

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS -- SPRINGFIELD DIVISION

FILED
OCT 12 1994
JOHN M. WATERS, Clerk
U. S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 GERALD PETTY, d/b/a TRI-R-DISPOSAL;)
 and LEO CAREY and GRACE CAREY,)
 individually and d/b/a CAREY'S)
 DISPOSAL SERVICE,)
)
 Defendants.)

No. 94-3142

Entered: October 11, 1994

FINAL JUDGMENT

RICHARD MILLS, District Judge:

Plaintiff, United States of America, filed its Complaint on May 31, 1994. Plaintiff and Defendants, by their respective attorneys, have consented to the entry of this 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 any testimony is taken, and without trial or adjudication of any issue of fact or law, 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 to this Final Judgment. The Complaint states a claim upon which relief may be granted against each Defendant under § 1 of the Sherman Act, 15 U.S.C.

§ 1.

II.

DEFINITIONS

As used in this Final Judgment:

(A) "Defendant" or "Defendants" means each of the named Defendants in this action; each affiliate or partnership of any of them; and each officer, employee, agent, and other person acting for or on behalf of any of them or any of their affiliates or partnerships;

(B) "Intracompany communication" means any communication relating solely to the operations of a company that is solely between individuals who are officers or employees of that company;

(C) "Person" means any individual, partnership, firm, association, corporation, or other business or legal entity. In the case of an individual, the term also means any employee, agent or other person acting for or on behalf of the individual. In the case of any business or legal entity, the term also means each subsidiary, affiliate, division or partnership of the business or legal entity and each officer,

director, employee, agent or other person acting for or on behalf of any of them;

(D) "Rate" means any actual, proposed or list price, bid or quote, and any information relating to any price, bid or quote, including but not limited to any profit margin; premium; markup; commission; discount; labor, unit, material, equipment, fees, or other costs; formulas or other methods used to determine any price or cost; and credit or payment terms;

(E) "Waste Services" means any collection, pick-up, hauling, transportation, dumping, recycling, sale or disposal of garbage, trash, rubbish, scrap, by-products or other waste materials.

III.

DEFENDANTS

(A) Defendant Gerald Petty operates a waste services business under the name Tri-R-Disposal in Christian County, Illinois.

(B) Defendants Leo and Grace Carey operate a waste services business under the name Carey's Disposal Service in Christian County, Illinois.

IV.

APPLICABILITY

(A) The provisions of this Final Judgment shall apply to Defendants, to each of

their successors and assigns, and to 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) 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.

(C) Defendants shall each require, as a condition of the sale or other disposition of all or substantially all of their assets used in providing waste services that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

V.

PROHIBITED CONDUCT

(A) Each Defendant is enjoined and restrained from directly and indirectly disclosing to any other Defendant or any other person engaged in providing waste services any rate prior to its having been disclosed to the general public.

(B) Each Defendant is enjoined and restrained from advertising, publishing, announcing, or disseminating any rate for any waste services jointly or in concert or in connection with any other Defendant or any other person engaged in providing waste services.

(C) Nothing in Section V of this Final Judgment shall prohibit any:

(1) intracompany communication;

(2) Defendant from engaging in any good faith

communication relating to any actual or possible contract to

provide waste services or to purchase waste services from any other person engaged in providing waste services as long as both (i) the purpose or effect of any such communication or contract is not to eliminate or suppress competition in the supply or sale of waste services; and (ii) the information disclosed during any such communication and the scope of any such contract are no broader than is necessary to provide or purchase the specific waste services in question.

VI.

COMPLIANCE PROGRAM

(A) Defendants are ordered to establish and 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 his or her company to ensure that it complies with this Final Judgment. The Antitrust Compliance Officer shall be responsible for accomplishing the following activities:

(1) Distributing, within 60 days from entry of this Final Judgment, a copy of this Final Judgment to all owners, officers, and employees who have responsibility for approving, disapproving, monitoring, recommending or

implementing any prices;

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

(3) Briefing annually those persons designated in Sections VI(A)(1) and (2) on the meaning and requirements of this Final Judgment and the antitrust laws;

(4) Obtaining from each owner, officer or employee designated in Section VI(A)(1) and (B)(2) a written certification that he or she (a) has read, understands, and agrees to abide by the terms of this Final Judgment; (b) understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court; and (c) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer; and

(5) Maintaining a record of recipients from whom the certification in Section VI(A)(4) has been obtained.

VII.

CERTIFICATION

(A) Within 75 days of the entry of this Final Judgment, Defendants shall each certify to Plaintiff whether the Defendant has designated an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section VI(A)(1) above.

(B) For ten years after the entry of this Final Judgment, on or before its anniversary date, each Defendant shall file with the Plaintiff an annual statement as to the fact of its compliance with the provisions of Sections V and VI(A).

(C) If Defendant's Antitrust Compliance Officer learns of any violations of any of the terms and conditions contained in this Final Judgment, Defendant shall immediately notify Plaintiff and forthwith take appropriate action to terminate or modify the activity so as to comply with this Final Judgment.

VIII.

PLAINTIFF ACCESS

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of Plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any Defendant, be permitted, subject to any legally recognized privilege:

(1) Access during that Defendant's office hours to inspect and copy all records and documents in its possession or under its control, relating to any matters contained in this Final Judgment; and

(2) To interview that Defendant's officers, employees, trustees or agents, who may have counsel present, regarding any such matters. The interviews shall be subject to that Defendant's reasonable convenience and without restraint or interference from any Defendant.

(B) Upon the written request of the Assistant Attorney General in charge of the

Antitrust Division, any Defendant shall submit such written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VIII 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) Nothing set forth in this Final Judgment shall prevent the Antitrust Division from utilizing other investigative alternatives, such as the Civil Investigative Demand process provided by 15 U.S.C. § 1311-1314 or a federal grand jury, to determine if the Defendant has complied with this Final Judgment.

IX.

FURTHER ELEMENTS OF FINAL JUDGMENT

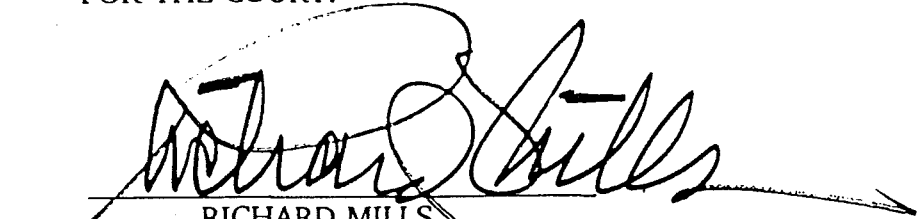
(A) This Final Judgment shall expire ten (10) years from the date of its entry.

(B) Jurisdiction is retained by this Court to enable any of the parties to the Final Judgment to apply to this Court at any time for such 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.

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

ENTER: 11 October, 1994.

FOR THE COURT:



RICHARD MILLS
United States District Judge