

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :  
 : Civil Action No. 71-C-563  
 v. :  
 : Filed: May 13, 1971  
 NATIONAL ASSOCIATION FOR AIR :  
 FREIGHT, INC.; :  
 A.T.D. TRUCKING CORP.; :  
 AIR-FREIGHT TRUCKING SERVICE, INC.; :  
 B & P DELIVERY SERVICE, INC.; :  
 BREEN AIR FREIGHT LTD.; :  
 CALTRO TRUCKING, INC.; :  
 GESELL TRUCKING CORP.; :  
 J & J TRUCKING CO. INC.; :  
 JUNIOR TRUCKING, INC.; :  
 L & J TRUCKING CORP.; :  
 TEMPO TRUCKING & TRANSFER CORP.; :  
 TETERBORO AIR FREIGHT; and :  
 VTR TRUCKING CORP., :  
 :  
 Defendants. :  
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COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. All defendants transact business and are found within the Eastern District of New York.

## II

### DEFINITIONS

3. As used herein, the term:

(a) "import air freight" shall mean commodities or goods which have been transported by airplane from points outside of the United States to points inside of the United States for delivery to consignees located in the United States;

(b) "truckman" shall mean any person, firm or corporation engaged in the business of transporting air freight, including import air freight, via motor vehicle; and

(c) "New York Metropolitan Area" shall mean that area encompassed by the New York State Counties of Kings, Queens, Richmond, New York, Bronx, Nassau, Suffolk and Westchester, and the State of New Jersey Counties of Union, Hudson, Bergen, Middlesex, Essex, Passaic, Somerset and Morris.

## III

### DEFENDANTS

4. National Association for Air Freight, Inc. (hereinafter referred to as "NAAF") is hereby made a defendant herein. NAAF is a corporation organized and existing under the Membership Corporation Law of the State of New York with its principal office in Jamaica,

New York. It was incorporated in 1958 as Metropolitan Import Truckmen's Association, Inc. ("MITA"). In or about July 1963, MITA was consolidated with Jet Stream Trucking Association, Inc. ("Jet Stream"). Jet Stream was incorporated under the laws of the State of New York in 1960. Jet Stream's membership was composed of truckmen primarily engaged in the delivery to customers located in the New York Metropolitan Area of import air freight arriving at John F. Kennedy International Airport (hereinafter referred to as "JFK"). In March 1969, MITA changed its name to NAAF. Its membership since that date has primarily consisted of truckmen doing business at JFK.

5. Each of the corporations named below is hereby made a defendant herein. Each such defendant has been a truckman and a member of NAAF or one of its predecessor organizations during all or part of the period covered by this complaint. Each of such defendants was organized and exists under the laws of the state where its principal place of business is located, as indicated hereinafter:

<u>CORPORATION</u>	<u>PRINCIPAL PLACE OF BUSINESS</u>
A.T.D. Trucking Corp.	Jamaica, New York
Air-Freight Trucking Service, Inc.	Newark, New Jersey
B & P Delivery Service, Inc.	Jamaica, New York
Breen Air Freight Ltd.	New York City, New York
Caltro Trucking, Inc.	Howard Beach, New York
Gesell Trucking Corp.	Jamaica, New York
J & J Trucking Co. Inc.	New York City, New York

<u>CORPORATION</u>	<u>PRINCIPAL PLACE OF BUSINESS</u>
Junior Trucking, Inc.	Greenvale, New York
L & J Trucking Corp.	Jamaica, New York
Tempo Trucking and Transfer Corp.	Jamaica, New York
Teterboro Air Freight	Hasbrouck Heights, New Jersey
VTR Trucking Corp.	Jamaica, New York

#### IV

#### CO-CONSPIRATORS

6. Various corporations and individuals not made defendants in this complaint participated as co-conspirators in the offense alleged herein and performed acts and made statements in furtherance thereof.

#### V

#### TRADE AND COMMERCE

7. JFK, located in Queens County, New York, began operations in 1947. During the past twenty-three years, this airport has emerged as one of the largest airports in the world. The air freight business at JFK has grown correspondingly. By the end of 1969, about 1.5 billion pounds of air freight, valued at approximately \$9.5 billion, was being handled at JFK annually.

8. In contrast to all other freight handled at JFK, import air freight has to be cleared for importation into the United States by the United States Bureau of Customs. In 1969, about 300 million pounds of import air freight, valued at approximately \$1.9 billion, was imported into the United States through the facilities at JFK.

9. Surface transportation by motor vehicle constitutes a vital link in the transportation of import air freight. Reliable ground transportation from the airport to the consignee is as important to the movement of import air freight as reliable air transportation. In 1969, the surface transportation of import air freight from JFK generated at least \$9.4 million in revenues for trucking firms providing this service.

10. Traditionally, import air freight is unloaded from an airplane and transported to a warehouse operated by the transporting air carrier. At this warehouse, the freight is inspected by United States Customs Bureau officials. When the United States Customs Bureau has cleared the freight for entrance into the United States, the customhouse broker, previously selected by the consignee, issues a pick-up order to a truckman. The designated truckman then goes to the air carrier's warehouse, presents the pick-up order, receives the freight, and delivers the freight to the consignee.

11. A substantial portion of all import air freight arriving at JFK is destined for delivery to consignees located within the New York Metropolitan Area. In 1969, defendant and co-conspirator truckmen performed almost all of the deliveries of import air freight to consignees located within that area. In that year, defendant truckmen received approximately \$3.7 million in payments for making such deliveries.

12. The import air freight carried by the defendant and co-conspirator truckmen is in transit between points of origin outside the United States and points of destination within the New York Metropolitan Area. The corporate defendants therefore act as conduits through which import air freight flows in a continuous uninterrupted stream in interstate and foreign commerce. The surface transportation of this freight from JFK to consignees located in the New York Metropolitan Area constitutes an essential part of that interstate and foreign commerce.

## VI

### OFFENSE ALLEGED

13. Beginning in or about the year 1960, the exact date being unknown to the plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, certain of the defendants and co-conspirators entered into and engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate and foreign commerce in import air freight destined for consignees in the New York Metropolitan Area, in violation of Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act. The other defendants and co-conspirators joined in the aforesaid combination and conspiracy subsequent to 1960 and have thereafter continued such participation up to and including the date of the filing of this complaint. Said offense is continuing and will continue unless

the relief hereinafter prayed for in this complaint is granted.

14. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

(a) to refrain from doing business with import air freight customers designated as customers of other defendants and co-conspirators;

(b) to impose a uniform fixed surcharge on customers for picking up import air freight at JFK; and

(c) to refuse, on various occasions, to pick up import air freight at the terminals of some or all of the international air carriers at JFK.

15. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have performed the acts and done those things which, as hereinbefore alleged, they have combined and conspired to do.

## VII

### EFFECTS

16. The aforesaid combination and conspiracy has had the following effects, among others:

(a) competition between and among the defendant and co-conspirator truckmen in the

transportation of import air freight has been restrained and suppressed;

(b) a uniform fixed surcharge has been imposed for picking up import air freight at JFK, to the detriment of competition among the defendant and co-conspirator truckmen;

(c) customers and air carriers have been deprived of the benefit of independent decisions by the defendant and co-conspirator truckmen as to whether such truckmen would pick up import air freight at the international air carriers' terminals at JFK; and

(d) the flow of import air freight between points in foreign countries and points in the New York Metropolitan Area has been interrupted, impeded and restrained.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the aforesaid combination and conspiracy in restraint of interstate and foreign commerce in import air freight destined for consignees in the New York Metropolitan Area is in violation of Section 1 of the Sherman Act.

2. That each of the defendants, their successors, assignees, transferees, officers, directors, members, agents and employees, and all persons, divisions, firms and corporations acting in their behalf or under their direction and control, be permanently enjoined from engaging in, carrying out or renewing any contracts,



agreements, policies, practices or understandings having the purpose or effect of continuing, reviving or renewing the aforesaid violation of the Sherman Act, or any contract, agreement, policy, practice or understanding having a like or similar purpose or effect.

3. That the National Association for Air Freight, Inc. be dissolved and that the defendants be permanently enjoined from establishing any organization, affiliation or relationship having a like or similar purpose or effect.


4. That each of the defendant firms be required to distribute to each of its customers a copy of any judgment or decree entered in connection with this matter within 60 days of the date of the entry of such judgment or decree.

5. That the plaintiff have such other and further relief as the nature of the case may require and that the Court may deem just and proper.

6. That the plaintiff recover the costs of this suit.

  
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