE OF MAINE  
PENOBSCOT, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

STATE OF MAINE )  
                  Plaintiff )  
                  ) )  
                  v. ) )  
                  ) )  
GREAT NORTHERN NEKOOSA )  
CORPORATION a corporation )  
duly organized under the )  
laws of the State of )  
Maine and having a place )  
of business at Millinocket, )  
Maine. )  
                  Defendant )

COMPLAINT

The State of Maine, by and through Joseph E. Brennan, the Attorney General of the State of Maine, alleges as follows:

Jurisdiction and Venue

1. The Attorney General commences this action in the public interest under the authority of 5 M.R.S.A. §206 et seq., commonly known as the Unfair Trade Practices Act.

2. Defendant Great Northern Nekoosa Corporation is a corporation duly organized under the laws of the State of Maine and having a place of business in Millinocket, Maine.

Definitions

3. As used in this Complaint:

(a) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity.

(b) "Great Northern Nekoosa Corporation" means the corporation by that name duly organized under Maine law, its predecessor organizations, and its divisions, subsidiaries and affiliated companies.

(c) "Pulpwood" means wood of various shapes, sizes, and species used in the manufacture of paper.

(d) "Sawlog" means a log of spruce or fir of specified size (e. g. Great Northern Nekoosa Corporation's most common specifications are 16 feet in length and at least 8 inches in diameter) and quality for sawing into lumber.

(e) "Tree length hygrade" means a full spruce or fir tree from which a sawlog or logs of specified length and diameter may be cut with the top being used as pulpwood.

#### Nature of Trade and Commerce

4. Defendant Great Northern Nekoosa Corporation is a major landowner in the State of Maine. In addition, it has major papermaking facilities at Millinocket and East Millinocket and a major sawmill facility in Nashville Plantation. Defendant Great Northern Nekoosa Corporation uses wood produced on its own land and wood purchased from others in the manufacture of paper and lumber at these facilities.

5. Due to the location of its papermaking facilities and historically, Great Northern Nekoosa Corporation has been a major purchaser of pulpwood in central and southern Aroostook County. This pulpwood is used in its papermaking facilities. Within the last five years, Great Northern Nekoosa Corporation

has also become a competing purchaser of sawlogs and tree length hygrade in central and southern Aroostook County. The purchased sawlogs, those cut from the purchased tree length hygrade, sawlogs cut from its own lands, and sawlogs cut on lands on which Great Northern Nekoosa Corporation has stumpage permits are used for the production of lumber at Great Northern's lumber mill in Nashville Plantation.

6. Pulpwood is differentiated from sawlogs by the following:

(a) It is generally small diameter wood which is not suitable for the production of lumber.

(b) While sawlogs can be used in the papermaking process, they have more value when processed into lumber. Pulpwood, due to its small diameter, cannot be used for the production of lumber.

(c) The market for pulpwood is limited to a small number of purchasers by the substantial capital investment necessary to enter the papermaking industry. The market for sawlogs is different and broader in nature, due, in part, to the lower capital investment necessary to enter the lumber manufacturing industry.

#### Violations Alleged

7. Beginning as early as the fall of 1975 and continuing until the filing of this Complaint, Defendant Great Northern Nekoosa Corporation has been engaged in an unfair method of competition in the conduct of trade or commerce in violation of 5 M.R.S.A. §207.

8. The aforesaid unfair method of competition has consisted of the use of coercive practices in the purchase of sawlogs from suppliers of purchased pulpwood to Great Northern Nekoosa Corporation. Beginning as early as the fall of 1975, Great Northern Nekoosa Corporation used certain coercive practices in requiring persons who had sold pulpwood to Great Northern Nekoosa Corporation in the past or were potential future suppliers of pulpwood to sell some or all of the sawlogs or tree length hygrade produced by these persons to Great Northern Nekoosa Corporation. The coercive practices included the following:

(a) Representing to suppliers and potential suppliers of purchased pulpwood that Great Northern Nekoosa Corporation would buy pulpwood from said suppliers on the condition that the suppliers also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(b) Refusing to buy pulpwood from suppliers and potential suppliers for the primary reason that the suppliers refused or failed to sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(c) Including in contracts for the purchase of pulpwood a quantity of sawlogs or tree length hygrade without negotiating with the supplier the requirement for sawlogs or tree length hygrade.

(d) Requiring as a condition of purchasing pulpwood from suppliers or potential suppliers that the suppliers also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

9. The aforesaid unfair method of competition has had the following effects, among others:

(a) Suppliers and potential suppliers of purchased pulpwood have been coerced into also supplying sawlogs and tree length hygrade to Great Northern Nekoosa Corporation.

(b) Suppliers and potential suppliers of purchased pulpwood have been unable to sell sawlogs and tree length hygrade to the purchasers of their choice.

(c) Other sawmills have been unable to obtain the sawlogs sold to Great Northern Nekoosa Corporation as a result of the aforesaid practices.

(d) A substantial volume of sawlogs and tree length hygrade have been impacted by the aforesaid unfair method of competition, to wit; sawlogs worth in excess of \$100,000.

10. The aforesaid unfair method of competition is continuing and will continue unless the relief requested in this Complaint is granted.

WHEREFORE, Plaintiff State of Maine respectfully requests that this Court:

1. Decree that Defendant Great Northern Nekoosa Corporation has engaged in an unfair method of competition in the conduct of trade or commerce in violation of 5 M.R.S.A. §207.

2. Permanently enjoin Defendant Great Northern Nekoosa Corporation, its officers, employees, agents,

successors, and assigns from engaging in the State of Maine in the following acts and practices:

(a) Representing to any supplier or potential supplier of purchased pulpwood that it will buy pulpwood from said supplier on the condition that said supplier also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(b) Refusing to buy pulpwood from any supplier or potential supplier of purchased pulpwood for the primary reason that said supplier refuses or fails to sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.

(c) Including in any contract for the purchase of pulpwood, a requirement that a quantity of sawlogs or tree length hygrade be supplied unless the requirement for sawlogs and tree length hygrade shall have been negotiated between the parties to the contract.

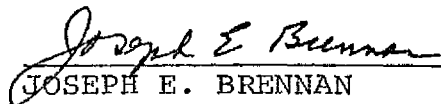
(d) Requiring that as a condition of buying pulpwood from a supplier or a potential supplier of purchased pulpwood that said supplier also sell sawlogs or tree length hygrade to Great Northern Nekoosa Corporation.


3. Restore to all suppliers of purchased pulpwood who have been coerced into selling sawlogs to Great Northern Nekoosa Corporation all ascertainable compensatory losses resulting from the aforesaid unfair method of competition.

4. Award to Plaintiff State of Maine its costs of suit as provided in 5 M.R.S.A. §209.

5. Grant to Plaintiff State of Maine such further relief as the case may require and the Court may deem just and proper.

Dated: November 3, 1977

  
\_\_\_\_\_  
JOSEPH E. BRENNAN  
Attorney General

  
\_\_\_\_\_  
DAVID P. CLUCHEY  
Assistant Attorney General

Attorney General's Office  
State House  
Augusta, Maine 04333

Tel. (207) 289-3716