

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CENTRAL PARKING CORPORATION, and
ALLRIGHT HOLDINGS, INC.

Defendants.

99 0652

Civil Action No.

JUDGE

Filed: March __, 1999

Entered: February 11, 2000

FILED

FEB 14 2000

FINAL JUDGMENT

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

WHEREAS, plaintiff, the United States of America, and defendants Central Parking Corporation ("Central") and Allright Holdings, Inc. ("Allright"), 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 any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

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AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of parking facilities to ensure that competition is not substantially lessened;

AND WHEREAS, plaintiff requires defendants to make certain divestitures for the purpose of preserving competition in the off-street parking services markets specified in the Complaint;

AND WHEREAS, defendants have represented to the plaintiff that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

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.

JURISDICTION

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II.

DEFINITIONS

As used in this Final Judgment:

A. "Central" means defendant Central Parking Corporation, a Tennessee corporation with its headquarters in Nashville, Tennessee, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. "Allright" means defendant Allright Holdings, Inc., a Delaware corporation with its headquarters in Houston, Texas, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. "Owned Parking Facilities" shall consist of all assets and properties owned by defendants listed in Schedule A.

D. "Parking Facility Agreements" shall consist of all agreements between or among the defendants and the owner or manager of the parking facilities listed in Schedule B.

E. "Acquirer" means the entity or entities to whom the defendants divest the Parking Facilities, or that succeed to the defendants' interests in any Parking Facility Agreement that is transferred pursuant to this Final Judgment.

F. "Parking Facilities" means the properties listed in Schedules A and B.

G. "Divest" or "Divestiture" means, (1) in connection with the Owned Parking Facilities listed in Schedule A, their sale, and (2), in connection with the Parking Facilities listed in Schedule B, the transfer of the Parking Facility Agreements by termination or assignment.

III.

APPLICABILITY

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

B. Defendant Central shall require, as a condition of the sale of all or substantially all of its assets, that the Acquirer or Acquirers agree to be bound by the provisions of this Final Judgment; however defendant Central need not obtain such an agreement from an Acquirer in connection with the divestiture of the Parking Facilities.

IV.

DIVESTITURES

A. Defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment, within one hundred and fifty (150) calendar days after the filing of the Complaint in this matter, or within five (5) days after notice of

entry of the Final Judgment, whichever is later, to divest all Parking Facilities identified in Schedules A and B to this Final Judgment as viable, ongoing parking services businesses. The divestiture of Parking Facilities shall be to an Acquirer or Acquirers acceptable to the United States in its sole discretion.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Parking Facilities to be divested. Defendants shall inform any person making an inquiry that the divestiture is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all bona fide prospective Acquirers, subject to customary confidentiality assurances, all information regarding the Parking Facilities customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall permit prospective Acquirers of the Parking Facilities to have access to personnel and to any and all zoning, building, and other permit documents and information, and to make inspection of the Parking Facilities and of any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

D. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously as possible. The United States, in its sole discretion, may extend the time period for any divestiture for two (2) additional thirty (30) day periods, not to exceed sixty (60) calendar days in total.

E. Defendants shall use all commercially practical means to enable the Acquirer of any Parking Facility to employ any person whose primary responsibility concerns any parking services business connected with the Parking Facilities.

Defendants shall not interfere with any negotiations by any Acquirer to employ any Central or Allright (or former Central or Allright) employee whose primary responsibility concerns any parking services business connected with the Parking Facilities. Defendants shall provide to any Acquirer information relating to such personnel to enable the Acquirer to make offers of employment, and defendants shall remove any impediments that may deter these employees from accepting such employment, including but not limited to, non-compete agreements.

F. Defendants shall not take any action, direct or indirect, that will impede in any way the operation of any parking business connected with the Parking Facilities, or take any action, direct or indirect, that would impede the divestiture of any Parking Facility.

G. Defendants may not enter into any agreement to operate any parking business at the facilities listed in Schedule B within two (2) years of divestiture.

H. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section VI, shall include all the Parking Facilities and be accomplished by divesting the Parking Facilities to an Acquirer or Acquirers in such a way as to satisfy the United States, in its sole discretion, that the Parking Facilities can and will be used by the Acquirers as viable ongoing off-street parking services businesses, and the divestitures will remedy the harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section VI of this Final Judgment, shall be made to an Acquirer or Acquirers that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, and financial capability) of competing effectively with the defendants in providing off-street parking services.

V.

NOTICE OF PROPOSED DIVESTITURES

A. Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Section IV or VI of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture.

B. The notice of any proposed divestiture shall list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership, management or leasehold interest in the facility to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States of a divestiture notice, the United States, in its sole discretion, may request from defendants, the proposed Acquirer, the trustee, or any other third party additional information concerning the proposed divestiture and the proposed Acquirer. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after the United States has been provided the additional information requested from the defendants, the proposed Acquirer, the trustee, or any third party, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendants (and the trustee, if applicable) that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section VI(F) of this Final Judgment.

C. Absent written notice that the United States does not object to the proposed Acquirer, or upon objection by the United States, a proposed divestiture under Section IV or Section VI may not be consummated. Upon objection by defendants under the provision in Section VI(F), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VI.

APPOINTMENT OF TRUSTEE

A. In the event that defendants have not divested the Parking Facilities as specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States, to effect the divestiture of each such Parking Facility.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to divest Parking Facilities.

C. The trustee shall have the power and authority to accomplish any and all divestitures of Parking Facilities at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate.

D. Subject to Section VI(G) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of the defendants any investment bankers, attorneys, or other agents reasonably necessary in the

judgment of the trustee to assist in the divestitures or terminations, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time.

E. The trustee shall have the authority to accomplish the divestitures of Parking Facilities to an Acquirer or Acquirers acceptable to the United States, in its sole discretion, and shall have such other powers as this Court shall deem appropriate.

F. Defendants shall not object to a divestiture by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section V of this Final Judgment.

G. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the divestiture of each Parking Facility divested by the trustee. The trustee shall also account for all costs and expenses incurred to accomplish the divestitures. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents

retained by the trustee shall be reasonable in light of the value of the divested facility and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished.

H. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the Parking Facilities to be divested, and defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Defendants shall permit bona fide prospective Acquirers of the Parking Facilities to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

I. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the

extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Parking Facilities to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Parking Facilities.

J. If the trustee has not accomplished such divestitures within ninety (90) days after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the Final Judgment which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VII.

AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed pursuant to Section IV or VI of this Final Judgment, defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Parking Facilities to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit an Acquirer for any and all Parking Facilities, to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Until one year after all the divestitures have been completed, defendants shall preserve all records of all efforts made to effect each divestiture.

VIII.

COMPLIANCE INSPECTION

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and
2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VII or VIII of this Final Judgment shall be divulged by a representative of the United States 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 (including grand jury proceedings), 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 defendants to United States, defendants represent and identify 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 defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days notice shall be given by the United States to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

IX.

RETENTION OF JURISDICTION

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 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 hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

X.

FINANCING

Defendants are ordered and directed not to finance all or part of any divestiture made pursuant to Sections IV or VI of this Final Judgment.

XI.

TERMINATION

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XII.

PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Dated February 11, 1999.

Court approval subject to procedures of
Antitrust Procedures and Penalties Act,
15 U.S.C. § 16.



United States District Judge

SCHEDULE A

City	Facility
San Antonio, TX	Allright Facility 45 at 408 Martin St.

SCHEDULE B

City	Facility
Baltimore, MD	Central Facility 40 at 1 South Street
Cincinnati, OH	Allright Facility 81 at 312 Elm St. Central Facility 20 at 30 W. 4th St.
Columbus, OH	Allright Facility 33 at 503 S. Front St. Central Facility 117 at 329 State St.
Dallas, TX	Allright Facility 381 at 608 N. St Paul St. Allright Facility 382 at 2013 San Jacinto St. Allright Facility 383 at 502 N. St Paul St. Central Facility 61 at Corner of Routh St. and Ross St.
Denver, CO	Allright Facility 108 at 1801 Market St. Allright Facility 268 at 1735 Blake St. Allright Facility 269 at 1775 Blake St. Allright Facility 485 at 1670 Larimer St. Central Facility 21 at 17th and Blake St. Central Facility 50 at 1627 California St.
El Paso, TX	Allright Facility 208 at 149 Ochoa St. Allright Facility 205 at 605 Myrtle Ave.
Houston, TX	Allright Facility 589 at 1110 Lamar St. Central Facility 31 at 1111 Fannin St. Allright Facility 168 at 1204 Bagby St. Allright Facility 501 at 1000 Bell Ave.
Jacksonville, FL	Allright Facility 13 at 425 W. Adams St. Allright Facility 21 at 304 N. Pearl St. Allright Facility 22 at 325 N. Broad St. Allright Facility 82 at SW Corner Clay/Forsyth Central Facility 107 at 213-4 Julie St.
Kansas City, MO	Allright Facility 155 at 714 E. 11th St.
Knoxville, TN	Allright Facility 110 at 505 Locust St. S.W. Allright Facility 149 at 408 Church Ave. S.W. Allright Facility 181 at 508A Clinch Ave.

City	Facility
Memphis, TN	Allright Facility 335 at 215 Jefferson Ave. Allright Facility 333 at 199 Jefferson Ave. Allright Facility 381 at 120 Union Ave. Allright Facility 141 at 188 South Main St. Central Facility 510 at 54 N. 2nd St. Central Facility 511 at 160 Court St. Central Facility 512 at 20 S. Front St. Central Facility 513 at 100 N. Front St. Central Facility 517 at 236 Adams St. Central Facility 525 at 444 North Main St.
Miami, FL	Allright Facility 161 at 153 SE 2nd St. Central Facility 6136 at 300 SE 3rd Ave. Central Facility 6137 at 301 SE 3rd. Ave. Central Facility 6138 at 200 SE 3rd Ave.
Nashville, TN	Allright Facilities 64 and 118 at 210-220 4th Ave. S. Allright Facility 11 at 143 7th Ave. No. Allright Facility 34 at 719-721 Church St. Allright Facility 115 at 217 7th Ave. So. Allright Facility 70 at 703 3rd Ave. N. Allright Facility 6 at 168 8th Ave. N. Allright Facility 114 at SW Corner of 2nd Ave. S and Molloy St Central Facility 89 at 501 Broadway Central Facility 85 at 149 7th Ave. S. Central Facility 27 at 128 8th Ave. N. Central Facility 109 at 147 4th Avenue N. Central Facility 36 at 144 5th Avenue N. Central Facility 53 at 116 5th Avenue N. Allright Facilities 35 and 48 at 411 Church St.
New York, NY	Central Facility 2227 at 345 W. 58th St. Allright Facility 249 at 14-26 S. William St. Allright Facility 41 at 136 W. 40th St. Allright Facility 282 at 401-471 W. 42nd St.
Philadelphia, PA	Central Facility 27 at 210 W. Rittenhouse Sq. Allright Facility 81 at 1215 Walnut St.

City	Facility
San Antonio, TX	Allright Facility 38 at 422 Bonham St Allright Facility 18 at 309 Elm St. Allright Facility 42 at 303 Blum St. Central Facility 709 at 300 East Houston St. Central Facility 789 at 240 Broadway St. Central Facility 790 at 110 Broadway St. Central Facility 794 at 213 Broadway St.
San Francisco, CA	Central Facility 135 at 3rd. and Brannan St.
Tampa, FL	Allright Facility 415 at 1001 N. Morgan St.