

## **Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Cloak and Suit Trucking Association, Inc. and Garment Center Truck Owners Association, Inc., U.S. District Court, S.D. New York, 1955 Trade Cases ¶68,175, (Oct. 24, 1955)**

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United States v. Cloak and Suit Trucking Association, Inc. and Garment Center Truck Owners Association, Inc. 1955 Trade Cases ¶68,175. U.S. District Court, S.D. New York. Civil No. 66-141. Filed October 24, 1955. Case No. 1078 in the Antitrust Division of the Department of Justice.

### **Sherman Antitrust Act**

**Combinations and Conspiracies—Monopolies—Consent Decree—Practices Enjoined—Allocation of Markets, Price Fixing, and Restrictions—Trade Associations of Carriers of Cloaks and Suits.**—Two trade associations of cloak and suit carriers were prohibited by a consent decree from entering into any agreement to (1) fix or maintain rates to be charged by cloak and suit carriers, (2) allocate or restrict the geographical area in which, or the routes by which, such carriers may operate, (3) allocate or divide customers, (4) restrict or prohibit any cloak and suit manufacturer or contractor from employing or using any carrier or other means of transportation, (5) restrict or prohibit any carrier from making any type of delivery, including finished garments on racks or in packages, or cut goods or piece goods, or (6) restrict or prohibit any person from engaging in business as a cloak and suit carrier.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Restricting or Requiring Membership in Trade Association.**—Two trade associations of cloak and suit carriers were each prohibited by a consent decree from (1) preventing any person from becoming a member of any cloak and suit carrier association, (2) requiring any person making or desiring to make cloak and suit deliveries to become a member of, or to maintain membership in, a defendant association or any association of such carriers, or (3) knowingly maintaining, contributing to, or supporting any association which to the defendant's knowledge contributes to the doing of any activities which are inconsistent with the provisions of the decree.

**Combinations and Conspiracies—Consent Decree—Practices Enjoined—Compilation and Dissemination of Names of Customers—Allocation of Customers.**—Two trade associations of cloak and suit carriers were each prohibited by a consent decree from (1) requiring any cloak and suit carrier to file with any defendant the names of cloak and suit manufacturers or contractors served by such carrier, or (2) disclosing systematically to any such carrier the name of any such manufacturer or contractor filed with any defendant where such disclosure has the purpose or effect of an allocation of cloak and suit manufacturers or contractors.

**Department of Justice Enforcement and Procedure—Consent Decree—Specific Relief—Notice of Decree—Amendment of By-Laws.**—Two trade associations of cloak and suit carriers were each ordered by a consent decree to amend its charter or by-laws so as to incorporate therein specified provisions of the decree and to require as a condition of membership or retention of membership that all present and future members abide and be bound by such provisions. Also, the associations were each ordered to serve upon each of its present members a copy of the decree and to furnish to all its present and future members a copy of its charter or by-laws as amended.

**Department of Justice Enforcement and Procedure—Consent Decree—Permissive Provisions—Regulations of Public Service Commissions—Labor Contracts.**—A consent decree entered against two trade associations of cloak and suit carriers provided that nothing contained in the decree shall be deemed to (1) prohibit any defendant from engaging in any act authorized or permitted by the rules, regulations, or orders of the Interstate Commerce Commission or of any duly constituted state or municipal public service commission or regulatory body or (2) prohibit any defendant from bargaining collectively and entering into any agreement with duly organized labor unions which is incident and appropriate to the exercise of any rights, privileges,

immunities, and obligations accruing to and devolving upon a duly organized labor union and its officers, agents, and members.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, William D. Kilgore, Jr., Victor H. Kramer, George L. Derr, Richard B. O'Donnell, Harry G. Sklarsky, J. Paul McQueen, Herman Gelfand, and Bernard A. Friedman.

For the defendants: Sylvester & Harris, by Charles L. Sylvester, for Cloak and Suit Trucking Association, Inc.; and Silver & Bernstein, by George H. Kaplan, for Garment Center Truck Owners Association, Inc.

### Final Judgment

EDELSTEIN, District Judge [ *In full text*]: The plaintiff, United States of America, having filed its complaint herein on April 30, 1951, as amended by order of the Court dated June 3, 1955, defendants having appeared and filed their respective answers to said complaint, denying the substantive allegations thereof; and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment herein without trial or adjudication of any issue of fact or law herein;

Now, therefore, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law, and without any admission by any party in respect of any such issue, and upon the consent of the parties hereto, and the Court being advised and having considered the matter, it is hereby

Ordered, adjudged and decreed, as follows:

#### I.

##### [ *Sherman Act*]

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim for relief against the defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209, 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 an individual, partnership, firm, corporation, association or other legal entity.
- (b) "Manufacturer" means a person, including a jobber, engaged in the production of cloaks and suits in the metropolitan area for sale to wholesale or retail customers.
- (c) "Contractor" means a person in the metropolitan area engaged by a manufacturer to sew and otherwise finish cloaks and suits from cut or uncut material furnished by the manufacturer.
- (d) "Cloak and Suit carrier" means a person engaged by a manufacturer or contractor to transport cloak and suit material or cloaks and suits in the metropolitan area.
- (e) "Metropolitan area" means the area consisting of the States of New York, Massachusetts, Rhode Island, Connecticut, New Jersey and Pennsylvania.

#### III.

##### [ *Applicability of Judgment*]

The provisions of this Final Judgment applicable to a defendant shall apply to such defendant and to its officers, agents, servants and employees, and to all persons in active concert or participation with such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

#### IV.

[ *Concerted Practices Prohibited*]

The defendants are jointly and severally enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination, agreement, undertaking, plan or program to:

- (a) fix, determine, maintain or establish rates to be charged by cloak and suit carriers;
- (b) allocate or restrict the geographic area in which, or the routes by which, cloak and suit carriers or associations of cloak and suit carriers may operate;
- (c) allocate or divide customers among cloak and suit carriers;
- (d) restrict or prohibit any cloak and suit manufacturer or contractor from employing or using any cloak and suit carrier or other means of transportation for making deliveries;
- (e) restrict or prohibit any cloak and suit carrier from making any type of delivery, including finished garments on racks or in packages, or cut goods or piece goods;
- (f) restrict or prohibit any person from engaging in business as a cloak and suit carrier.

V.

[ *Association Membership—Customers' Names*]

Each defendant Association is enjoined and restrained from:

- (a) excluding any person from being, or preventing any person from becoming, a member of any cloak and suit carrier association, save for failure or refusal of any person to comply with said association's reasonable and non-discriminatory requirements for membership not otherwise inconsistent with the provisions of this Final Judgment;
- (b) requiring any person making or desiring to make cloak and suit deliveries to become a member of, or to maintain membership in, a defendant association or any association of cloak and suit carriers;
- (c) knowingly maintaining, contributing to, furthering or supporting, in any way, any association or organization of any kind which to defendant's knowledge directly or indirectly contributes to the doing of, or furthers any activities which are inconsistent in any manner with the provisions of this Final Judgment;
- (d) requiring any cloak and suit carrier to file with any defendant the names of cloak and suit manufacturers or contractors served by such carrier, except as may be provided in an unexpired collective agreement, or extension thereof, between any defendant and a duly organized labor union representing cloak and suit carrier employees; provided, however, that nothing in this Final Judgment shall be construed to prevent any defendant, acting individually, from receiving from any of its members information concerning the names and addresses of cloak and suit manufacturers or contractors served by such member, and from filing such information;
- (e) disclosing systematically, directly or indirectly, to any cloak and suit carrier, the name of any cloak and suit manufacturer or contractor filed with any defendant, or disclosing such information to any person where such disclosure has the purpose or effect of an allocation of cloak and suit manufacturers or contractors.

VI.

[ *Notice of Judgment—Amendment of By-Laws*]

Each defendant Association is ordered and directed:

- (a) within thirty days after the entry of this Final Judgment to serve by mail upon each of its present members a conformed copy of this Final Judgment and to file with this Court and to serve upon the attorney for the plaintiff herein, proof by affidavit of such service;
- (b) within three months from entry of this Final Judgment to amend its charter or by-laws so as to incorporate therein Sections IV and V of this Final Judgment and to require as a condition of membership or retention of membership that all present and future members abide by and be bound thereby;

(c) to furnish to all its present and future members a copy of its charter or by-laws as amended in accordance with subsection (b) of this Section VI.

**VII.**

*[ Permissive Provisions]*

Nothing in this Final Judgment shall be deemed to enjoin or restrain any defendant from engaging in any act or practice authorized, approved or permitted by the rules, regulations or orders of the Interstate Commerce Commission or of any duly constituted state or municipal public service commission or regulatory body.

**VIII.**

Nothing in this Final Judgment shall be deemed to enjoin any defendant from bargaining collectively and entering into and carrying out the terms of any agreement with duly organized labor unions which is incident and appropriate to the exercise of any or all rights, privileges, immunities, duties and obligations accruing to and devolving upon a duly organized labor union and its officers, agents and members.

**IX.**

*[ Inspection and Compliance]*

For the purpose of securing compliance with this Final Judgment, and for no other purpose, 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 any defendant, made at its principal office, be permitted, subject to any legally recognized privilege, (a) access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present regarding any such matters; and (c) upon such request, any defendant shall submit reports in writing in respect of any such matters as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such department, 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 provided by law.

**X.**

*[ Jurisdiction Retained]*

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for punishment of violations thereof.