

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Ryder System, Inc., U.S. District Court, S.D. Florida, 1961 Trade Cases ¶70,056, (Jun. 15, 1961)

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United States v. Ryder System, Inc.

1961 Trade Cases ¶70,056. U.S. District Court, S.D. Florida. Civil No. 10,292. Filed June 15, 1961. Case No. 1564 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquisitions—Consent Decree—Subsidiaries—Leave of Court.—Prohibitions in a consent decree would not apply to the acquisition by a defendant truck renting and leasing system of the assets or stock of one of its subsidiaries or to the transfer of stock or assets from the defendant or a subsidiary to another subsidiary. Other acquisitions would be permitted with the consent of the Department of Justice or by approval of the court on certain named conditions.

Acquisitions—Consent Decree—Truck Renting and Leasing—Divestiture—Assistance to Purchasers.—A defendant truck renting and leasing system was ordered by a consent decree to sell all of its interests in varying numbers of trucks (acquired from persons who had been engaged in the truck renting or leasing business) and accompanying lease contracts in five named cities within one year. It was also required to give assistance to the purchasers in selecting and acquiring locations for truck renting or leasing. A three-year prohibition against the acquisition of stock or assets of any truck renting or leasing business was included as to those five cities and to any other city in which the defendant has had a truck rental fleet of fifty or more during a base period.

For the plaintiff: Lee Loevinger, Assistant Attorney General, William D. Kilgore, Jr. Larry L. Williams, Samuel Z. Gordon.

For the defendant: Sullivan & Cromwell by William E. Willis, a member of the firm, and Castle W. Jordan, General Counsel to Ryder System, Inc.

Final Judgment

CHOATE, District Judge [*In full text*]: Plaintiff,, United States of America, having filed its complaint herein on October 3, 1960, and the defendant, Ryder System, Inc., having appeared by its attorneys and filed its answer to such complaint, denying the substantive allegations thereof, and plaintiff and defendant having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without any admission by plaintiff or defendant in respect to any such issue;

Now, therefore, before any testimony has been taken and without trial or adjudication of or any admission with respect to any issue of fact or law herein, it is hereby

Ordered, adjudged and decreed as follows :

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto pursuant to Section 15 of the Act of Congress of October 15, 1914, as amended, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, and the complaint states a claim for relief under Section 7 of said Act, as amended.

II

[*Definitions*]

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As used in this Final Judgment:

(A) "Ryder" shall mean defendant, Ryder System, Inc., a corporation organized and existing under the laws of the State of Florida, with its principal office at Miami, Florida;

(B) "Renting" shall mean hiring out for relatively short-term periods, e.g., by the hour, day or week;

(C) "Leasing" shall mean hiring out for relatively long-term periods, e.g., by the year, but shall exclude so-called "finance leasing" under which the lessor does not provide any one of the following services: maintenance, storage, fuel, oil or insurance;

(D) "Motor trucks" shall include trucks, tractors and semi-trailers;

(E) "Person" shall mean any individual, firm, association, partnership, corporation, company or other legal or business entity.

III

[*Parties Bound*]

The provisions of this Final Judgment applicable to defendant Ryder shall be binding upon Ryder, its officers, agents, servants, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with Ryder who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply or relate to activities or operations outside the United States.

None of the provisions of this Final Judgment shall apply to any person, other than defendant Ryder, who acquires any motor trucks, leasing contracts or locations for conducting a motor truck renting or leasing business from defendant Ryder whether the acquisition is pursuant to this Final Judgment or otherwise.

IV

[*Acquisitions*]

For a period of three (3) years from the date of this Final Judgment, defendant Ryder is enjoined and restrained from acquiring from any person, directly or indirectly, whether by way of acquisition of assets or capital stock, all or any part or interest in the business of renting or leasing motor trucks conducted by any such person (a) in any city in which defendant Ryder shall theretofore have been in the business of renting or leasing motor trucks and in which defendant Ryder shall have maintained for leasing or renting purposes or both during any one of the three (3) months next preceding the date of acquisition, an average fleet of fifty (50) or more motor trucks, a list of all cities in which defendant Ryder was engaged as of May 1, 1961 in the business of renting and leasing motor trucks and in which it has maintained an average fleet of fifty (50) or more motor trucks for such purposes during the preceding twelve (12) calendar months being attached hereto as Schedule A and hereby made a part hereof, or (b) in any of the cities listed in Section V hereof; provided, however, that nothing contained in this Final Judgment shall prohibit defendant Ryder from:

(A) Acquiring, directly or indirectly, any or all of the assets or capital stock of any of its subsidiaries, or forming subsidiaries and transferring thereto stock or assets of defendant Ryder or of its subsidiaries; or

(B) Acquiring, directly or indirectly, any or all of the assets or capital stock of any such person

(i) where such acquisition shall be consented to by the Department of Justice; or

(ii) where it shall be shown to the satisfaction of this Court, upon application by defendant Ryder and reasonable notice to plaintiff, that the effect of such acquisition will not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country.

V

[*Divestiture*]

(A) Defendant Ryder shall within one year following the date of entry of this Final Judgment divest all of its right, title and interest, direct and indirect, in the following number of motor trucks, including any leasing contracts pertaining to said motor trucks, in the following cities:

| <i>City</i> | <i>Number</i> |
|----------------------------|---------------|
| Atlanta, Georgia | 100 |
| Chicago, Illinois | 100 |
| Dallas, Texas | 75 |
| Memphis, Tennessee | 50 |
| Nashville, Tennessee | 75 |

(B) The assets to be divested hereunder shall be those motor trucks and leases acquired by defendant Ryder from persons which operated in the designated cities, or equivalent motor trucks and leases. Should any such divestiture require the obtaining of necessary consents, which defendant Ryder after good faith reasonable efforts has not been able to obtain, defendant Ryder shall divest equivalent motor trucks and leases. Upon each such sale hereunder defendant Ryder shall provide such reasonable assistance as may be requested by the purchaser in the selection and acquisition of an appropriate location or locations at which the purchaser may offer motor truck renting and leasing services in order that such purchaser will be able to operate a motor truck leasing or renting business.

(C) Such sale or sales shall be made on reasonable terms, in good faith and shall be absolute, unqualified and unconditional except that defendant Ryder may retain a security interest in any such motor trucks sold to a purchaser under a contract calling for time payments; provided, however, that if Ryder thereafter reacquires any of said motor trucks by reason of any default of the purchaser, defendant Ryder shall again divest said trucks within a reasonable time pursuant to the terms of this Final Judgment.

(D) Following the entry of this Final Judgment defendant Ryder shall render quarterly reports to the plaintiff, outlining in reasonable detail the efforts made by defendant Ryder to divest itself of the said motor trucks. If the plaintiff herein is, at any time, dissatisfied with the progress or efforts being made in the sale of the said motor trucks it may file a petition with this Court, on reasonable notice to defendant Ryder, for such further orders and directions as may be necessary to effect the sale of said motor trucks by defendant Ryder.

(E) If defendant Ryder has not divested itself of the said motor trucks, or some of them, within one year after the date of entry of this Final Judgment, then upon application to this Court by the plaintiff or the defendant Ryder, and a showing by defendant Ryder to the satisfaction of this Court of its bona fide efforts to sell the said motor trucks as required, the Court shall enter such orders as it deems appropriate.

VI

[Supervision]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to the defendant Ryder made to its principal office, be permitted:

(A) Access, during the office hours of defendant Ryder, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of said defendant relating to any of the matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of defendant Ryder and without restraint or interference from it, to interview the officers and employees of said defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with Section IV of this Final Judgment, and for so long as the injunctions contained in said Section are in effect, defendant Ryder shall give written notice to the Department of Justice of any acquisition by said defendant from any person, directly or indirectly, whether by way of acquisition of assets

or capital stock, of all or any part of or any interest in any business of leasing or renting motor trucks conducted by said person within the United States (excluding any acquisitions referred to in subsection (A) of Section IV hereof), any such notice to be delivered within forty-five (45) days after such acquisition shall have been made, and defendant Ryder, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to such defendant's principal office, shall also submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VI 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 plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling either 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Schedule A

Cities in which defendant Ryder maintained an average fleet of fifty or more motor trucks as of May 1, 1961:

Albany, Georgia

Albany, New York

Albuquerque, New Mexico

Amarillo, Texas

Atlanta, Georgia

Augusta, Georgia

Baltimore, Maryland

Birmingham, Alabama

Buffalo, New York

Cambridge, Massachusetts

Charlotte, North

Carolina Chattanooga, Tennessee

Chicago, Illinois

Cincinnati, Ohio

Colorado Springs,

Colorado Columbia, South

Carolina Corpus Christi, Texas

Dallas, Texas
Denver, Colorado
Detroit, Michigan
East St. Louis, Illinois
Elizabeth, New Jersey
Findlay, Ohio
Ft. Lauderdale, Florida
Ft. Smith, Arkansas
Ft. Wayne, Indiana
Gibson City, Illinois
Greensboro, North Carolina
Greenville, South Carolina
Houston, Texas
Indianapolis, Indiana
Jacksonville, Florida
Kansas City, Missouri
Knoxville, Tennessee
Lakeland, Florida
Little Rock, Arkansas
Los Angeles, California
Louisville, Kentucky
Memphis, Tennessee
Metuchen, New Jersey
Miami, Florida
Mobile, Alabama
Nashville, Tennessee
New Orleans, Louisiana
Norfolk, Virginia
North Miami Beach, Florida
Oakland, California
Oklahoma City, Oklahoma
Orlando, Florida

Philadelphia, Pennsylvania

Phoenix, Arizona

Pittsburgh, Pennsylvania

St. Louis, Missouri

St. Petersburg, Florida

Salina, Kansas

Salt Lake City, Utah

San Antonio, Texas

San Francisco, California

Springfield, Missouri

Tampa, Florida

Toledo, Ohio

Topeka, Kansas

Tulsa, Oklahoma

West Palm Beach, Florida

Wichita, Kansas