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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. 75-2398-CBR
)	
v.)	<u>FINAL JUDGMENT</u>
)	
ALAMEDA COUNTY VETERINARY)	File: August 8, 1977
MEDICAL ASSOCIATION,)	
)	Entered: <u>October 31, 1977</u>
Defendant.)	
)	

Plaintiff, United States of America, having filed its complaint herein on November 14, 1975 and defendant, Alameda County Veterinary Medical Association, having appeared by its counsel, and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without admission by any party in respect to any 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

This Court has jurisdiction over the subject matter of this action and the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section 1 of the Sherman Act.

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II

As used in this Final Judgment:

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

(B) "Defendant" means the defendant Alameda County Veterinary Medical Association;

(C) "Fee" or "Fees" means any fee, price charge, markup, quotation, discount, or other compensation for any veterinary service or drug or combination of veterinary services and drugs;

(D) "Fee Schedule" means any list of veterinary services showing a fee, range of fees, or method of computing fees for such services;

(E) "Fee Survey" means the results of a survey of fees charged by veterinarians for particular services and lists tabulating or summarizing the results of such surveys;

(F) "Animal welfare agency" means any nonprofit organization which acts to refer animal owners to veterinarians for veterinary services.

III

The provisions of this Final Judgment shall apply to the defendant and to each of its officers, directors, agents, employees, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from directly or indirectly:

1 (A) Fixing, establishing, maintaining, or stabilizing
2 any fee for veterinary services;

3 (B) Advocating, suggesting, urging, advising, inducing,
4 or recommending that any veterinarian adhere to or otherwise
5 base his or her fees on any particular fee, fee schedule or
6 fee survey;

7 (C) Conducting, publishing, or distributing any fee
8 survey or fee schedule which relates to fees or ranges of
9 fees for services;

10 (D) Adopting, formulating, adhering to, maintaining,
11 enforcing, suggesting, disseminating, or claiming any rights
12 under any bylaw, rule, statement of policy, resolution, canon
13 of ethics, plan or program which discourages, hinders, limits,
14 prevents or prohibits any veterinarian from accepting or
15 agreeing to accept referrals from animal welfare agencies for
16 veterinary services at ordinary, reduced or discounted fees;

17 (E) Making any individual contact, devising or putting
18 into effect any procedure, or taking any disciplinary action
19 with reference to any member because of the fees charged or
20 person from whom said member accepts referrals.

21 V

22 Nothing in paragraph IV of this Final Judgment shall be
23 construed to prevent:

24 (A) The Association from negotiating on behalf of its
25 members concerning the fee prescribed by a governmental
26 agency for rabies vaccinations or rabies clinics;

27 (B) The Animal Care Foundation operated by the
28 Association from accepting donation pledges representing
29 an amount of veterinary services, supplies and drugs, or
30 from accepting a donating member's valuation of such
31 veterinary services rendered, including supplies and drugs,
32 to be deducted from the member's pledge; provided that said

1 valuation must be determined by the donating member
2 independently, without consultation with the Association;
3 and provided further that information concerning fees received
4 by said Foundation shall not be disseminated to other
5 veterinarians;

6 (C) The Association's Ethics Committee from considering
7 complaints of members' clients, provided that the Ethics
8 Committee may not consider, recommend or suggest a specific
9 fee for veterinary services in any case. With regard to any
10 fee charged for veterinary services, the Ethics Committee's
11 action shall be limited to a recommendation to the member and
12 the client that they consult further regarding the matter, and
13 the Ethics Committee shall not consider the matter further. In
14 any such case, the Ethics Committee shall make and retain for
15 five years a written summary of the proceedings setting forth
16 the name of the complainant, the name of the veterinarian, a
17 concise statement of the complaint and of the veterinarian's
18 response and any action taken by the Committee. Said summary
19 shall not mention the amount of any fee involved; or

20 (D) The Association from sponsoring programs or
21 disseminating materials advising veterinarians generally
22 regarding the economics of practice. Such programs and
23 materials may discuss factors veterinarians consider in setting
24 their fees independently; provided that no such program or
25 materials use or suggest amounts, ranges of figures, markups,
26 margins or other percentage figures or any other quantification
27 to be applied to such factors, and provided further that no
28 such programs or materials may incorporate, refer or relate
29 to any fee survey or fee schedule, or any other information
30 which would tend to stabilize fees.

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VI

Defendant is ordered and directed:

(A) Within sixty (60) days from the entry of this Final Judgment, to send a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, to each member and to cause the publication of this Final Judgment in defendant's newsletter.

(B) To serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon all of its future members at such time as they become members.

(C) To direct its members to return to defendant all fee schedules and fee surveys distributed or mailed to members by defendant and to mail or deliver to plaintiff all fee schedules and fee surveys received from members in response thereto.

(E) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsections (A) and (C) of this Section VI.

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VII

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

(A) Duly authorized 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 on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all

1 books, ledgers, accounts, correspondence,
2 memoranda, and other records and documents
3 in the possession or under the control of
4 such defendant, who may have counsel
5 present, relating to any matters con-
6 tained in this Final Judgment; and

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

13 (B) Upon the written request of the Attorney General or
14 of the Assistant Attorney General in charge of the Antitrust
15 Division made to a defendant's principal office, such defendant
16 shall submit such written reports, under oath if requested,
17 with respect to any of the matters contained in this Final
18 Judgment as may be requested.

19 No information or documents obtained by the means
20 provided in this Section VII shall be divulged by any
21 representative of the Department of Justice to any person other
22 than a duly authorized representative of the Executive Branch
23 of the United States, except in the course of legal proceedings
24 to which the United States is a party, or for the purpose of
25 securing compliance with this Final Judgment, or as otherwise
26 required by law. If at the time information or documents are
27 furnished by a defendant to plaintiff, such defendant represents
28 and identifies in writing the material in any such information
29 or documents to which a claim of protection may be asserted
30 under Rule 26(c)(7) of the Federal Rules of Civil Procedure,
31 and said defendant marks each pertinent page of such material,
32 "Subject to claim of protection under Rule 26(c)(7) of the

1 Federal Rules of Civil Procedure," then 10 days notice shall be
2 given by plaintiff to such defendant prior to divulging such
3 material in any legal proceeding (other than a Grand Jury
4 proceeding) to which that defendant is not a party.

5 VIII

6 Jurisdiction is retained by this Court for the purpose
7 of enabling any of the parties to this Final Judgment to
8 apply to this Court at any time for such further orders and
9 directions as may be necessary or appropriate for the
10 construction or carrying out of this Final Judgment, for the
11 modification of any of the provisions hereof, for the
12 enforcement of compliance therewith, and for the punishment
13 of violations thereof.

14 IX

15 Entry of this Final Judgment is in the public interest.

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17 Dated: October 31, 1977

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20 /s/ CHARLES B. RENFREW
21 UNITED STATES DISTRICT JUDGE
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1 copies thereof) you may have received from the Association.
2 Accordingly, you are instructed to return any such fee
3 schedules to the secretary of the association within seven
4 (7) days of your receipt of this letter.

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