

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

94 0690

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,

et al.

Defendants.

Civil Action No.: 94 069

Entered: June 14, 1994

FILED

MAR 31 1994

Clerk, U.S. District Court
District of Columbia

FINAL JUDGMENT

Plaintiff, United States of America, filed its Complaint on March 30, 1994. Plaintiff and defendants, 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.

JURISDICTION

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 8 of the Clayton Act, 15 U.S.C. § 19.

II.

DEFINITIONS

As used herein, the term:

(A) "airline" means any scheduled air passenger carrier as defined in 49 U.S.C. § 1301(3) or 1301(22);

(B) "Confidential Information" means non-public information relating to an airline's costs, performance, service, operations, pricing, marketing, scheduling, equipment purchasing, route selection decisions or plans, or any other commercial decisions, learned by virtue of an IAM Board Representative's service on the board of directors of an airline.

(C) "Grand Lodge" means the Grand Lodge of the International Association of Machinists and Aerospace Workers, AFL-CIO, and all directors, officers, employees, members, agents, consultants, representatives, or other persons acting for or on behalf of any of them;

(D) "IAM" means the International Association of

Machinists and Aerospace Workers, AFL-CIO each of its divisions and subdivisions, including Districts and Locals, subsidiaries, and affiliates, each other person directly or indirectly, wholly or in part, owned or controlled by it, and all directors, officers, employees, members, agents, consultants, representatives, or other persons acting for or on behalf of any of them;

(E) "IAM Board Representative" means an individual who the IAM nominates or appoints to, or who represents the IAM on, the board of directors of any airline;

(F) "Information Relating to Labor Relations" means all information required to fulfill the IAM's duty of fair representation relating to wages, hours, benefits, grievances, strikes, organizing efforts, past practices, and other terms and conditions of employment for any employee represented by the IAM pursuant to the Railway Labor Act (45 U.S.C. § 151, et seq.);

(G) "person" means any natural person, corporation, firm, company, sole proprietorship, partnership, association, institution, governmental unit, labor union, or other legal entity; and

(H) "relating to" means concerning, pertaining to, referring to, or relevant to.

III.

APPLICABILITY

(A) This Final Judgment applies to the defendants and to

each of their successors, assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise.

(B) Nothing herein contained shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

IV.

PROHIBITED CONDUCT

1. Defendant IAM shall require any IAM Board Representative to refrain from:

- (A) engaging, directly or indirectly, in any communications of Confidential Information with any IAM Board Representative on the board of directors of any other airline;;
- (B) disclosing, directly or indirectly, any Confidential Information of the airline of which he or she is a director to any person who is not employed by such airline;
- (C) voluntarily receiving, directly or indirectly, any Confidential Information (except Information Relating to Labor Relations) from the IAM relating to any other airline;
- (D) agreeing with (or soliciting an agreement by) any other IAM Board Representative serving on the board of directors of any other airline that their respective airlines would reduce or eliminate actual or potential

competition between them in violation of Sections 1 or 2 of the Sherman Act (15 U.S.C. §§ 1-2) -- including any agreement, understanding, or solicitation of an agreement to:

- (i) increase any current fare;
 - (ii) refrain from decreasing any current fare;
 - (iii) set the amount, duration or restrictions of any future fare;
 - (iv) eliminate, reduce, or narrow any current fare, including any promotion or discount fare;
 - (v) refrain from introducing or extending any promotion or discount fare;
 - (vi) reduce or refrain from advertising any service or fare;
 - (vii) reduce flight schedules, frequency, or capacity;
 - (viii) eliminate or reduce existing service;
 - (ix) refrain from establishing any service; or
 - (x) limit, set the price of, or refrain from providing any service to any other airline, including gates, ticketing, facilities, or ground handling, on any route or for any service for which the two airlines are actual or potential competitors.
- (E) engaging directly in any communications with any IAM Board Representative on the board of directors of any other airline with the purpose or effect of:

- (i) increasing any current fare;

- (ii) decreasing any current fare;
- (iii) affecting any future fare;
- (iv) eliminating, reducing, or narrowing any current fare, including any promotion or discount fare;
- (v) introducing or extending any promotion or discount fare; or
- (vi) reducing or refraining from advertising of any service or fare,

on any route or for any service for which the two airlines are actual or potential competitors.

(F) engaging directly in any communications with any IAM Board Representative on the board of directors of any other airline with the purpose or effect of:

- (i) eliminating or reducing flight frequency or capacity;
- (ii) eliminating or reducing existing service;
- (iii) establishing any service; or
- (iv) limiting, withholding or pricing services provided to any other airline, including gates, ticketing, facilities, and ground handling,

on any route or for any service for which the two airlines are actual or potential competitors, provided however that this paragraph does not prohibit communications that the defendant establishes are primarily Information Relating to Labor Relations.

2. Defendants Tom Ducey, William O'Driscoll and William Winpingsinger are enjoined and restrained from doing anything prohibited by this Final Judgment, including prohibitions 1(A)-(F) above.

3. The Grand Lodge is enjoined and restrained from:

(A) nominating or appointing as an IAM Board

Representative, any person unless such person certifies in writing that he or she agrees to be bound by the terms of this Final Judgment, including prohibitions 1(A)-(F) above;

(B) nominating or appointing as an IAM Board

Representative any person who is an active official or employee of a District Lodge or Local Lodge which already has another active official or employee serving as an IAM Board Representative on the board of another airline;

(C) disclosing, directly or indirectly, any Confidential Information (except Information Relating to Labor

Relations) obtained, directly or indirectly, from any IAM Board Representative serving on the board of directors of an airline to any person who is not employed by that airline;

(D) disclosing, directly or indirectly, any Confidential Information (except Information Relating to Labor

Relations) obtained, directly or indirectly, from any IAM Board Representative to any other IAM Board Representative on the board of directors of any other airline.

V.

COMPLIANCE PROGRAM

(A) The Grand Lodge is ordered to maintain an antitrust compliance program, which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for accomplishing the antitrust compliance program and with the purpose of achieving compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, supervise the review of the current and proposed activities of the Grand Lodge to ensure that it complies with this Final Judgment. The Antitrust Compliance Officer shall be responsible from the date of entry of this Final Judgment for accomplishing the following activities:

(1) Distributing, within 60 days from the entry of this Final Judgment, a copy of this Final Judgment to all officers of the IAM;

(2) Distributing in a timely manner a copy of this Final Judgment to any officer who succeeds to a position described in Section V(A)(1);

(3) Obtaining from each officer of the Grand Lodge an annual written certification that he or she: (1) has read, understands, and agrees to abide by the terms of this Final Judgment; and (2) has been advised and understands that his or her failure to comply with this Final Judgment may result in conviction for criminal contempt of court.

(4) Maintaining a record of recipients to whom the Final Judgment has been distributed and from whom the certification in Section V(A)(3) has been obtained.

(B) The Antitrust Compliance Officer shall be responsible for distributing a copy of the Final Judgment to any person nominated or appointed by the Grand Lodge as an IAM Board Representative, and obtaining from such person a written certification that he or she: (1) has read, understands, and agrees to abide by the terms of this Final Judgment; and (2) has been advised and understands that his or her failure to comply with this Final Judgment may result in conviction for criminal contempt of court.

VI.

CERTIFICATION

(A) Within 75 days after the entry of this Final Judgment, the Grand Lodge shall certify to the plaintiff whether it has designated an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section V above.

(B) For four years after the entry of this Final Judgment, on or before its anniversary date, the Grand Lodge shall file with the plaintiff a statement as to the fact and manner of its compliance with the provisions of Section V(A).

VII.

PLAINTIFF ACCESS

(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 any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) access during such defendant's office hours to inspect and copy all documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees or agents of such 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 any defendant's principal office, such 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.

VIII.

FURTHER ELEMENTS OF THE FINAL JUDGMENT

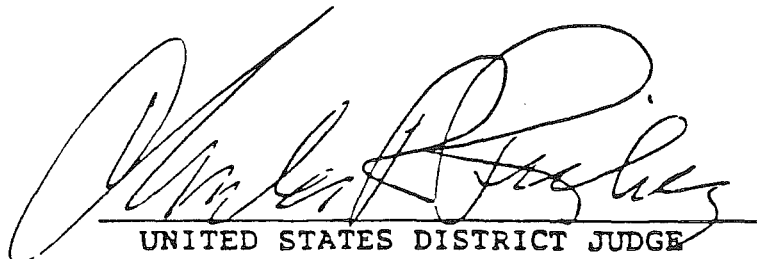
(A) Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

(B) This Final Judgment shall terminate ninety (90) days after the Grand Lodge or any District or Local Lodge ceases to have the right to have an IAM Board Representative on the boards of directors of more than one airline.

(C) Entry of this Final Judgment is in the public interest.

DATED:

3/31/94


UNITED STATES DISTRICT JUDGE