

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. C-C-81-328  
 )  
 THE DICKERSON GROUP, INC., ) Filed: July 28, 1981  
 )  
 Defendant. ) Entered: October 15, 1981

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on 1981 and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue:

NOW, THEREFORE, before the taking of any testimony 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

This court has jurisdiction of the subject matter of this action and of the parties. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any natural person, partnership, firm, corporation, association, or other business or legal entity;

(B) "Asphalt" means a paving material consisting of aggregates using asphalt cement or liquid asphalt as the cementing agent; and

(C) "Road building work" means the building, rebuilding, surfacing, resurfacing or maintenance of public and non-public roads, bridges, ramps, grade separation structures, airport runways, taxiways, aprons, parking lots and other paved areas, and includes all services bid or performed in connection therewith, including, but not limited to, grading, paving, earth moving, landscaping and the installing or repair of culverts, and all materials supplied in connection therewith.

### III

This Final Judgment applies to the defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, 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.

### IV

Defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any person to:

(A) Raise, fix, establish, stabilize, maintain, or adhere to prices, discounts or any other term or condition of sale for road building work or the sale of asphalt to any third person;

(B) Submit noncompetitive, collusive or rigged bids, or refrain from bidding on road building work or the sale of asphalt to any third person; and

(C) Allocate or divide jobs, markets, customers, contracts or territories for road building work or the sale of asphalt to any third person.

V

Defendant is enjoined and restrained from communicating with, or requesting from any other person engaged in road building work or the sale of asphalt, information concerning: (A) any past, present, future or proposed bid, or the consideration of whether to make any bid, for road building work or the sale of asphalt to any third person; (B) any past, present, future or proposed price, discount or other term or condition of sale for road building work or the sale of asphalt or the consideration of whether to make any change in any actual or proposed price, discount or other term or condition of sale for road building work or the sale of asphalt; or (C) sales or cost of road building work or asphalt sales, production, or costs.

VI

This Final Judgment shall not apply to: (A) any necessary communication in connection with formulating or submitting with any person a bona fide joint bid or quotation, when the formulation or submission of such joint bid or quotation has been requested by or is known to the purchaser; (B) any necessary communication in connection with a bona fide contemplated or actual purchase or sales transaction between the parties to the communication; and (C) any communication that is made to the public or trade generally, but is not made directly to any other person engaged in road building work or the sale of asphalt.

## VII

(A) Defendant shall, within 60 days after entry of this Final Judgment, furnish a copy of it to each of its employees who has any responsibility for bidding or estimating road building work or contracts for the sale of asphalt or any authority over the establishment of prices for road building work or asphalt.

(B) Defendant shall furnish a copy of this Final Judgment to each person who becomes an employee described in subsection (A) of this section, within 60 days after the employee assumes the position that brings the employee within that description.

(C) Defendant shall take additional affirmative steps to advise each of its employees described in subsections (A) and (B) of this section of its and of their obligations. These steps shall include distribution to each of them, at least once every two years, of copies of this Final Judgment and of a written directive about the defendant's policy requiring compliance with the Sherman Act and with the judgment. The directive shall include an admonition that noncompliance will result in appropriate disciplinary action, which may include dismissal, and advice that the defendant's legal advisors are available to confer about any compliance questions. The defendant shall require that each of the employees described in subsections (A) and (B) of this section submit to it a signed statement, which it shall retain in its files, acknowledging each receipt of copies of the judgment and the directive, acknowledging that the employee has read them, acknowledging that the employee has been advised and understands that noncompliance

will result in appropriate disciplinary action, which may include dismissal, and acknowledging that the employee has been advised and understands that noncompliance with the judgment may also result in conviction for contempt of court and fine or imprisonment, or both.

(D) Defendant shall file with the court and serve on the plaintiff, within 90 days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection (A) of this section.

#### VIII

Defendant shall require in conjunction with the sale or disposition of all, or substantially all, of the total assets of its road building work business or asphalt business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the court, and serve on the plaintiff, its consent to be bound by this Final Judgment.

#### IX

For the purpose of determining or securing compliance with this Final Judgment, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or his or her agent made to the defendant at its principal office, subject to any legally recognized privilege:

(A) On reasonable notice to the defendant, which may have counsel present, duly authorized representatives of the Department of Justice shall be permitted:

1. Access, during office hours of the defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, directors, employees or agents of the defendant, any of whom may have counsel present, regarding any matters contained in this Final Judgment.

(B) The defendant shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may be reasonably requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice 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.

(C) If, at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in the 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 the 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 the plaintiff shall give ten days notice to the defendant before divulging the material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained by this court for the purpose of enabling any of the parties 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 its provisions, for the enforcement of compliance with it or for the punishment of any violation of it.

XI

This Final Judgment shall be in effect for the period of ten years following the date of its entry.

Entry of this Final Judgment is in the public interest.

Dated: October 15, 1981

/s/ Judge McMillan  
UNITED STATES DISTRICT JUDGE