

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. American Building Maintenance Corp., Atlantic Window Cleaning Co., Inc., Bloomfield Window Cleaning Co., Inc., Building Services Corp. of New Jersey, Eastern Maintenance Co., International Services, Inc., MacClean Service Co., Inc. of New Jersey, Metropolitan Maintenance Co., Middlesex Building Services, Pioneer Maintenance Corp., Trenton Window Cleaning Co., Yankee Building Maintenance Co., and Samuel S. Usdin., U.S. District Court, D. New Jersey, 1977-2 Trade Cases ¶61,713, (Oct. 25, 1977)**

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United States v. American Building Maintenance Corp., Atlantic Window Cleaning Co., Inc., Bloomfield Window Cleaning Co., Inc., Building Services Corp. of New Jersey, Eastern Maintenance Co., International Services, Inc., MacClean Service Co., Inc. of New Jersey, Metropolitan Maintenance Co., Middlesex Building Services, Pioneer Maintenance Corp., Trenton Window Cleaning Co., Yankee Building Maintenance Co., and Samuel S. Usdin.

1977-2 Trade Cases ¶61,713. U.S. District Court, D. New Jersey, Civil No. 74-719, Entered October 25, 1977, (Competitive impact statement and other matters filed with settlement: 42 *Federal Register* 37258).

Case No. 2385, Antitrust Division, Department of Justice.

### **Sherman Act**

**Price Fixing: Allocation of Customers: Building Maintenance Services: Consent Decree.**— Building maintenance service firms were prohibited by a consent decree from agreeing with other such firms to allocate customers; to refrain from soliciting or competing for any customer for building maintenance services, except in connection with bona fide transactions for the purchase and sale of businesses or customer accounts; to submit noncompetitive, collusive or rigged bids; and to fix, stabilize, or maintain prices.

**For plaintiff:** John H. Shenefield, Acting Asst. Atty. Gen., William E. Swope, Charles F. B. McAleer, John J. Hughes, Raymond D. Cauley, John L. Wilson, Roger L. Currier, and Norma B. Carter, Attys., Department of Justice, Antitrust Div., Philadelphia, Pa. **For defendants:** Mortimer Katz, for American Building Maintenance Corp.; Shanley & Fisher, by Frank L. Bate, for Bloomfield Window Cleaning Co., Inc.; Lum, Biunno & Tompkis, by John P. Croake, for Eastern Maintenance Co.; Shea Gould Climinko Kasey, by Ira Postel, for MacClean Service Co., Inc. of New Jersey; A. Kenneth Weiner, for Middlesex Building Services; Brown, Vogelmann & Brown, by Irving I. Vogelmann, for Trenton Window Cleaning Co.; Amster & Levin, P. A., by Richard A. Levin, for Samuel S. Usdin; Walder, Steiner & Sonak, by Justin P. Walder, for Atlantic Window Cleaning Co. Inc.; Kay, Schaler, Fierman, Hays & Handler, by Mark C. Zauderer, Counsel for Building Services Corp. of New Jersey; Nulby and Hayden, by Joseph A. Hayden, Jr., for International Services, Inc.; McCarter & English, by John R. Ford, for Metropolitan Maintenance Co.; S. M. Chris Franzblau, by Steven F. Kaplan, for Pioneer Maintenance Corp.; McCarter & English, by John R. Ford, for Yankee Building Maintenance Co.

### **Final Judgment**

Barlow, D. J.: Plaintiff, United States of America, having filed its complaint herein, on May 16, 1974; and all parties by their attorneys, having severally consented to the making and entry of this Final Judgment, without admission by any party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon 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 consenting hereto. The complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890 as amended (15 U. S. C. §1), commonly known as the Sherman Act.

II

**[ Definitions]**

As used in this Final Judgment:

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

(B) "Building Maintenance Services" shall mean the providing to owners, tenants, landlords, and managing agents of residential, commercial, industrial and institutional buildings one or more services of the following kind: general cleaning; sweeping and dusting; stripping, waxing, and polishing floors; carpet vacuuming and shampooing; venetian blind cleaning and repairing; washing of windows, floors and walls; furniture cleaning and polishing; and other janitorial and cleaning services.

III

**[ Applicability]**

(A) Except as otherwise specifically stated herein, the provisions of this Final Judgment shall apply to the defendants, their affiliates, subsidiaries, successors and assigns and to their respective officers, directors, partners, agents and employees, and to 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.

(B) The provisions of this Final Judgment shall not apply (1) to activities between a defendant, its officers, directors, agents, or employees and its parent or subsidiary companies, or the affiliate corporations in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company, or which is in fact controlled by any defendant, or such defendant's parent or subsidiary companies; or (2) to Prudential Building Maintenance Corp. and MacClean Service Company, Inc., other corporations affiliated with defendants Building Services Corporation of New Jersey and MacClean Service Co., Inc. of New Jersey, respectively, or to persons acting in their capacity as officers, directors, agents or employees of such corporations unless such corporations, their officers, directors, agents or employees join or participate with one or more non-affiliated defendants, their respective officers, directors, partners, agents and employees in any activities which violate any of the provisions of this Final Judgment.

IV

**[ Prohibited Agreements]**

Each defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or engaging in any combination, agreement, understanding, plan or program with any other supplier of building maintenance services:

(A) To divide allocate or apportion customers for building maintenance services.

(B) To refrain from soliciting or competing for any customer for building maintenance services, except in connection with bona fide transactions for the purchase and sale of businesses or customer accounts.

(C) To submit noncompetitive, collusive or rigged bids for building maintenance services to customers or potential customers.

(D) To fix, stabilize, or maintain prices for building maintenance services.

## **V**

### **[ Inspections]**

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative 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:

(1) Access during the office hours of such defendant, which may have counsel present, 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

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

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing 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 V 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. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such 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 said 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 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

## **VI**

### **[ Retention of Jurisdiction]**

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 or modification of any of the provisions thereof, for the enforcement of compliance therewith, and the punishment of violations thereof.

## **VII**

### **[ Public Interest]**

Entry of this Final Judgment is in the public interest.