

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

v. :

NATIONAL ASSOCIATION FOR AIR :

FREIGHT, INC.; :

A.T.D. TRUCKING CORP.; :

AIR-FREIGHT TRUCKING SERVICE, INC.;

71 Civ. 563

B & P DELIVERY SERVICE, INC.; :

Entered: August 29, 1974

BREEN AIR FREIGHT LTD.; :

CALTRO TRUCKING, INC.; :

GESELL TRUCKING CORP.; :

J & J TRUCKING CO., INC.; :

JUNIOR TRUCKING, INC. :

L & J TRUCKING CORP.; :

TEMPO TRUCKING & TRANSFER CORP.; :

TETERBORO AIR FREIGHT; and :

VTR TRUCKING CORP., :

Defendants. :

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FINAL JUDGMENT

Plaintiff, UNITED STATES OF AMERICA, having filed its complaint hereon on May 13, 1971, and the parties by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issues of fact or law, and without this Final Judgment constituting evidence or admissions by either party with respect to any such issues;

NOW, THEREFORE, without trial, adjudication or the taking of any testimony with respect to any issue of fact or law, and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendants 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," commonly known as the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment

A. "import airfreight" shall mean commodities or goods which have been transported by airplane from points outside of the United States, its territories and possessions, for delivery to consignees located in the United States; and

B. "truckman" shall mean any person, firm, or corporation engaged in the business of transporting airfreight, including import airfreight, via motor vehicle.

III

The provisions of this Final Judgment shall apply to each defendant, and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert and participation with any of them who receive notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to acts or transactions of the defendants which do not affect import airfreight of the United States.

IV

(A) Each consenting defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any other truckman to:

1. Refrain from soliciting or accepting business from any import airfreight customer;
2. Fix, establish, maintain or stabilize prices or rates for picking up or delivering import airfreight;
3. Refuse to pick up at or deliver import airfreight from the terminals of air carriers.

(B) Defendant National Association for Air Freight is ordered to be dissolved within ninety (90) days from the date of entry hereof; and all defendants are permanently enjoined from establishing any organization having like or similar purposes to those enjoined under Section IV hereof.

V

Nothing contained in this Final Judgment shall be deemed to prohibit any defendant from lawfully taking such action as it may be required to take pursuant to the Interstate Commerce Act (49 U.S.C. § 1ff), the Federal Aviation Program (49 U.S.C. § 1301ff), the Federal Energy Program, and pursuant to the applicable statutes and regulations pertaining to the Port of New York Authority (N.Y. Unconsol. Laws §§ 6401ff (McKinney) and N.J.S.A. 32:1-ff), Waterfront and Airport Commission Act (N.Y. Unconsol. Laws §§ 9961ff (McKinney) and N.J.S.A. 32:23-160ff) and any state agency or New York City agency which has regulatory authority over the defendants.

VI

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on 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. Access, during office hours of any defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody, or under the control of any defendant relating to any matters contained in this Final Judgment;

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

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, made to such principal office, any defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted 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 in 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 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 carrying out of this Final Judgment, for the modification thereof, for the enforcement of compliance therewith, and for the punishment of any violation thereof.

/s/ JOHN R. BARTELS
JOHN R. BARTELS
United States District Judge

Dated: August 29, 1974