

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No. C 70-895
)
)
 THE STANDARD OIL COMPANY) Filed: September 18, 1970
 (An Ohio Corporation),)
)
)
 Defendant.)

COMPLAINT

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

I

JURISDICTION AND VENUE

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

2. The defendant named herein maintains its principal place of business, transacts business and is found within the Northern District of Ohio, Eastern Division.

II

THE DEFENDANT

3. The Standard Oil Company, an Ohio corporation (hereinafter referred to as "Sohio"), is made the defendant herein. Sohio is a corporation organized and existing under the laws of the State of Ohio and has its principal place of business at Cleveland, Ohio.

III

DEFINITIONS

4. "TBA" means tires, batteries and automotive accessories.

5. "Service stations" means those business establishments that sell motor fuels, motor oils, lubricants, and TBA to consumers, and usually perform maintenance and minor repair services on motor vehicles for consumers.

6. "Commission stations" means those Sohio service stations that are supplied motor fuels, motor oils, and TBA under terms of defendant's standard form "Commission Manager Agreement" and are operated by "commission managers" under the terms of that agreement.

IV

CO-CONSPIRATORS

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

TRADE AND COMMERCE

8. Sohio, including its subsidiaries, is a major integrated company in the petroleum industry. It is engaged in exploration for the production of crude oil in the States of Texas, Louisiana, Kansas, Arkansas, Mississippi, Oklahoma, Wyoming, Kentucky, Michigan, Illinois, and Indiana. It transports such crude oil from those states into the State of Ohio through pipelines in which it has a substantial proprietary interest. Sohio operates refineries located at Lima and Toledo, Ohio. The petroleum products it produces at these refineries include motor fuels, motor oils, heating fuel oils, heavy fuel oils, lubricants, and asphalt. Sohio purchases TBA products from various manufacturers located throughout the United States. Sohio markets these petroleum products and TBA products primarily in the State of Ohio. Subsidiaries of Sohio market these products under various trade names in Ohio and 20 other adjacent and Eastern Seaboard States. The sales and revenues of Sohio and its subsidiaries in 1969 were in excess of \$1.4 billion.

9. There are approximately 14,102 service stations in Ohio. Approximately 2,946 of these service stations obtain motor fuel, motor oil, and TBA products from Sohio and market these products to consumers under the trade name "Sohio".

10. Sohio owns or leases 2,116 of the service stations that sell products under the Sohio trade name. Of these, 328 are company stations and, as of April, 1969, 104 of these stations were commission stations, operated pursuant to the Commission Manager Agreement. The company stations are dispersed throughout the State of Ohio and are in competition with the commission stations. All service stations owned or leased by defendant are equipped with pumps, tanks, and other dispensing equipment belonging to Sohio.

11. In operating commission stations, commission managers assume expenses and risks of independent businessmen. These expenses and risks are not borne by the managers of Sohio's company stations, who are employees of Sohio. For example, under the terms of the Commission Manager Agreements, the commission manager pays the wages of all station employees, and is solely responsible for their acts and omissions. The commission manager is also responsible for income tax withholding with respect to station employees, and for the employer portion of social security, workmen's compensation and unemployment insurance payments with respect to such employees. The commission manager is required, by the terms of the Commission Manager Agreement, to carry and pay for his own liability insurance policy, under which Sohio is also protected.

12. The commission manager receives commissions on the sales of Sohio products. With respect to motor fuels, the commission is a stated number of cents per gallon sold. With respect to TBA, motor oils and antifreeze, the commission is a percentage of the retail price. The commission manager is entitled, for his own account, to perform customer services and to purchase from others for resale such other products as Sohio may approve. The commission manager's income is determined solely on profits (or losses) from operating the station, which profits (or losses) consist of his revenues from sales and services less his business expenses.

13. The defendant is the principal supplier of motor oil and TBA products to service stations operated under terms of any of its standard form contracts, including the Commission Manager Agreement. The defendant circularizes quarterly a "Price Guide" to all its company stations and to all service stations supplied under terms of one of its standard form contracts, including the Commission Manager Agreement. The "Price Guide" sets forth so-called "Suggested Retail Prices" for motor oils, lubricants, services, and TBA products. The Commission Manager Agreement authorizes the commission manager to perform for his own account only those customer services listed in Sohio's "Price Guide" and only at prices therein specified.

14. The motor fuel and motor oil business in Ohio is a highly concentrated industry, with relatively few large integrated oil companies supplying the bulk of the motor fuel sold in the State. Sohio accounts for approximately 30 per cent of the motor fuel sold in Ohio. The bulk of the motor fuel sold by defendant in Ohio is sold under the trade name "Sohio"; the balance of the motor fuel sold by defendant in Ohio is sold under the trade name "Fleetwing".

V

OFFENSE CHARGED

15. Beginning in or about September 1968, and continuing thereafter up to and including the date of the filing of this complaint, the defendant has engaged in a combination and conspiracy with the commission managers in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). Such offense will continue unless the relief hereinafter prayed for is granted.

16. The aforesaid combination and conspiracy consists of a series of written contracts and concert of action among the defendant and its commission managers, who are parties to defendant's standard form Commission Manager Agreement, the substantial terms of which are that:

- (a) the commission managers will sell motor fuels, motor oils, and TBA products obtained from defendant, and will perform customer services authorized by defendant, at prices fixed by the defendant;
- (b) the defendant will sell motor fuel, motor oil, TBA products and perform services at company stations at the same prices which it fixes for the commission stations; and
- (c) the commission managers will purchase from others for resale only such products as are approved by defendant.

17. In furtherance of the aforesaid combination and conspiracy the defendant and its commission managers have done those things which, as hereinabove alleged, they combined and conspired to do.

VI

EFFECTS

18. The aforesaid offense has had the following effects, among others:

- (a) prices of defendant's petroleum products and of TBA products and services purchased at defendant's service stations have been fixed at arbitrary and non-competitive levels;

- (b) commission managers have been deprived of their rights to determine their own sales prices and the products and services they will offer;
- (c) competition among commission managers and between them and defendant has been eliminated; and
- (d) consumers have been deprived of the opportunity of purchasing petroleum products, TBA products and service work in a free and competitive market.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the combination and conspiracy between defendant and the commission managers is in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act.

2. That the defendant and its successors, officers, directors, managers, agents, representatives, employees and all other persons or corporations acting or claiming to act, under, through or on behalf of them or any of them, be perpetually enjoined and restrained from continuing, in any manner, to carry out, directly or

indirectly, the agreements hereinabove alleged and from engaging in any other agreements having a like or similar purpose or effect.

3. That the defendant be required to revise its Commission Manager Agreements so as to conform to the provisions of the judgment entered herein.

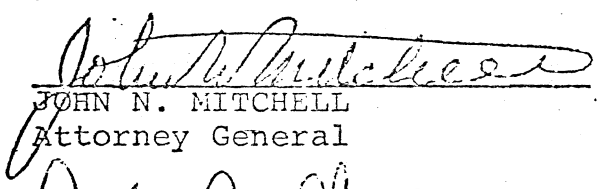
4. That the defendant be perpetually enjoined, directly or indirectly, from:

(a) fixing the prices at which any service station other than a company station can sell motor fuel, motor oil and TBA and perform services; and

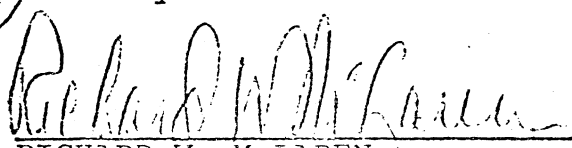
(b) restricting the products or services which any service station other than a company station can offer for sale.

5. That the plaintiff have such other, further and different relief as the Court may deem appropriate or necessary.

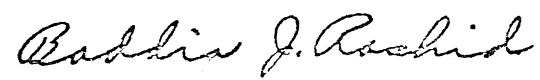
6. That the plaintiff recover its taxable costs.


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