

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,
Plaintiff,
v.
WAYNE CORPORATION,
Defendant.

CIVIL ACTION

NO. IP 72 C 215

Entered: June 5, 1972

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on May 4, 1972, and the defendant, Wayne Corporation and its consenting affiliated corporation, Wayne Sales Financial Corporation, having appeared by their counsel, and plaintiff, defendant and Wayne Sales Financial Corporation having consented to the entry of this Final Judgment herein, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or admission by plaintiff, defendant, or Wayne Sales Financial Corporation with respect to any such issue;

NOW, THEREFORE, without any testimony having been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of plaintiff, defendant and Wayne Sales Financial Corporation hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

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

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity, including the Federal, State and local governments, and agencies and instrumentalities thereof;

(B) "Professional vehicles" means all hearses, ambulances, and flower cars assembled by Wayne Corporation or for which Wayne Corporation provides parts or accessories for assembly by other persons, and accessories and parts, including replacement parts and accessories for such professional vehicles;

(C) "Distributor" means any person engaged, in whole or in part, in the purchase from Wayne Corporation of professional vehicles or parts of professional vehicles for resale or lease to other persons; and

(D) "Defendant" means, jointly and severally, Wayne Corporation, each of its subsidiaries, and its consenting affiliate, Wayne Sales Financial Corporation.

III

The provisions of this Final Judgment shall apply to the defendant, its successors and assigns, and to their respective officers, directors, agents, servants and employees, and to all other persons in active concert or participation with the defendant who shall receive actual notice of this Final Judgment by personal service or otherwise. Except for sales to the plaintiff or to any agency or instrumentality thereof, wherever located, this Final Judgment shall not apply to activities of the defendant outside the United States which do not substantially affect the foreign commerce of the United States.

IV

The defendant is enjoined and restrained, directly or indirectly, from:

(A) Entering into, adhering to, enforcing or claiming, or maintaining any right under any contract, agreement, understanding, plan, or program with any

distributor to fix, establish, limit or restrict:

- (1) The prices at which professional vehicles may be resold or leased;
- (2) The prices at which professional vehicles which are purchased for resale or lease may be advertised;
- (3) The prices at which bids may be submitted on the resale or lease of professional vehicles; and
- (4) The persons or classes of persons to whom, or the markets or territories in which, professional vehicles may be resold, distributed or leased.

(B) Requiring any distributor to adhere to any fixed, suggested or specified prices at which professional vehicles may be sold or leased to any other person;

(C) Taking or threatening to take any disciplinary action against any distributor because of the prices at which, the persons or classes of persons to whom, or the markets or territories in which such distributor has sold or leased professional vehicles or intends to sell, distribute, or lease professional vehicles;

(D) Preventing or delaying the filling of any order for the purchase of any professional vehicles by any distributor, or the shipping thereof, because of the market or territory in which, the price at which or the person to whom any distributor has sold or leased or may sell or lease professional vehicles, or from designating to any person a particular distributor from which such person must buy a professional vehicle; and

(E) Refusing to finance any sale of a professional vehicle because of the market or territory in which, the price at which, or the person to whom any distributor sells or leases, intends to sell or lease, or has sold or leased any professional vehicle.

V

(A) The defendant is ordered and directed, within ninety (90) days of the entry of this Final Judgment, to take all necessary action to effect the cancellation of each provision of every contract, agreement or understanding between and among the defendant and each distributor which is contrary to or inconsistent with any provision of this Final Judgment.

(B) The defendant is ordered and directed, within sixty (60) days of the entry of this Final Judgment, to mail a copy of this Final Judgment to each of its present distributors and to notify each such distributor that such distributor may sell such professional vehicles at such prices, and to whomever and wherever such distributor chooses.

(C) The defendant is ordered and directed to file with this Court and serve upon the plaintiff, within one hundred and twenty (120) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Sections (A) and (B) of this Section V.

(D) For a period of ten (10) years from the date of entry of this Final Judgment, the defendant is ordered to file with the plaintiff, on each anniversary date of this Final Judgment, a report setting forth the steps which it has taken during the prior year to advise the defendant's appropriate officers, directors and employees of its and their obligations under this Final Judgment.

VI

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Any authorized representative or representatives of the Department of Justice shall upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division and upon reasonable notice to defendant at its principal office be permitted:

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

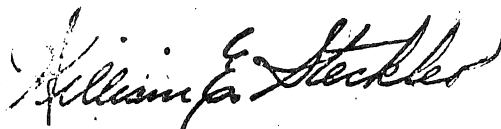
(2) Subject to the reasonable convenience of defendant, and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any matters contained in this Final Judgment;

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment which from time to time may 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 duly authorized representatives of the Executive Branch of the United States, 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 is retained by this Court 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 and directions as may be necessary or appropriate for the construction of or carrying out of this Final Judgment, for the amendment or modification of any provision contained herein, for the enforcement of compliance therewith, and for the punishment of the violation of any of the provisions contained herein.



United States District Judge

Dated:

June 5, 1972