

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

AVIATION SPECIALTIES CO., INC.;)
CLARK'S AERIAL SERVICE, INC.;)
DOTHAN AVIATION CORPORATION,)
INCORPORATED; and RALCO, INC.,)

Defendants.)

CIVIL ACTION

NO. 3-7722-E

Filed: February 1, 1974

Entered: March 13, 1974

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on September 26, 1973, and the Plaintiff and Defendants, by their respective attorneys, having severally consented to entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party hereto with respect to any such issue,

NOW, THEREFORE, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby,

ORDERED ADJUDGED and DECREED as follows:

I.

This Court has jurisdiction over the parties hereto. The Complaint states a claim upon which relief may be granted against the Defendants under Section 1, and this Court has subject matter jurisdiction by virtue of Section 4, of the

Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1 and § 4), commonly known as the Sherman Act.

II.

As used herein the term:

(A) "Aerial services" refers to the scattering or spraying of wet or dry insecticides, chemicals, and liquids in combating insects, pests, animal, and vegetation diseases and forest fires.

(B) "Contractor" refers to a person or company engaged, among other things, in contracting to furnish aerial services, as defined herein, including not only the plane but also the service of pilots and maintenance of the plane.

III.

The provisions of this Final Judgment shall apply to each Defendant, its subsidiaries, successors, affiliates, related companies, and their officers, directors, employees or other persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

Each of the Defendants is enjoined and restrained from entering into any agreement, arrangement, concerted activity, or understanding with any other contractor or any association of said contractors for the purpose of the following:

(A) Allocating or dividing customers, territories or markets for aerial service jobs;

(B) Submitting collusive, noncompetitive or rigged bids to awarding authorities soliciting bids on aerial service jobs;

(C) Fixing, stabilizing, or maintaining the amounts to be charged for providing aerial services or to be bid in offers to provide said services;

(D) Refraining from bidding to supply aerial services;

(E) Exchanging information concerning bids, prices, terms, costs or conditions of sale.

V.

Nothing herein, and specifically the provisions of paragraph IV hereof, shall be deemed to prohibit or enjoin any Defendant or others subject to this Judgment, from entering into, participating in, or maintaining with others, a joint venture or partnership whereby a single bid will be submitted and either the assets, equipment, personnel and/or facilities of each of the parties thereto will be combined to provide aerial services where the jobs for which bids are invited call for aerial services in such quantity or volume or under such other circumstances that each party to the joint venture or partnership could not reasonably bid on or perform the contract, alone. Provided, however, that such joint venture or partnership shall not be used or permitted to circumvent or evade any of the provisions of this Final Judgment or to implement other activities in derogation thereof, and provided further that a description of such agreement or understanding for a joint venture or partnership is attached to the bid.

VI.

Each Defendant is ordered for a period of five (5) years, to certify in writing, by one of its officers, at the time of each bid which it makes, that said bid was either independently arrived at by said Defendant and was not the result of any agreement or understanding with any competitor, or that the

submitted bid was a result of an agreement or understanding between two or more potential suppliers who seek by the bid to cooperatively furnish the aerial services, by joint venture, partnership, or otherwise, with a description of such agreement or understanding; and each defendant is further ordered to each attach a copy of said certification to its bid and retain in its files copies of such certifications which shall be made available to the Plaintiff for inspection upon reasonable demand. The certifications required herein are in addition to and not in lieu of any certifications as may be otherwise required.

VII.

For a period of ten (10) years from the date of entry of this Final Judgment each Defendant is ordered to file with the Plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps it has taken during the prior year to advise the Defendant's appropriate officers, directors, employees and members of its and their obligation under this Final Judgment.

VIII.

1. For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any of the Defendants made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during office hours of said Defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of

such Defendant relating to any matters contained in this Final Judgment.

(B) Subject to the reasonable convenience of such Defendant, and without restraint or interference from it, to interview its officers or employees, who may have counsel present, regarding any such matters.

2. Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, each Defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested.

3. No information obtained by the means permitted in this Section VIII shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX.

Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions, as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions contained therein, for the enforcement of compliance therewith and for the punishment of violations thereof.

SIGNED and ENTERED this 13th day of March,
1974.

/s/ ELDON B. MAHON

United States District Judge