

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ASSOCIATION OF RETAIL TRAVEL AGENTS,

Defendant.

Civil Action No.:

94 230

10/25/94

FINAL JUDGMENT

Plaintiff, United States of America, filed its complaint on October 25, 1994. Plaintiff and defendant, by their respective attorneys, have consented to the entry of the Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party with respect to any issue of fact or law. 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, it is hereby

ORDERED, ADJUDGED, AND DECREED, as follows:

I.

This Court has jurisdiction over the subject matter of and parties to this action. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II.

The provisions of this Final Judgment shall apply to defendant, to the officers, directors, agents, employees, successors, and assigns of defendant, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

III.

Defendant is enjoined from:

- (A) inviting or encouraging concerted action by travel agents or travel agencies to refuse to do business with specified suppliers of travel services or to do business with specified suppliers only on specified terms; and
- (B) directly or indirectly adopting, disseminating, publishing, or seeking adherence to any rule, bylaw, resolution, policy, guideline, standard, objective, or statement made or ratified by an officer, director or other official of defendant that has the purpose or effect of advocating or encouraging any of the practices identified in Section III(A) above.

IV.

(A) Nothing in this Final Judgment shall prohibit any individual travel agent or travel agency, acting alone and not on behalf of defendant, from negotiating commission rates and

policies with suppliers of travel services, or from choosing the suppliers whose services they wish to sell.

(B) Nothing in this Final Judgment shall prohibit defendant from advocating or discussing, in accordance with the doctrine established in Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127 (1961), and its progeny, legislative, judicial or regulatory actions, or governmental policies or actions.

V.

Defendant is ordered:

- (A) to cause the annual publication of a summary of this Final Judgment, in a form acceptable to the Assistant Attorney General in charge of the Antitrust Division, in ARTAFacts or any equivalent newsletter provided to its members;
- (B) to provide a copy of this Final Judgment to each director, officer, and chapter president at the time they take office and annually, and to obtain a written certification from those persons that they received, read, understand to the best of their ability, and agree to abide by this Final Judgment and that they have been advised and understand that noncompliance with the Final Judgment may result in disciplinary measures and also may result in conviction of the person for criminal contempt of court.

VI.

Defendant is ordered to maintain an antitrust compliance program which shall include an annual briefing of the defendant's Board of Directors, officers, chapter presidents, and non-clerical employees on this Final Judgment and the antitrust laws.

VII.

(A) To determine or secure compliance with this Final Judgment and for no other purpose, duly authorized representatives of the plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) access during defendant's office hours to inspect and copy all documents in the possession or under the control of defendant, who may have counsel present, 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, employees, or agents of defendant, who may have counsel present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports, under oath if requested, relating to any matters contained in

this Final Judgment as may be reasonably requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VII shall be divulged by the plaintiff 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 the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

VIII.

This Final Judgment shall expire ten (10) years from the date of entry.

IX.

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to

this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

X.

Entry of this Final Judgment is in the public interest.

DATED:

UNITED STATES DISTRICT JUDGE