

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO, TEXAS

UNITED STATES OF AMERICA, )

Petitioner, )

v. )

MARTIN LINEN SUPPLY COMPANY, )  
TEXAS SANITARY TOWEL SUPPLY )  
CORP., and )  
WILLIAM B. TROY, )

Respondents. )

Civil Action No. SA 69-CA-114

Civil Contempt Petition

Filed: 12/9/71

PETITION BY THE UNITED STATES FOR AN  
ORDER TO SHOW CAUSE WHY THE RESPONDENTS  
SHOULD NOT BE FOUND IN CIVIL CONTEMPT

The United States of America by its attorneys, acting under the direction of the Attorney General, presents this Petition for an order requiring the above-named respondents to show cause why they should not be found in civil contempt of this Court. The petitioner represents to the Court as follows:

I

PRIOR JUDGMENT OF THIS COURT

1. On April 30, 1969, petitioner filed in this Court Civil Action No. SA 69-CA-114, brought under Section 4 of the Sherman Act (15 U.S.C. § 4), charging that since at least 1963 the respondents had been engaged in a combination and conspiracy to restrain, to monopolize and to attempt to monopolize the trade of furnishing linen supplies in the State of Texas, in violation of Sections 1 and 2 of the Sherman Act.

2. On June 2, 1969, upon consent of the parties, a Final Judgment ("Judgment") was entered in this Court, in

Civil Action No. SA 69-CA-114. A copy of this Judgment is annexed to this Petition and marked as Exhibit "A".

3. Section III of the Judgment provides:

The provisions of this Final Judgment applicable to any defendant shall apply to each such defendant, to its successors and assigns, to each of their respective officers, directors, agents, servants and employees, and to all persons in active concert or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

4. Section X of the Judgment provides:

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof for the purpose of enabling the plaintiff to apply to this Court for the enforcement of compliance herewith and for the punishment of violations hereof.

## II

### DESCRIPTION OF RESPONDENTS

5. Martin Linen Supply Company ("Martin") is hereby made a respondent. Martin is a corporation organized and existing under the laws of the State of Texas with its principal office in San Antonio, Texas. Martin supplies linens in and around several large cities in the States of Texas and Oklahoma. Martin was a defendant in Civil Action No. SA 69-CA-114 and is a party to the Judgment in that action.

6. Texas Sanitary Towel Supply Corp., doing business as Cascade Linen Service ("Cascade"), is hereby made a respondent. Cascade is a corporation organized and existing under the laws of the State of New York with offices

in Dallas, Texas. Cascade is a linen supplier doing business in the State of Texas and is affiliated through common ownership with the respondent Martin. Cascade was a defendant in Civil Action No. SA 69-CA-114 and is a party to the Judgment in that action.

7. William B. Troy, the controlling stockholder and president of both Martin and Cascade, is hereby made a respondent. Troy also actively participates in the ownership and control of many other linen supply companies doing business in various other areas of the United States. William B. Troy was a defendant in Civil Action No. SA 69-CA-114 and is a party to the Judgment in that action.

### III

#### VIOLATIONS OF THE JUDGMENT ALLEGED

8. Petitioner alleges that the above-named respondents have knowingly disobeyed and violated, and are continuing to disobey and violate, orders and decrees of this Court as set forth in the Judgment and are in civil contempt of the authority of this Court, as a result, among others, of the respondents' acts set forth below:

#### A. Section V(A)(1)

9. Section V(A)(1) of the Judgment provides that:

Each corporate defendant is enjoined and restrained from, directly or indirectly:

(A) Threatening, coercing, inducing or attempting to induce:

(1) Any linen rental supplier to refrain, while in business, from furnishing linen supplies to any customer, . . .

10. Petitioner alleges that since as early as 1969 and continuing to the date of filing this Petition, the respondents have violated Section V(A)(1) of the Judgment

by threatening, coercing, inducing and attempting to induce competitors to refrain from soliciting business from linen supply customers of Martin and Cascade, by conducting retaliatory sales campaigns and threatening such campaigns, as hereinafter described.

11. In furtherance of their efforts to threaten, coerce, and induce competitors to refrain from soliciting business from linen rental users who are customers of Martin and Cascade, the respondents have, among other things:

- (a) Discussed with and communicated to competitors, directly and indirectly, the fact that respondents would recoup all business that the competitor took from respondents;
- (b) Prepared and coordinated statistical records of all business lost to and won from each of their competitors ("Competitive Standing Book") to determine those competitors against whom retaliatory sales campaigns should be started; and
- (c) Conducted the retaliatory sales campaigns described in Paragraphs 12 and 13 hereof.

12. The respondents have sought to coerce and induce Flake Uniform and Linen Supply ("Flake") of Wichita Falls, Texas, a competitive linen supplier, to refrain from soliciting customers of Cascade in the following manner:

- (a) Sometime in mid-1970, Leo Latham, branch manager of Martin in Wichita Falls, Texas, threatened Leon Flake, president of Flake, that if Flake did not stop soliciting Cascade's customers in Dallas, Texas, Martin would wage

- a price war in Wichita Falls in order to regain sales lost by Cascade to Flake;
- (b) On May 22 or June 15, 1970, Dan Sportsman, general manager of Martin, threatened Leon Flake that Martin would put him out of business;
  - (c) Sometime in early 1971, William B. Troy decided that Martin should launch a sales campaign against Flake in Wichita Falls, Texas, where both Martin and Flake were doing business, in order to retaliate for those sales that Cascade had lost to Flake in Dallas, Texas; and
  - (d) Starting in April 1971, and continuing to date, Martin has conducted a retaliatory sales campaign against Flake both in Wichita Falls, Texas, and Lawton, Oklahoma, during which (1) salesmen of Martin have trailed Flake's delivery trucks in order to ascertain which customers they should solicit; (2) Martin has offered prices at and below the lowest prices it offers for services elsewhere in the State of Texas in order to win accounts from Flake; and (3) Martin has offered substantial amounts of free service in order to obtain business at Flake's expense.

13. The respondents have sought to coerce and induce Abilene Linen Supply Company ("Abilene") of Abilene, Texas, to refrain from soliciting customers of Martin in the following manner:

- (a) In October 1969, after Abilene had obtained the Saga Food Service account which had previously been serviced by Martin, George Harrelson, a Martin branch manager in Abilene, Texas, told Don Wright, manager of Abilene, that he would "get even";
- (b) Thereafter, Abilene lost business to Martin, in an amount in excess of the Saga Food Service account, through selective price cuts on the part of Martin; and
- (c) On February 7, 1970, George Harrelson met with Don Wright and told him that if Abilene did not stop soliciting Martin's customers, he could expect more retaliation.

B. Section V(B)

14. Section V(B) of the Judgment provides that:

Each corporate defendant is enjoined and restrained from, directly or indirectly:

\* \* \*

(B) Threatening to put any linen rental supplier out of business;

15. Petitioner alleges that on May 22 or June 15, 1970, Dan Sportsman, general manager of Martin, made a telephone threat to Leon Flake, president of Flake, that Martin would put Flake out of business, in violation of Section V(B) of the Judgment.

C. Section V(E)

16. Section V(E) of the Judgment provides that:

Each corporate defendant is enjoined and restrained from, directly or indirectly:

\* \* \*

(E) Trailing or causing to be trailed the vehicle or vehicles, deliveryman or deliverymen of any other linen rental supplier;

17. Petitioner alleges that on July 12, 1971, in Altus, Oklahoma, Garry Harris, a Martin salesman, was trailing a Flake truck in violation of Section V(E) of the Judgment.

D. Section V(F)

18. Section V(F) of the Judgment provides that:

Each corporate defendant is enjoined and restrained from, directly or indirectly:

\* \* \*

(F) Temporarily augmenting or adding to its personnel in any trading area outside of the course of a normal selling campaign for the purpose or with the effect of eliminating a competitor or competitors;

19. Petitioner alleges that respondents have violated Section V(F) of the Judgment by temporarily adding the following Martin salesmen to the Wichita Falls, Texas, and Lawton, Oklahoma trading area during the following periods:

- |                  |  |
|------------------|--|
| (a) Gary Harris  | April 3 - July 23, 1971                        |
| (b) Max Welch    | May 8 - July 2, 1971                           |
| (c) Dave Isbel   | July 5, 1971 - to at least<br>August 3, 1971   |
| (d) Mark Sutphen | July 12, 1971 - to at least<br>August 3, 1971  |
| (e) Bob Davis    | March 20, 1971 - to at least<br>August 3, 1971 |

20. The above-named individuals carried out the retaliatory sales campaign against Flake which is alleged in Paragraph 12(d) hereof, and which was conducted outside

of a normal Martin selling campaign for the purpose of eliminating Flake as a competitor in the linen rental supply business in the Dallas, Texas trading area.

E. Section VI

21. Section VI of the Judgment provides that:

Each corporate defendant is enjoined and restrained from furnishing or offering or threatening to furnish linen supplies to a customer or potential customer on terms or conditions which involve below cost prices, lump sum cash payments to the customer, loans (other than bona fide loans by a defendant to its then existing customers), free service, gratuities or other similar inducements to obtain a contract or renewal of a contract for the furnishing of linen supplies, for the purpose or with the effect of eliminating a competitor or competitors.

22. Petitioner alleges that respondents carried out in part the retaliatory sales campaign described in Paragraph 12(d) hereof by using offers of free service and other similar inducements in the Wichita Falls, Texas, and Lawton, Oklahoma trading area for the purpose of eliminating Flake as a competitor in the linen rental supply business in the Dallas, Texas trading area, in violation of Section VI of the Judgment.

PRAYER

WHEREFORE, the petitioner moves this Court to:

1. Issue an order directing each of the respondents to appear before this Court, at a time and place to be fixed in said order, to show cause why they should not be adjudged in civil contempt of this Court; and

THEREAFTER,

2. Issue an order adjudging that respondents have been in civil contempt of this Court's Judgment, and further:

- (a) Issue an order that respondents forthwith cease and desist from carrying out retaliatory sales campaigns in the manner alleged herein;
- (b) Issue an order that the respondents forthwith cease and desist from maintaining a statistical record by competitor of business won and lost;
- (c) Impose an appropriate fine upon the corporate respondents Martin and Cascade for each day after this Court's order that said respondents fail to carry out the directions of this Court;
- (d) Impose an appropriate fine and imprisonment upon the individual respondent William B. Troy for each day after this Court's order that said respondent fails to carry out the directions of this Court;
- (e) Issue such further orders as the nature of the case may require and as the Court may deem just and proper to compel obedience to, and compliance with, the Judgment; and
- (f) Grant to the petitioner the cost of this proceeding.

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO, TEXAS

DEC 9 1971

*Mary K. ...*

UNITED STATES OF AMERICA, )  
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Petitioner, ) Civil Action No. SA 69-CA-114  
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v. ) Civil Contempt Petition  
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MARTIN LINEN SUPPLY COMPANY, ) Filed:  
TEXAS SANITARY TOWEL SUPPLY )  
CORP., WILLIAM B. TROY, )  
 )  
Respondents. )

ORDER TO SHOW CAUSE

Attorneys for the United States of America have heretofore filed a Petition for the prosecution of the above-named Respondents for civil contempt of Court, and have alleged in said Petition that the Respondents Martin Linen Supply Company, Texas Sanitary Towel Supply Corp. and William B. Troy have violated the Final Judgment of this Court entered on June 2, 1969 in United States v. Martin Linen Supply Company, et al., Civil Action No. SA 69-CA-114.

It appearing to this Court that good cause has been shown therefor, it is hereby

ORDERED that Martin Linen Supply Company, Texas Sanitary Towel Supply Corp., and William B. Troy respectively, show cause if any there be on the 12<sup>th</sup> day of February, 1971, at 2:00 P. M. in the courtroom of this Court in the city of San Antonio, State of Texas why it or he should not be adjudged to be in civil contempt of this Court by reason of its or his violation of the Final Judgment of this Court as aforesaid, and appropriate sanctions ordered. The hearing shall be held in Courtroom No. 2, before the Honorable John H. Wood, Jr., United States District Judge.

Sufficient cause appearing therefor, let service of a copy of this Order, together with a copy of the Affidavit and Petition annexed and filed herein, be made on each of the Respondents herein on or before the 15th day of December, 1971, in the manner herein prescribed for the service of a summons by United States Code Title 18, Federal Rules of Criminal Procedure, Rule (9)(c)(1).

Petitioner shall file its brief in support of the petition herein on or before December 27, 1971, and respondents shall file their answer and brief in response to the petition on or before January 17, 1972.

At 9:00 a.m. on Monday, January 31, 1972, counsel for petitioner and respondents are directed to appear for a conference of counsel in Room No. 303 on the Third Floor of the United States Courthouse in San Antonio, Texas, for the purpose of entering into stipulations, exchanging lists of witnesses, marking exhibits, and otherwise complying with both the spirit and purpose of Rule 16, F.R. Civ. P., and Local Court Rule 26, by simplifying the issues, expediting the trial, and saving expenses.

Entered this 9th day of December, 1971, at San Antonio, Texas.

  
Adrian A. Spears  
United States District Judge

A TRUE COPY of the original, I certify

DAN WA. BENTON, Clerk

  
Dan W. Benton, Clerk