

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                                  |   |                |
|----------------------------------|---|----------------|
| UNITED STATES OF AMERICA,        | ) |                |
|                                  | ) |                |
| Plaintiff,                       | ) |                |
|                                  | ) |                |
| v.                               | ) | Civil No. 8698 |
|                                  | ) |                |
| THE AAV COMPANIES;               | ) |                |
| ARA SERVICES, INC.; and          | ) | Filed: 1/16/73 |
| WESTERN VENDING MACHINE COMPANY, | ) |                |
|                                  | ) |                |
| Defendants.                      | ) |                |

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the above-named defendants, 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 continuing violations by the above defendants, as hereinafter alleged, of Section 1 of the Act (15 U.S.C. §1).

2. Each of the defendants transacts business and is found within the Southern District of Ohio, Western Division.

## II

### THE DEFENDANTS

3. The corporations named below are hereby made defendants herein. Each of these corporations is organized and exists under the laws of the state and has its principal place of business in the city indicated below. During the period covered by this complaint, each of these defendants has engaged in the business of operating vending machines in the Cincinnati area.

| <u>Name of Corporation</u>      | <u>State of Incorporation</u> | <u>Principal Place of Business</u> |
|---------------------------------|-------------------------------|------------------------------------|
| The AAV Companies               | Ohio                          | Solon (Cleveland), Ohio            |
| ARA Services, Inc.              | Delaware                      | Philadelphia, Pennsylvania         |
| Western Vending Machine Company | Ohio                          | Cincinnati, Ohio                   |

## III

### CO-CONSPIRATORS

4. Various firms, corporations, partnerships, and individuals, not made defendants herein, have participated as co-conspirators with defendants in the offenses herein-after charged, and have performed acts and made statements in furtherance thereof.

## IV

### DEFINITIONS

5. As used herein, the term:

- (a) "Cincinnati area" means the City of Cincinnati, Ohio, including Hamilton, Clermont, and Butler Counties in the State of Ohio, and Kenton, Campbell, and Boone Counties in the State of Kentucky;

- (b) "Vending machine" means any device which dispenses cigarettes automatically when appropriate coins are inserted;
- (c) "Location" means any business or other establishment open to the general public at which one or more vending machines are maintained in operation by vending machine operators; and
- (d) "Vending operator" means any individual, partnership, corporation or other entity who owns vending machines which are in operation in locations other than the vending machine operator's place of business.

V

TRADE AND COMMERCE

6. During the period covered by this complaint, the defendants have been among the largest vending operators in the Cincinnati area, operating vending machines at approximately 3,000 locations. During this period the defendants have regularly purchased substantial quantities of cigarettes which were shipped by manufacturers from without the State of Ohio into the State of Ohio. Cigarettes purchased by the defendants and other vending operators are sold through the operator's vending machines to members of the public. In compensation for use of space at the location the owner of the property on which the vending machine is placed is paid a commission by the vending operator. There is a regular, continuous and substantial flow of cigarettes for vending by machine in interstate commerce.

7. During 1969 and 1970 it is estimated that total annual sales of vending operators in the Cincinnati area were \$5,000,000; of this the defendants' sales amounted to approximately \$4,500,000.

## VI

### VIOLATION ALLEGED

8. Beginning sometime prior to 1960, the defendants and their co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the above-described interstate trade and commerce, 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 defendants are continuing, and will continue, the combination and conspiracy unless the relief prayed for herein is granted.

9. 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 allocate customers and locations among themselves; and
- (b) to fix, raise and maintain the price of cigarettes sold through vending machines and the commissions paid to location owners.

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

## VII

### EFFECTS

11. The combination and conspiracy charged herein has had the following effects, among others, in the Cincinnati area:

- (a) Competition among the defendants and other vending machine operator co-conspirators in the cigarette vending business has been suppressed and restrained;
- (b) Locations served by the defendants and other vending machine operator co-conspirators have been deprived of free and open competition in the vending machine business; and
- (c) The public has been deprived of the opportunity of purchasing cigarettes from vending machines in a free and open competitive market.

### PRAYER

WHEREFORE, plaintiff prays:

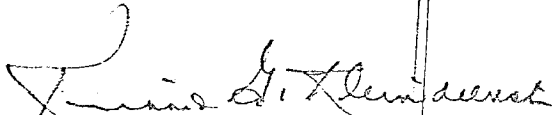
1. That the Court adjudge and decree that the defendants and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce in the vending machine business in the Cincinnati area in violation of Section 1 of the Sherman Act.

2. That each of the defendants, their successors, assignees, transferees, officers, directors, agents and employees and all persons acting or claiming to act on their behalf be perpetually enjoined and restrained from, directly or indirectly, continuing, maintaining or renewing the aforesaid combination and conspiracy to restrain interstate trade and commerce as hereinbefore alleged, or from engaging

in any other combination or conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program, policy, or device having a similar purpose or effect.

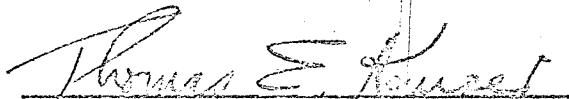
3. That the plaintiff have such other, further and different relief as the Court may deem just and proper in the premise.

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



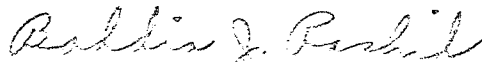
RICHARD G. KLEINDIENST  
Attorney General

JOSEPH J. CALVERT



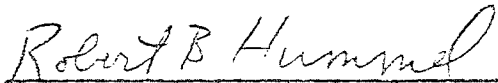
THOMAS E. KAUPER  
Assistant Attorney General

JEROME C. FINEFROCK



BADDIA J. RASHID

LESTER P. KAUFFMANN



ROBERT B. HUMMEL

Attorneys, Department of Justice

Antitrust Division  
727 New Federal Building  
Cleveland, Ohio 44199  
Telephone: 216 522-4081

CARL L. STEINHOUSE

DWIGHT B. MOORE

Attorneys, Department of  
Justice

United States Attorney