

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Pennsylvania Refuse Removal Assn.; Harry Coren; Arnold Graf; Salvatore Graziano; Edward Marley; Robert J. Schaffer; George Tidman, Jr.; and Edwin S. Vile., U.S. District Court, E.D. Pennsylvania, 1967 Trade Cases ¶72,097, (Jun. 12, 1967)

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United States v. Pennsylvania Refuse Removal Assn.; Harry Coren; Arnold Graf; Salvatore Graziano; Edward Marley; Robert J. Schaffer; George Tidman, Jr.; and Edwin S. Vile.

1967 Trade Cases ¶72,097. U.S. District Court, E.D. Pennsylvania. Civil No. 34417. Entered June 12, 1967. Case No. 1764 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Refuse Removal—Consent Decree.—Seven individuals, present or former officials of a refuse removal association, were prohibited by a consent judgment from fixing prices for refuse removal, rigging bids, threatening other companies to force them out of business or to join the conspiracy, and from being officers or directors of any trash removal association for five years.

For the plaintiff: Donald F. Turner, Assistant Attorney General; Gordon B. Spivack, William D. Kilgore, Jr., Donald G. Balthis, John J. Hughes, Raymond D. Cauley, Carl J. Melone, and Warren Marcos, Attorneys, Department of Justice.

For the defendants: Joseph H. Savitz for Harry Coren, Salvatore Graziano and Edward Marley; Marvin Comisky for Arnold Graf; Albert Shapiro for Robert J. Schaffer; Martin J. Resnick for George Tidman, Jr., and Edwin S. Vile.

Final Judgment

LUONGO, D. J.: Plaintiff, United States of America, having filed its complaint herein on October 30, 1963, and plaintiff and defendants Harry Coren, Arnold Graf, Salvatore Graziano, Edward Marley, Robert J. Schaffer, George Tidman, Jr., and Edwin S. Vile having consented to the entry of this Final Judgment pursuant to a stipulation entered into May 11, 1967, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party in respect to any issue of fact or law herein, and this Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, having determined that there is no just reason for delay in entering a Final Judgment as to all of plaintiff's claims asserted in said complaint against said defendants and having directed the entry of such a Final Judgment;

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 all of the parties hereto, 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 consenting hereto. The complaint states a claim for relief against each consenting defendant under Section 1 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, partnership, association, firm, corporation, or other business or legal entity;
- (B) "Refuse" means trash, rubbish, and other waste materials;
- (C) "Refuse removal" means the collection, removal, hauling, and disposal of refuse;
- (D) "Remover" means any person engaged in refuse removal; and
- (E) "Landfill company" means any person who owns, leases, or manages a location for the disposal of refuse.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to each consenting defendant and to each of their agents, servants, employees, successors and assigns, and to all persons in active concert or participation with any consenting defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment each consenting defendant and a remover or landfill company in which such defendant is a partner or stockholder or has any other ownership interest, its officers, directors, partners, servants, and employees, when acting in such capacity, shall be deemed to be one person.

IV

[*Control of Firms*]

Each consenting defendant is ordered and directed to take such steps as are reasonably appropriate, including but not limited to the exercise of voting rights, to prevent any remover or landfill company in which he is a partner or stockholder, or in which he has any other ownership interest, and the officers, directors, partners, agents, servants, and employees thereof, from engaging in any activities which, if such remover or landfill company were a consenting defendant herein, would violate any of the provisions of this Final Judgment.

V

[*Restraints*]

Each consenting defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, enforcing, or claiming or maintaining any right under any contract, agreement, arrangement, understanding, plan, or program with any remover to:

- (A) Fix, establish, maintain, or adhere to prices or other terms or conditions at which refuse removal is furnished or offered to any third person;
 - (B) Allocate or divide customers, territories, or markets for refuse removal;
 - (C) Submit collusive or rigged bids or quotations for refuse removal to any third person;
- Exclude or attempt to exclude any other person from engaging in the refuse removal business;
- (D) Threaten, intimidate, or harass any person in order to limit, hinder, or prevent such person from furnishing refuse removal to any third person; and
 - (F) Coerce or compel, or attempt to coerce or compel, any person to become or remain a member of, or participate in any of the activities of any association of removers.

VI

[*Hindering Other Companies*]

Each consenting defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, enforcing, or claiming or maintaining any right under any contract, agreement, arrangement, understanding, plan,

or program with any landfill company or any other person for the purpose of hindering, limiting, or preventing any remover from disposing of refuse at a dump or landfill.

VII

[*Association Activities*]

Each consenting defendant is enjoined and restrained from:

(A) Acting or serving as an officer or director in any association of removers for a period of five years after the expiration of ninety (90) days from the date of entry of this Final Judgment; and

(B) Becoming or remaining a member of, or participating in any of the activities of any association of removers, or of any other association or organization, any of the activities of which are carried on in a manner which, if such association or other organization were a consenting defendant herein, would violate any of the provisions of this Final Judgment.

VIII

[*Inspection and Compliance*]

For the purpose of determining and securing 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 consenting defendant, be permitted subject to any legally recognized privilege:

(A) Reasonable access, during 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 subject matters contained in this Final Judgment; and

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

Each consenting defendant is ordered and directed, with respect to any remover or landfill company in which he has any ownership interest, to take such steps as are reasonably appropriate, including but not limited to the exercise of voting rights, to permit access to the books, ledgers, accounts, correspondence, memoranda, and other records and documents of such remover or landfill company, and to permit interviews with officers and employees of such remover or landfill company, who may have counsel present, relating to any subject matter contained in this Final Judgment.

Each consenting defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VIII shall be divulged by any representatives 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

[*Jurisdiction Retained*]

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 carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.