

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Martin Linen Supply Co., Tex-Mart Corp., Texas Sanitary Towel Supply Corp., and William B. Troy., U.S. District Court, W.D. Texas, 1969 Trade Cases ¶72,781, (Jun. 2, 1969)

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United States v. Martin Linen Supply Co., Tex-Mart Corp., Texas Sanitary Towel Supply Corp., and William B. Troy.

1969 Trade Cases ¶72,781. U.S. District Court, W.D. Texas, San Antonio Division. Civil Action No. SA69CA114. Entered June 2, 1969. Case No. 2048 in the Antitrust Division of the Department of Justice.

Sherman Act

Government Suit—Injunctive Relief—Linen Rental Supply Conspiracy—Capital Contributions—Consent Decree.—Three linen rental supply companies with a common president and their personnel were prohibited, for three years, from investing, contributing capital or rendering any form of financial assistance to one of them, except for short-term trade credit customary and normal in the linen supply industry and granted on a nondiscriminatory basis. Furthermore, they were barred from contributing any capital or rendering any financial assistance to the parent of one of them, except funds needed by the parent for the purchase of outstanding capital shares of defendant of the subsidiary where the shares are owned by any person other than the parent.

Price Fixing—Linen Rental Suppliers—Consent Decree.—Linen rental suppliers were prohibited by a consent decree from fixing prices, allocating markets, boycotting linen rental suppliers or threatening such suppliers not to furnish supplies to customers. Additionally, they were barred from offering customers supplies below cost prices, furnishing customers loans, discounts and other inducement in order to take customers away from competitors. Also, for a period of three years, they were required to give the government 30 days' notice prior to any acquisitions that they plan to make.

For the plaintiff: John N. Mitchell, Atty. Gen. Richard W. McLaren, Asst. Atty. Gen. Baddia J. Rashid, Charles D. Mahaffie, Jr., William P. Cassedy, Karl M. Kunz, and Leonard J. Henzke, Jr., Dept. of Justice. Ernest Morgan, U. S. Atty.

For the defendants: Mervin C. Pollak and John D. Swartz, New York, N. Y.

Final Judgment

SPEAKS, D. J.: Plaintiff, United States of America, having filed its complaint herein, defendants having filed their answer thereto, and the plaintiff and the defendants having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party signatory hereto 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 herein, and upon consent of the parties as aforesaid, 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 hereto, and the complaint states claims upon which relief may be granted against the defendants and each of them under Sections 1 and 2 of the Act of Congress of July 2, 1890, 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 in this Final Judgment:

- (A) "Person" means any individual, corporation, partnership, association, firm or other legal entity;
- (B) "Linen Supply" or "linen supplies" means towels, swipe towels, continuous roll towels, napkins, table cloths or covers, sheets, pillow cases, aprons, bibs, chefs' pants, caps, jackets, ladies uniforms, skirts, gowns, bartender vests, coats, waitresses' vests, and similar items;
- (C) "Linen rental supply business" means the business of furnishing clean linen supplies;
- (D) "Linen rental supplier" means a person who rents clean linen supplies to customers or users:

III

[Applicability]

The provisions of this Final Judgment applicable to any defendant shall apply to each such defendant, to its successors and assigns, to each of their respective officers, directors, agents, servants and employees, and to all persons in active concert or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

[Prices, Allocations, Restrictions]

Each defendant is enjoined and restrained from entering into, adhering to, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any person, not owned or controlled by such defendant, to directly or indirectly:

- (A) Fix, determine, maintain, stabilize or adhere to prices, discounts, or terms or conditions of sale, for the furnishing of any linen supplies to any third person;
- (B) Divide, allocate or apportion markets, territories or customers for the furnishing of any linen supplies or otherwise restrict competition between or among linen rental suppliers;
- (C) Cause any seller of linen supplies to boycott or refuse to sell linen supplies to any linen rental supplier.

V

[Other Linen Suppliers]

Each corporate defendant is enjoined and restrained from, directly or indirectly:

- (A) Threatening, coercing, inducing or attempting to induce:
 - (1) Any linen rental supplier to refrain, while in business, from furnishing linen supplies to any customer, or
 - (2) Any officer, director, agent, servant or employee of any other linen rental supplier to divulge or make known to such defendant any customer lists or customer accounts known to such person by virtue of his employment by such other linen rental supplier.
- (B) Threatening to put any linen rental supplier out of business;
- (C) Enticing any employee of a linen rental supplier to take other employment with such defendant with the purpose and effect of hampering, injuring or prejudicing such linen rental supplier in its business;
- (D) Knowingly making or causing to be made to any person any false report or false statement concerning the financial standing or business integrity of any linen rental supplier or that any linen rental supplier:

- (1) is extending gifts or preferential prices to its customers, or
- (2) Is about to cease business operations, or
- (3) Is to be acquired by or merged with any linen rental supplier;
- (E) Trailing or causing to be trailed the vehicle or vehicles, deliveryman or delivery-men of any other linen rental supplier;
- (F) Temporarily augmenting or adding to its personnel in any trading area outside of the course of a normal selling campaign for the purpose or with the effect of eliminating a competitor or competitors;
- (G) Discussing or exchanging with any linen rental supplier, prices or price lists for the furnishing of linen supplies to any customer, or exchanging with, furnishing to or receiving from any linen rental supplier or linen rental suppliers, any list of customers or customer accounts served by any linen rental supplier; provided that subsections (A) (2) and (G) shall not prohibit:
 - (1) Any discussion or exchange of such information in connection with the bona fide negotiation of, or a contract for, the purchase or sale of a linen supply business, or
 - (2) Any industry representative from compiling such price information as may be necessary to the negotiation of a labor contract or to a governmental investigation or proceeding and using such information in general and composite form without identifying any of the prices gathered as those of any particular linen supplier, in connection with such negotiation, investigation or proceeding;
- (H) Organizing or participating in any of the activities of, or of supporting, being a member of, or contributing anything of value to any group or association for linen rental suppliers, the purposes or activities of which are in any manner inconsistent with any of the provisions of this Final Judgment.

VI

[Below Cost Prices]

Each corporate defendant is enjoined and restrained from furnishing or offering or threatening to furnish linen supplies to a customer or potential customer on terms or conditions which involve below cost prices, lump sum cash payments to the customer, loans (other than bona fide loans by a defendant to its then existing customers), free service, gratuities or other similar inducements to obtain a contract or renewal of a contract for the furnishing of linen supplies, for the purpose or with the effect of eliminating a competitor or competitors.

VII

[Capital Contributions]

Each of the corporate defendants and each of its shareholders, officers, directors and employees is enjoined for a period of three years from the date of the entry of this Final Judgment:

- (A) From directly or indirectly making any form of capital contribution to, or increasing by investment or otherwise, the capital of defendant Martin Linen Supply Co.;
- (B) From rendering, directly or indirectly, any form of financial assistance to or for the benefit of defendant Martin Linen Supply Co., including the making, guaranteeing or procuring, in any way, of loans, advances of money or extensions of credit on any basis, except the extension of short term trade credits customary and normal in the trade, and on non-discriminatory terms, in connection with the purchase of linen supplies and related items from any defendant;
- (C) From directly or indirectly making any form of capital contribution to, or increasing, by investment or otherwise, the capital of defendant Tex-Mart Corp., or rendering any form of financial assistance to or for the benefit of defendant Tex-Mart Corp. except the advancement or procurement of funds and/or financing which may be required to enable defendant Tex-Mart Corp. to purchase outstanding capital shares of defendant Martin Linen Supply Co., at any time owned by any shareholder or shareholders other than defendant Tex-Mart Corp.

VIII

[*Acquisitions*]

(A) For a period of three years corporate defendants shall notify the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice at least thirty days prior to the date of a proposed acquisition of the stock, assets, or business of a linen rental supplier doing a volume of business in excess of four hundred dollars per week of the general terms of the proposed acquisition, including the name of the seller or sellers, and the volume of linen rental supply business done by the business to be acquired during the preceding twelve months;

(B) For the said three year period, on or before each April 1st, August 1st, November 1st and February 1st, each corporate defendant shall submit in writing to the said Assistant Attorney General the information specified in subdivision (A) of this section as to each acquisition by any corporate defendant of the stock, assets or business of a linen rental supplier, irrespective of the weekly volume thereof, consummated in the preceding three month period.

IX

[*Compliance*]

For the purpose of securing compliance with this Final Judgment, 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 any defendant, made to its principal office, be permitted subject to any legally recognized privilege (a) reasonable access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters. A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice made to its principal office, shall submit reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be necessary and requested for the enforcement of this Final Judgment. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person except a duly authorized representative of the Executive Branch of the United States and 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.

X

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof for the purpose of enabling the plaintiff to apply to this Court for the enforcement of compliance herewith and for the punishment of violations hereof.