

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,)	
Plaintiff,)	
v.)	Civil Action No. 20632-2
YELLOW FREIGHT SYSTEM, INC.)	Filed: January 29, 1973
Defendant.)	<u>Entered</u> : March 6, 1973

FINAL JUDGMENT

Plaintiff, United States of America having filed its Complaint herein on October 26, 1972 and plaintiff and defendant, by their respective attorneys having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by any party with respect to any such issue of fact or law herein;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The Complaint states claims upon which relief may be granted against the defendant under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

"Director of Sales" (1) to solicit business from any firm which defendant had designated within one year prior to the date of entry of this Final Judgment as a "National Account" if such firm is a manufacturer of trucks, trailers, automotive components, tires and business forms or a petroleum refiner and (2) to be assigned to the position of "Director of Sales".

V

Defendant is ordered and directed to:

(A) Disregard sales to any supplier as a factor in all purchasing decisions whatsoever;

(B) Adopt, maintain and enforce a written corporate policy requiring that all officers and employees with purchasing responsibilities disregard sales to any supplier as a factor in all purchasing decisions whatsoever;

(C) Take all necessary and appropriate actions to inform its present and future officers and its present and future employees having managerial, purchasing or sales responsibilities or responsibility for data processing, data collecting or analyzing purchase or sales information of the provisions and requirements of this Final Judgment, and to enforce compliance therewith; and defendant shall furnish within sixty (60) days of the entry hereof a copy of this Final Judgment to each officer and to each employee having managerial, purchasing or sales responsibilities,

or responsibility for data processing, data collecting or analyzing purchases or sales information, together with a written notice, signed by its chief executive officer, in a form satisfactory to plaintiff, which notice shall promulgate the policy required by § V(B) above; and thereafter defendant shall immediately furnish a copy of this Final Judgment and such notice to each person who becomes such an officer or employee at any time;

(D) Furnish within sixty (60) days after entry thereof, a copy of this Final Judgment to each manufacturer of trucks, trailers, automotive components, tires or business forms and petroleum refiner from whom defendant purchased more than \$50,000 of products, goods or services during any of defendant's fiscal years 1969 through 1971, and to each customer designated by defendant a "National Account" in any of defendant's fiscal years 1969 through 1971, together with a written notice satisfactory to the plaintiff;

(E) File with this Court, and serve upon the plaintiff, within 75 days from the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with this Judgment; and

(F) File with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which it has taken during the prior year to comply with this Final Judgment, to advise the defendant's officers, directors and employees of its and their obligations under this Final Judgment, and to enforce their compliance therewith.

VI

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose; and subject to any legally recognized privilege;

(A) Any duly authorized representative or representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made to its principal office, be permitted:

- (1) access during the office hours of defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or under the control of defendant relating to any matters contained in this Final Judgment; and
- (2) subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding such matters;

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

No information obtained by the means provided for in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a

duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which plaintiff is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VII

Nothing in this Final Judgment shall be construed or interpreted to estop or prevent the plaintiff from investigating, challenging or attacking as illegal by or in any other proceeding or by separate action against or involving the defendant or any other firm or carrier the trade relations or reciprocity aspects or effects of interline or pooling arrangements between carriers or of arrangements between carriers establishing through routes and joint rates or to preclude the defendant from asserting any defense or objection legally available to defendant in any investigation, proceeding or action referred to by this Article VII.

VIII

Jurisdiction is retained for the purpose of enabling either of the parties 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 herein, for the enforcement of compliance therewith, and the punishment of the violation of any of the provisions contained herein.

IX

This Final Judgment shall terminate and cease to be effective ten (10) years from the date of entry of this Final Judgment.

Dated: March 6, 1973

/s/ WILLIAM R. COLLINSON
UNITED STATES DISTRICT JUDGE