

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ALLIED WASTE INDUSTRIES, INC., and)
SUPERIOR SERVICES, INC.,)
)
Defendants.)

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I.

DEFINITIONS

As used in this Hold Separate Stipulation and Order:

A. “Allied” means defendant Allied Waste Industries, Inc., a Delaware corporation with its headquarters in Scottsdale, Arizona, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

B. “Superior” means defendant Superior Services, Inc., a Wisconsin corporation with its headquarters in Milwaukee, Wisconsin, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Relevant Milwaukee Assets” means:

(1) Allied’s two front-end loader and three rear-end loader small container commercial routes 6, 14, 21, 89, and 95 and recycling routes 73, 75, 705 and 708 that serve Milwaukee and the eastern half of Waukesha (east of route 83) counties, WI; and

(2) Allied’s BFI Town & Country Transfer Station, located at W143 S. 6400 College Court, Muskego, WI 53150.

Relevant Milwaukee Assets includes, with respect to each of Allied’s small container routes listed above, all tangible assets (including capital equipment, trucks and other vehicles, containers, interests, permits, and supplies); and all intangible assets (including hauling-related customer lists, contracts, leasehold interests, and accounts related to each such route). Relevant Milwaukee Assets also includes, with respect to the BFI Town & Country Transfer Station described above, all of Allied’s rights, titles and interests in any tangible assets (including all fee and leasehold and renewal rights in the transfer station); all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

D. “Relevant Mansfield Assets” means:

(1) Superior’s small container commercial routes 1, 2, 3 and 4 that serve Richland and Ashland counties, OH; and

(2) Superior’s Transfer Station, located at 621 Newman Street, Mansfield, OH 44905.

Relevant Mansfield Assets includes, with respect to each of Superior’s small container routes listed above, all tangible assets (including capital equipment, trucks and other vehicles, containers, interests, permits, and supplies); all intangible assets (including hauling-related customer lists,

contracts, leasehold interests, and accounts related to each such route); and, if requested by the purchaser, real property and improvements to real property (*i.e.*, buildings and garages). Relevant Mansfield Assets also includes, with respect to the Superior Transfer Station described above, all of Superior's rights, titles and interests in any tangible assets (including all fee and leasehold and renewal rights in the transfer station); the garage and related facilities; offices; all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

II.

OBJECTIVES

The Final Judgment filed in this case is meant to ensure defendants' prompt divestiture of the Relevant Milwaukee Assets and Relevant Mansfield Assets for the purpose of establishing viable competitors in the waste disposal business or the commercial waste hauling business, or both, to remedy the effects that the United States alleges would otherwise result from the exchange of assets between Allied and Superior. This Hold Separate Stipulation and Order ensures, prior to such divestiture, that the Relevant Milwaukee Assets and Relevant Mansfield Assets are independent, economically viable, and ongoing business concerns that will remain independent and uninfluenced by Allied, in the case of the Relevant Mansfield Assets, and Superior, in the case of the Relevant Milwaukee Assets; and that competition is maintained during the pendency of the ordered divestitures.

III.

JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV.

COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transactions sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed

Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V.

HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and operate the Relevant Milwaukee Assets and Relevant Mansfield Assets as independent competitive businesses, with management, sales and operations of such assets held entirely separate, distinct and apart from the operations of Superior, in the case of the Relevant Milwaukee Assets, and from Allied, in the case of the Relevant Mansfield Assets. Superior shall not coordinate the marketing of, or negotiation of sales by, any Relevant Milwaukee Asset with its other operations. Allied shall not coordinate the marketing of, or negotiation of sales by, any Relevant Mansfield Asset with its other operations.

Within twenty (20) days after the filing of the Hold Separate Stipulation and Order, or thirty (30) days after the entry of this Order, whichever is later, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Relevant Milwaukee Assets and Relevant Mansfield Assets will be maintained and operated as independent, ongoing, economically viable and active competitors in the commercial waste hauling business; (2) the management of the Relevant Milwaukee Assets will not be influenced by Superior, and the management of the Relevant Mansfield Assets will not be influenced by Allied; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning the Relevant Milwaukee Assets will be kept separate and apart from Superior's other operations, and the books, records, competitively sensitive sales marketing, and pricing information, and decision-making concerning the Relevant Mansfield Assets will be kept separate and apart from Allied's other operations. Superior's influence over the Relevant Milwaukee Assets and Allied's influence over Relevant Mansfield Assets shall be limited to that necessary to carry out defendants' obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Relevant Milwaukee Assets and Relevant Mansfield Assets, and shall maintain at 1999 or at previously approved levels, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the Relevant Milwaukee Assets and Relevant Mansfield Assets.

D. Defendants shall provide sufficient working capital to maintain the Relevant

Milwaukee Assets and Relevant Mansfield Assets as economically viable and competitive ongoing businesses.

E. Defendants shall take all steps necessary to ensure that the Relevant Milwaukee Assets and Relevant Mansfield Assets are fully maintained in operable condition at no lower than their current capacity or sales, and shall maintain and adhere to normal repair and maintenance schedules for the Relevant Milwaukee Assets and Relevant Mansfield Assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Relevant Milwaukee Assets and Relevant Mansfield Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Relevant Milwaukee Assets and Relevant Mansfield Assets.

H. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not hire, transfer, terminate, or otherwise alter the salary agreements for any Allied or Superior employee who, on the date of defendants' signing of this Hold Separate Stipulation and Order, either: (1) works with a Relevant Milwaukee Asset or a Relevant Mansfield Asset, or (2) is a member of management referenced in Section V(I) of this Hold Separate Stipulation and Order.

I. Until such time as the Relevant Milwaukee Assets and Relevant Mansfield Assets

are divested pursuant to the terms of the Final Judgment, the Relevant Milwaukee Assets shall be managed by Ray Bruckert and the Relevant Mansfield Assets shall be managed by Richard J. Wojahn. Messrs. Bruckert and Wojahn shall have complete managerial responsibility for the Relevant Milwaukee Assets and Relevant Mansfield Assets, subject to the provisions of this Order and the proposed Final Judgment. In the event that either Mr. Bruckert or Mr. Wojahn is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States shall appoint a replacement.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to purchasers acceptable to the United States.

K. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures contemplated by the proposed Final Judgment or until further order of the Court.

FOR PLAINTIFF
UNITED STATES OF AMERICA

FOR DEFENDANT
ALLIED WASTE INDUSTRIES, INC.

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ORDER

IT IS SO ORDERED ON THIS ____ DAY OF _____, 2000.

UNITED STATES DISTRICT JUDGE