

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Independent Body Shop Assn. of Reno and Sparks, Inc., U.S. District Court, D. Nevada, 1968 Trade Cases ¶72,478, (Jun. 24, 1968)

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United States v. Independent Body Shop Assn. of Reno and Sparks, Inc.

1968 Trade Cases ¶72,478. U.S. District Court, D. Nevada. Civil No. R-2041. Entered June 24, 1968. Case No. 1995 in the Antitrust Division of the Department of Justice.

Sherman Act

Trade Association—Automobile Body Repairs and Parts—Consent Judgment.—An automobile body repair shop association was prohibited by a consent decree from advocating or establishing fixed prices for parts and service and from fixing the number of hours of labor to be used by repair shops in computing prices to be charged for repair work; from allocating body repair work through towing of damaged automobiles to body repair shops of members, on a rotation basis or by any other means; and from excluding tow firms or nonmember body shops from performing body repair work.

For the plaintiff: Donald F. Turner, Asst. Atty. Gen.; Joseph L. Ward, U. S. Atty.; Julien G. Sourwine, Asst. U. S. Atty.; Robert B. Hummel, Lyle L. Jones, Marquis L. Smith, Robert J. Staal, and James E. Figenshaw, Attys., Dept. of Justice.

For the defendant: LeRoy Arrascada, of Richards & Arrascada, for Independent Body Shop Assn. of Reno and Sparks, Inc.

Final Judgment

THOMPSON, D. J.: Plaintiff, United States of America, having filed its complaint herein on March 7, 1968, and defendant, Independent Body Shop Association of Reno and Sparks, Inc., having filed its answer thereto denying the substantive allegations thereof; and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue:

Now, Therefore, before the taking of any testimony and upon said consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 (15 U. S. C. § 1) entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[Definitions]

As used herein:

(a) "Parts" means any portion of an automobile except the motor and its components. It includes but is not limited to bumpers, radiators, hoods, fenders, glass, doors, quarter panels, and paint materials.

(b) "Body repair work" means the application of new or used parts and labor to the damaged bodies of automobiles for the purpose of repairing them.

(c) "Person" means any individual, partnership or corporation.

(d) "Body repair shop" means any person engaged in the sale and performance of body repair work.

(e) "Towing" means the hauling or removal to body repair shops of damaged automobiles.

(f) "Tower" means any person engaged in the sale and performance of towing.

III

[*Applicability*]

The provisions of this Final Judgment shall be binding upon the defendant and upon its officers, directors, agents, employees, members, subsidiaries, successors and assigns, and upon 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.

IV

[*Notification*]

Defendant is ordered and directed:

A. Forthwith to serve a copy of this Final Judgment upon (1) each member of its Board of Directors, (2) each of its principal managerial officers who are not members of its Board of Directors, and (3) each of its present members;

B. To serve a copy of this Final Judgment upon all of its future members at such time as they become members; and

C. To file with this Court and serve upon the plaintiff within thirty (30) days after the date of the entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsection A of this Section IV.

V

[*Price Fixing*]

Defendant is enjoined and restrained from, directly or indirectly:

A. Entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, policy, or program to fix, establish, adopt, or maintain:

(i) The prices, discounts, markups, or other terms and conditions at which new or used auto parts, glass, or paint material are to be sold by body repair shops;

(ii) The flat rates to be charged per hour for labor by body repair shops;

(iii) The number of hours of labor to be utilized by body repair shops in computing prices to be charged for any body repair work.

B. Advocating, suggesting, urging, inducing, or compelling any person operating a body repair shop to adopt, use, or adhere to:

(i) Uniform or specific prices, discounts, markups, or other terms and conditions at which new or used auto parts, glass, or paint material are to be sold by body repair shops;

(ii) Any particular price book, price manual, or price schedule in computing prices to be charged by body repair shops for body repair work;

(iii) Uniform or specific flat rates to be charged per hour for labor by body repair shops;

(iv) Any manual, chart, or schedule designating the minimum hours of labor to be utilized in computing prices to be charged for any body repair work.

C. Entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, policy, or program to allocate body repair work through towing of damaged automobiles to body repair shops of members of defendant on a rotation basis, or by any other means, or to exclude towers or nonmember body shops from performing body repair work.

VI

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made through its principal office, be permitted (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers or employees of the defendant, who may have counsel present, regarding any such matters; and upon such request, defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. 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 plaintiff, except in the course of legal proceedings to which the United States of America 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 any of the parties of 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 the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.