

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Orange County Travel Agents Association., U.S. District Court, C.D. California, 1975-2 Trade Cases ¶60,440, (Aug. 13, 1975)

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United States v. Orange County Travel Agents Association.

1975-2 Trade Cases ¶60,440. U.S. District Court, C.D. California. Civil Action No. 75-1513 WMB. Entered August 13, 1975. (Competitive impact statement and other matters filed with settlement: 40 *Federal Register* 20960, 32144). Case No. 2452, Antitrust Division, Department of Justice.

Sherman Act

Price Fixing—Travel Agent Services—Consent Decree.—A travel agents' association and its members were prohibited by a consent decree from fixing fees, adopting any schedule of fees, and from inducing public passenger carriers to persuade competitors of association members to conform to its fees and services.

For plaintiff: Thomas E. Kauper, Asst. Atty. Gen. Baddia J. Rashid, Charles F. B. McAleer, Raymond Hernacki, Stanley E. Disney, Jonathan C. Gordon, and William F. Costigan, Attys., Antitrust Div., Dept. of Justice.

For defendant: Arthur W. Gray, Jr., of Carden & Gray.

Final Judgment

BYRNE, D. J.: Plaintiff, United States of America, having filed its complaint herein on May 5, 1975, and the plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue of fact or law herein;

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The complaint states claims upon which relief may be granted against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against restraints and monopolies," commonly known as the Sherman Act, as amended. Entry of this judgment is in the public interest.

II

[Definitions]

For the purposes of this Final Judgment:

- (a) "Carrier" refers to public passenger carriers, such as railroads, air lines, steamship lines, bus companies, and the like;
- (b) "Accommodations" refers to accommodations for lodging, entertainment, rental cars and other services desired by travelers, but does not include transportation by carriers;
- (c) "Tour" refers to a combination of carrier tickets and accommodations; and
- (d) "Person" shall mean any individual, partnership, firm, association, corporation, member of Defendant, or other business or legal entity.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to defendant and its officers, directors, agents, members, employees, subsidiaries, successors and assigns, 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.

IV

[*Prohibited Acts*]

Defendant, whether acting unilaterally, or in concert or agreement with any other person, is enjoined and restrained from:

- (a) Establishing, adhering to, publishing or circulating schedules of services for which charges should be made, and the amount of said charges;
- (b) Inducing or attempting to induce competitors of members of defendant to adopt and adhere to any charge;
- (c) Inducing or attempting to induce any supplier of transportation, accommodations or tours to discontinue doing business with any person;
- (d) Adopting, adhering to, maintaining or enforcing any bylaw, rule, regulation, plan, program or concert of action for the purpose of or with the effect of forcing or inducing any supplier of transportation, accommodations or tours to give discriminatory treatment to members of defendant as compared to any nonmember.

V

[*By-laws*]

Defendant is ordered and directed:

- (a) Within 90 days from the date of entry of this Final Judgment to amend its bylaws, rules, regulations and contracts by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this Final Judgment and to send amended copies of each such bylaw, rule, regulation, and form to each of its members;
- (b) Within 95 days from the date of entry of this Final Judgment to file with the plaintiff a true copy of its bylaws, rules, regulations, and forms, as aforesaid, amended and distributed; and
- (c) Upon amendment of its respective bylaws, rules, regulations and forms, as aforesaid, defendant is thereafter enjoined and restrained from adopting, adhering to, and forcing or claiming any rights under any bylaw, rule, regulation, plan or program which is contrary to or inconsistent with any provision of this Final Judgment.

VI

[*Notice*]

Defendant is ordered and directed to mail within 60 days after the date of entry of this Final Judgment, a copy to each of its members and shall furnish a copy of said Judgment to all new members upon joining said defendant, and within 120 days from the aforesaid date of entry to file with the Clerk of the Court and to serve upon the plaintiff an affidavit setting forth the fact and manner of compliance with this section and section V (a) above.

VII

[*Compliance*]

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives 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 de-defendant, made to its principal office, be permitted:

- (a) Access during its office hours and in the presence of counsel, if defendant chooses, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of said defendant relating to any matters contained in this Final Judgment;

- (b) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such matters; and
- (c) Upon such request defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice 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 for in this section VII 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 Plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

[*Retention of Jurisdiction*]

Jurisdiction is retained by this court for the purpose of enabling either 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 of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.