

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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UNITED STATES OF AMERICA,  
Department of Justice  
Antitrust Division  
1401 H Street, NW, Suite 3000  
Washington, DC 20530,

Plaintiff,

v.

ALLIED WASTE INDUSTRIES, INC.,  
15880 Greenway-Hayden Loop, Suite 100  
Scottsdale, Arizona 85260; and

BROWNING-FERRIS INDUSTRIES, INC.,  
757 North Eldridge at Memorial Drive  
Houston, Texas 77079,

Defendants.

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Case No. 1:99 CV 01962

JUDGE: Ricardo M. Urbina

DECK TYPE: Antitrust

DATE STAMP: 07/20/1999

**COMPLAINT FOR INJUNCTIVE RELIEF**

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the acquisition by Allied Waste Industries, Inc. ("Allied") of Browning-Ferris Industries, Inc. ("BFI") and to obtain equitable and other relief as is appropriate. Plaintiff complains and alleges as follows:

1. Allied plans to acquire BFI pursuant to an Agreement and Plan of Merger entered into by defendants on or about March 7, 1999.

2. Defendants Allied and BFI are, respectively, the third and second largest waste collection and disposal firms in the United States. In many markets throughout the country, Allied and BFI directly compete for commercial waste collection and disposal services, and their

combination would eliminate one of only a few competitors or would result in near monopoly. Unless this acquisition is enjoined, consumers of waste collection and disposal services will likely pay higher prices and receive fewer services as a consequence of the elimination of the vigorous competition between defendants Allied and BFI.

I.

JURISDICTION AND VENUE

3. This action is filed by the United States of America under Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain the violation by defendants of Section 7 of the Clayton Act, 15 U.S.C. § 18.

4. BFI is located in and transacts business in the District of Columbia, and Allied submits to personal jurisdiction of the District of Columbia in this proceeding. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

5. Defendants Allied and BFI collect municipal solid waste from both residential and commercial customers, and they own and operate transfer stations, landfills and incinerators, which process and dispose of municipal solid waste. In their waste collection and waste disposal businesses, defendants make sales and purchases in interstate commerce, ship waste in the flow of interstate commerce, and engage in activities substantially affecting interstate commerce. The Court has jurisdiction over this action and over the parties pursuant to 15 U.S.C. § 22 and 28 U.S.C. §§ 1331 and 1337.

## II.

### DEFINITIONS

6. "MSW" means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments such as retail stores, offices, restaurants, warehouses, and non-manufacturing activities in industrial facilities. MSW does not include special handling waste (*e.g.*, waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites.

7. "Small container commercial waste collection service" means the business of collecting MSW from commercial and industrial accounts, usually in "dumpsters" (*i.e.*, a small container with one to ten cubic yards of storage capacity), and transporting or "hauling" such waste to a disposal site by use of a front- or rear-end loader truck. Typical commercial waste collection customers include office and apartment buildings and retail establishments (*e.g.*, stores and restaurants).

8. "Transfer station" means an intermediate disposal site, often used in more densely populated urban areas, for processing and temporary storage of solid waste before transfer, in bulk, to more distant facilities for final disposal.

9. "Akron/Canton" means the cities of Akron and Canton and Summit, Stark and Portage counties, Ohio.

10. "Atlanta" means the City of Atlanta and DeKalb, Clayton, Henry, Fayette, Fulton, Douglas, Cobb, and Gwinnett counties, Georgia.

11. "Boston" means the City of Boston and Bristol, Essex, Middlesex, Norfolk, Suffolk, and Worcester counties, Massachusetts.

12. “Charlotte” means the City of Charlotte and Mecklenburg County, North Carolina.
13. “Chicago” means the City of Chicago and Cook, DuPage, Will, Kane, McHenry and Lake counties, Illinois.
14. “Dallas” means the City of Dallas and Dallas County, Texas.
15. “Davenport/Moline” means the cities of Davenport and Bettendorf, Iowa; Moline, East Moline and Rock Island, Illinois; and Rock Island County, Illinois and Scott County, Iowa.
16. “Denver” means the City of Denver and Denver, Arapahoe, Adams, Douglas and Jefferson counties, Colorado.
17. “Detroit” means the City of Detroit and Wayne, Oakland and Macomb counties, Michigan.
18. “Evansville” means the City of Evansville and Vanderburgh County, Indiana.
19. “Joplin/Lamar” means the cities of Joplin and Lamar, and Jasper, Newton, Greene and Christian counties, Missouri.
20. “Kalamazoo/Battle Creek” means the cities of Kalamazoo and Battle Creek and Kalamazoo and Calhoun counties, Michigan.
21. “Moline” means the cities of Moline, East Moline and Rock Island, and Rock Island County, Illinois.
22. “Oakland” means the City of Oakland and Contra Costa and Alameda counties, California.
23. “Oklahoma City” means the City of Oklahoma and Oklahoma County, Oklahoma.

24. “Rock Falls/Dixon” means the cities of Rock Falls and Dixon, and Lee and Whiteside counties, Illinois.

25. “Rockford” means the City of Rockford and Ogle and Winnebago counties, Illinois.

26. “Springfield” means the City of Springfield and Greene and Christian counties, Missouri.

### III.

#### DEFENDANTS

27. Allied is a Delaware corporation with its principal office in Scottsdale, Arizona. Allied is engaged in providing waste collection and disposal services throughout the United States. In 1998, Allied reported total revenues of nearly \$1.6 billion.

28. BFI is a Delaware corporation with its principal office in Houston, Texas. BFI is engaged in providing waste collection and disposal services throughout the United States, including the District of Columbia. In its 1998 fiscal year, BFI reported total revenues of \$4.7 billion.

### IV.

#### TRADE AND COMMERCE

##### **A. The Relevant Service Markets**

###### *Small Container Commercial Waste Collection Service*

29. Waste collection firms, or “haulers,” collect MSW from residential, commercial and industrial establishments, and transport the waste to a disposal site, such as a transfer station, sanitary landfill or incinerator, for processing and disposal. Private waste haulers typically contract directly with customers for the collection of waste generated by commercial accounts.

MSW generated by residential customers, on the other hand, is often collected by either local governments or by private haulers pursuant to contracts bid by, or franchises granted by, municipal authorities.

30. Small container commercial waste collection differs in many important respects from the collection of residential or other types of waste. An individual commercial customer typically generates substantially more MSW than a residential customer. To handle this high volume of MSW efficiently, haulers provide commercial customers with dumpsters (small one to ten cubic yard containers) for storing the waste. Haulers organize their commercial accounts into routes, and collect and transport the MSW generated by these accounts in vehicles uniquely well suited for commercial waste collection -- primarily front-end loader ("FEL") trucks. Less frequently, haulers may use more maneuverable but less efficient rear-end loader ("REL") trucks, especially in those areas in which a collection route includes very narrow alleyways or streets.

31. On a typical small container commercial waste collection route, an operator drives an FEL vehicle to the customer's container, engages a mechanism that grasps and lifts the container over the front of the truck, and empties the container into the vehicle's storage section, where the waste is compacted and stored. The operator continues along the route, collecting MSW from each of the commercial accounts until the vehicle is full. The operator then drives the FEL truck to a disposal facility, such as a transfer station, landfill or incinerator, and empties the contents of the vehicle.

32. In contrast to a commercial route, a residential waste collection route is a significantly more labor intensive operation. The customer's MSW is stored in much smaller containers (*e.g.*, garbage bags or trash cans) and instead of FEL trucks, waste collection firms

routinely use REL or sideload trucks, manned by larger crews (usually, two- or three-person teams). On residential routes, the crews generally hand-load the customer's MSW, typically by tossing garbage bags and emptying trash cans into the vehicle's storage section. Because of the differences in the collection process, as a rule, residential customers and commercial customers are organized into separate routes. For a variety of reasons, other types of collection activities, such as roll-off containers (typically used for construction debris) and collection of liquid or hazardous waste, are also rarely combined with commercial waste collection activities.

33. The differences in the types and volume of MSW collected and in equipment used in their collection activities distinguish small container commercial waste collection from all other types of waste collection activities. For this reason, small container commercial waste collection firms can profitably increase their charges for small container commercial waste collection services without losing significant sales or revenues to firms engaged in the provision of other types of waste collection services. Thus, small container commercial waste collection service is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

#### *Disposal of MSW Service*

34. MSW has physical characteristics that readily distinguish it from other liquid or solid waste. Federal, state and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. An MSW sanitary landfill, incinerator or transfer station must be located on approved types of land and operated under prescribed procedures. For instance, most MSW is disposed of in sanitary landfills, which are permitted under and regulated by the states and municipalities in which they are located. Local ordinances and permit restrictions often impose severe limitations

on the type (nonhazardous waste), origin (*e.g.*, no out-of-area waste), and total and daily amount of waste that can be disposed of at sanitary landfills. Anyone who fails to dispose of MSW in an approved facility can be subject to severe civil and criminal penalties. Firms that compete in the disposal of MSW can profitably increase their charges to haulers for MSW disposal without losing significant sales to any other firms.

35. For these reasons, there are no good substitutes for the disposal of MSW.

Disposal of MSW is a line of commerce, or relevant service market, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

## **B. The Relevant Geographic Markets**

### *Small Container Commercial Waste Collection Service*

36. Small container commercial waste collection services are generally provided in highly localized areas because to operate efficiently and profitably, a hauler must have sufficient density in its commercial waste collection operations; *i.e.*, a large number of commercial accounts that are reasonably close together. In addition, an FEL or REL vehicle cannot be efficiently driven very long distances without collecting significant amounts of MSW, which makes it economically impractical for a small container commercial waste collection firm to serve major metropolitan areas from a distant base.

37. MSW generated in a given area is transported by collection vehicles to sanitary landfills, transfer stations, or other disposal sites for processing and disposal. Because the costs of transporting MSW to a disposal site are a substantial component of the overall costs of collection services, the proximity of disposal sites to a hauler's MSW routes is a major determinant of the hauler's competitiveness and profitability. Generally, for MSW hauled over 50 miles, a commercial waste collection firm will find that it is more economical to use a transfer



station to combine a number of truck loads of MSW to be shipped to a disposal site on a single large transfer trailer truck, instead of sending a number of individual FEL (or REL) trucks to a distant disposal site. Although the use of transfer trailers reduces overall transportation costs, it results in additional MSW processing costs. In any event, transportation and processing costs sharply limit the geographic area in which a small container commercial waste collection firm can economically operate.

38. Local small container commercial waste collection firms in Akron/Canton, Boston, Charlotte, Chicago, Dallas, Davenport/Moline, Denver, Detroit, Evansville, Kalamazoo/Battle Creek, Oklahoma City, Rock Falls/Dixon, Rockford, and Springfield can profitably increase charges to local customers without losing significant sales to more distant competitors. Each of these areas is a relevant market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

*Disposal of MSW Service*

39. Hauling companies that dispose of their waste at landfill sites must pay gate rates or tipping fees. These fees and other disposal costs account for a large percentage of revenues for waste collection or hauling services. Therefore, access to a suitable all-purpose MSW landfill at a competitive price is essential. Haulers are often limited to landfills located in close proximity to the areas from which they collect waste because of the high transportation costs. Moreover, natural barriers and congested highways contribute to substantial travel time in getting to more distant landfills.

40. Firms that compete in disposal of MSW in Akron/Canton, Atlanta, Boston, Charlotte, Chicago, Moline, Denver, Detroit, Evansville, Joplin/Lamar, Kalamazoo/Battle Creek, Oakland, Oklahoma City, and Springfield can profitably increase their charges for disposal of

MSW without losing significant sales to more distant disposal sites. Disposal of MSW from each of these areas is a relevant geographic market for assessing the competitive effects of the acquisition under Section 7 of the Clayton Act.

**C. Reduction in Competition As a Consequence of the Merger**

41. Allied and BFI directly compete in small container commercial waste collection service in a number of markets nationwide, including Akron/Canton, Boston, Charlotte, Chicago, Dallas, Davenport/Moline, Denver, Detroit, Evansville, Kalamazoo/Battle Creek, Oklahoma City, Rock Falls/Dixon, Rockford, and Springfield. In these markets, Allied and BFI each account for a substantial share of total revenues from commercial waste collection services.

42. Allied and BFI directly compete in the disposal of MSW in a number of markets nationwide, including Akron/Canton, Atlanta, Boston, Charlotte, Chicago, Moline, Denver, Detroit, Evansville, Joplin/Lamar, Kalamazoo/Battle Creek, Oakland, Oklahoma City, and Springfield. In these markets, Allied and BFI each account for a substantial share of disposal capacity.

***Akron/Canton, Ohio***

43. In the Akron/Canton market, the merger would reduce from four to three the number of significant firms competing in the disposal of MSW. After the merger, Allied would control roughly 75 percent of disposal capacity in a market generating annual revenues of about \$20 million. Using a measure of market concentration called the Herfindahl-Hirschman Index (“HHI”) (defined and explained in Appendix A), the post-merger HHI would be about 5000, an increase of well over 1,000 points.

43. The merger would also reduce from four to three the number of significant competitors in small container commercial waste collection service. After the merger, Allied

would control over 44 percent -- and two firms over 80 percent -- of total market revenues, which are about \$25 million annually.

***Atlanta, Georgia***

45. In the Atlanta market, the proposed merger would reduce from five to four the number of firms that compete in the disposal of commercial MSW. County-owned landfills in this area are not good substitutes for the disposal of MSW generated by commercial accounts in the Atlanta market, since these landfills are largely reserved for the disposal of residential and other waste generated exclusively from the county in which the landfill is located. The post-merger HHI would be about 2700, an increase of over 500 points, in a market in which total revenues from disposal of MSW exceed \$40 million annually.

***Boston, Massachusetts***

46. In Boston, the proposed merger would reduce from three to two the number of significant firms that compete in the disposal of MSW. After the merger, Allied would control 45 percent -- and two firms more than 85 percent -- of the disposal capacity in the Boston market. The post-merger HHI would be over 3750, with an increase of over 1000 points, in a market in which total revenues from disposal of MSW exceed \$150 million annually.

47. The merger would also reduce from three to two the number of significant firms that compete in small container commercial waste collection service, with Allied controlling over 50 percent of total market revenues in excess of \$125 million annually.

***Charlotte, North Carolina***

48. In Charlotte, the proposed merger would reduce from three to two the number of disposal firms, with Allied in control of more than 50 percent of disposal capacity. The post-

merger HHI would be over 4500, with an increase of about 1500 points, in a market in which total revenues from disposal of MSW exceed \$30 million annually.

49. The merger would also reduce from four to three the number of significant competitors in small container commercial waste collection service in the Charlotte market, with Allied commanding about 65 percent of total market revenues of \$20 million annually.

***Chicago, Illinois***

50. In Chicago, the merger would reduce from four to three the number of significant competitors in the disposal of MSW, with Allied controlling over 50 percent -- and two firms over 85 percent -- of disposal capacity in this market. The post-merger HHI would be over 3800, an increase of more than 1250 points in a market in which total revenues from disposal of MSW are more than \$250 million annually.

51. The merger would also reduce from three to two the number of significant competitors in small container commercial waste collection service in Chicago, with Allied controlling over 45 percent -- and two firms commanding at least 70 percent -- of total market revenues that exceed \$200 million annually.

***Dallas, Texas***

52. The merger would reduce from three to two the number of significant firms competing in small container commercial waste collection service in Dallas, with Allied in control of over 35 percent -- and two firms commanding more than 80 percent -- of total market revenues in excess of \$40 million annually.

***Davenport, Iowa/ Moline, Illinois***

53. The merger would reduce from three to two the number of significant firms that compete in small container commercial waste collection service in Davenport/Moline, with Allied controlling over 60 percent of total market revenues in excess of \$6 million annually.

***Denver, Colorado***

54. The merger would reduce from four to three the number of significant competitors in the disposal of MSW in the Denver market, with Allied controlling more than 22 percent of disposal capacity. The post-merger HHI would exceed 3800, an increase of over 200 points. Total revenues from disposal of MSW in the Denver market are more than \$50 million annually.

55. The merger also would reduce from four to three the number of significant firms that compete in small container commercial waste collection service in Denver. After the merger, Allied would control about 25 percent -- and two firms would control over 80 percent -- of total market revenues of over \$60 million annually.

***Detroit, Michigan***

56. The merger would reduce from five to four the number of significant competitors in the disposal of MSW in the Detroit market, with Allied in control of over 35 percent of landfill disposal capacity. Because of significant capacity constraints, the municipal incinerators in this market are not good substitutes for landfill disposal of MSW generated by commercial businesses. The post-merger HHI would be about 3000, an increase of over 600 points. Total revenues from disposal of MSW in the Detroit market exceed \$90 million annually.

57. The merger also would reduce from four to three the number of significant firms that compete in small container commercial waste collection service in Detroit. Allied would

control more than 30 percent -- and two competitors would have over 80 percent -- of total market revenues, which exceed \$75 million annually.

***Evansville, Indiana***

58. The merger would reduce from two to one the number of significant firms that compete in the disposal of MSW in the Evansville market, with Allied commanding over 95 percent of disposal capacity. Total revenues from the disposal of MSW in the Evansville market exceed \$5 million annually.

59. The merger would also reduce from two to one the number of significant firms competing in small container commercial waste collection service. After the merger, Allied would command over 85 percent of total annual market revenues of almost \$4 million.

***Joplin/Lamar, Missouri***

60. The merger would reduce from three to two the number of significant firms competing in the disposal of MSW in the Joplin/Lamar market, with Allied controlling over 80 percent of disposal capacity. The post-merger HHI would exceed 8000, an increase of over 4000 points. Total revenues from disposal of MSW in the Joplin/Lamar market exceed \$5 million annually.

***Kalamazoo/Battle Creek, Michigan***

61. In Kalamazoo/Battle Creek, the merger would reduce from four to three the number of significant firms that compete in the disposal of MSW, with Allied controlling over 50 percent of disposal capacity. The post-merger HHI would exceed 4000, an increase of over 1200 points. Total revenues from the disposal of MSW in the Kalamazoo/Battle Creek market exceed \$20 million annually.

62. The merger also would reduce from three to two the number of significant firms competing in small container commercial waste collection service in the Kalamazoo/Battle Creek market. After the merger, Allied would control 46 percent -- and two firms would command over 90 percent -- of total annual market revenues of over \$7 million.

***Moline, IL***

63. In Moline, a combination of Allied and BFI would reduce from two to one the number of significant firms that compete in the disposal of MSW. Though several municipal landfills are located across the Mississippi River in neighboring Iowa, they are restricted to accepting locally generated MSW, which would preclude disposal of MSW from Moline. Total revenues from disposal of MSW in Moline likely exceed \$8 million annually.

***Oakland, California***

64. In Oakland, the merger would reduce from five to four the number of significant firms that compete in the disposal of MSW, with Allied in control of over 45 percent of disposal capacity. The post merger HHI would be about 3400, a change of over 1000 points. Total revenues from the disposal of MSW from the Oakland market exceed \$50 million annually.

***Oklahoma City, Oklahoma***

65. In Oklahoma City, the merger would reduce from four to three the number of competitors to dispose of MSW. Allied would command more than 70 percent of disposal capacity in the Oklahoma City market. The post-merger HHI would exceed 5500, an increase of over 2000 points. Total revenues from the disposal of MSW in Oklahoma City exceed \$20 million annually.

66. The merger also would reduce from three to two the number of significant firms competing in small container commercial waste collection service in Oklahoma City. After the

merger, Allied would control 50 percent -- and two firms would dominate with over 90 percent -- of this market that produces annual revenues of approximately \$15 million.

***Rock Falls/Dixon, Illinois***

67. In Rock Falls/Dixon, a combination of Allied and BFI would reduce from four to three the number of significant firms that compete in commercial waste collection, with Allied controlling more than 50 percent of total market revenues exceeding \$2.5 million annually.

***Rockford, Illinois***

68. In Rockford, a combination of Allied and BFI would reduce from five to four the number of firms that compete in small container commercial waste collection service, with Allied commanding over 45 percent of total market revenues that exceed \$7 million annually.

***Springfield, Missouri***

69. The merger would reduce from four to three the number of significant firms competing in the disposal of MSW in the Springfield market, with Allied controlling over 55 percent of disposal capacity. The post-merger HHI would exceed 3800, an increase of over 1600 points. Total revenues from disposal of MSW in the Springfield market exceed \$10 million annually.

70. The merger also would reduce from three to two the number of significant firms that compete in small container commercial waste collection service in the Springfield market. After the merger, Allied would control over 60 percent of total market revenues, which exceed \$6 million annually.

**D. Entry Into Commercial Waste Collection and Disposal of MSW**

71. Significant new entry into small container commercial waste collection service is difficult and time-consuming in the Akron/Canton, Boston, Charlotte, Chicago, Denver, Detroit,



Dallas, Davenport/Moline, Evansville, Springfield, Kalamazoo/Battle Creek, Oklahoma City, Rock Falls/Dixon, and Rockford markets. A new entrant into small container commercial waste collection service cannot provide a significant competitive constraint on the prices charged by market incumbents until it achieves minimum efficient scale and operating efficiencies comparable to existing firms. In order to obtain comparable operating efficiency, a new firm must achieve route density comparable to existing firms. However, the incumbents' use of price discrimination and long-term contracts prevents new entrants from winning a large enough base of customers to achieve efficient routes in a short period of time or at pre-entry prices.

72. Significant new entry into the disposal of MSW in the Akron/Canton, Atlanta, Boston, Charlotte, Chicago, Moline, Denver, Detroit, Evansville, Joplin/Lamar, Kalamazoo/Battle Creek, Oakland, and Oklahoma City markets would be difficult and time-consuming. As a rule, landfills are subject to stringent regulation by state and local government agencies. Obtaining a permit to construct a new landfill or to expand an existing landfill is a costly and time-consuming process, which typically takes many years to conclude. Local public opposition often makes it more difficult and costly, and increases the time and uncertainty of successfully permitting a facility. MSW sanitary landfills can only accept waste up to their permitted daily capacity and have a finite life span. Suitable sanitary landfills are difficult and time-consuming to obtain, and sometimes difficult to expand, because of the scarcity of suitable land, local resident opposition, environmental concerns, and government regulation. In the listed markets, entry by any new landfill or incinerator would be an extremely costly and time-consuming process, and unlikely to prevent market incumbents from significantly raising prices for disposal services following a merger of Allied and BFI.

73. For similar reasons, entry by a new transfer station, or significant expansion by an existing transfer station, would also be difficult in the Akron/Canton, Atlanta, Boston, Charlotte, Chicago, Denver, Detroit, Evansville, Springfield, and Kalamazoo/Battle Creek markets. Unavailability of suitable, close-in sites and substantial local opposition to new (or larger) transfer stations would significantly increase the time, and substantially decrease the likelihood, of anyone successfully permitting such a disposal site. For these reasons, it is highly unlikely that a competitively-viable new transfer station could be permitted in these markets any time within the next two years. Therefore, entry by any new transfer station is unlikely to prevent market incumbents from significantly raising prices for disposal services following a merger of Allied and BFI.

**E. Harm to Competition**

74. In each of the markets listed above, Allied's acquisition of BFI would remove a significant competitor in the disposal of MSW or in small container commercial waste collection service, or both, in already highly concentrated and difficult-to-enter markets. In each of these markets, the resulting substantial increase in concentration, loss of competition, and absence of reasonable prospect of significant new entry or expansion by market incumbents ensure that consumers will pay substantially higher prices for disposal of MSW, collection of small container commercial waste, or both, following the acquisition.

**V.**

**VIOLATION ALLEGED**

75. On or about March 7, 1999, defendants entered into an agreement pursuant to which Allied would acquire all of the outstanding voting securities of BFI for approximately \$9.2 billion. The transaction is set to be approved at a meeting of shareholders of Allied and

BFI sometime in July 1999. The likely effect of the acquisition is to substantially lessen competition and to tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

76. The transaction likely will have the following effects, among others:
- a. competition generally in small container commercial waste collection service in Akron/Canton, OH; Boston, MA; Charlotte, NC; Chicago, IL; Denver, CO; Detroit, MI; Dallas, TX; Davenport, IA/Moline, IL; Evansville, IN; Springfield, MO; Kalamazoo/Battle Creek, MI; Oklahoma City, OK; Rock Falls/Dixon, IL; and Rockford, IL will be lessened substantially;
  - b. actual and potential competition between Allied and BFI in small container commercial waste collection service in the Akron, OH; Boston, MA; Charlotte, NC; Chicago, IL; Denver, CO; Detroit, MI; Dallas, TX; Davenport, IA/Moline, IL; Evansville, IN; Springfield, MO; Kalamazoo, MI; Oklahoma City, Ok; Rock Falls and Dixon, IL; and Rockford, IL markets will be eliminated;
  - c. prices charged by small container commercial waste collection firms in the Akron, OH; Boston, MA; Charlotte, NC; Chicago, IL; Denver, CO; Detroit, MI; Dallas, TX; Davenport, IA/Moline, IL; Evansville, IN; Springfield, MO; Kalamazoo/Battle Creek, MI; Oklahoma City, Ok; Rock Falls and Dixon, IL; and Rockford, IL markets will likely increase;
  - d. competition generally in disposal of MSW in the Akron/Canton, OH; Atlanta, GA; Boston, MA; Charlotte, NC; Chicago, IL; Moline IL;

Denver, CO; Detroit, MI; Evansville, IN; Joplin/Lamar, MO;

Kalamazoo/Battle Creek, MI; Oakland, CA; Oklahoma City, OK; and

Springfield, MO markets will be lessened substantially;

- e. actual and potential competition between Allied and BFI in disposal of MSW in the Akron/Canton, OH; Atlanta, GA; Boston, MA; Charlotte, NC; Chicago, IL; Moline IL; Denver, CO; Detroit, MI; Evansville, IN; Joplin/Lamar, MO; Kalamazoo/Battle Creek, MI; Oakland, CA; Oklahoma City, OK; and Springfield, MO markets will be eliminated; and
- f. prices for disposal of MSW in Akron/Canton, OH; Atlanta, GA; Boston, MA; Charlotte, NC; Chicago, IL; Moline IL; Denver, CO; Detroit, MI; Evansville, IN; Joplin/Lamar/Springfield, MO; Kalamazoo/Battle Creek, MI; Oakland, CA; Oklahoma City, OK; and Springfield, MO markets likely will increase.

## VI.

### REQUESTED RELIEF

Plaintiff requests:

1. That Allied's proposed acquisition of BFI be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act;
2. That defendants be permanently enjoined from carrying out their Agreement and Plan of Merger dated March 7, 1999, or from entering into or carrying out any agreement, understanding or plan, the effect of which would be to combine the businesses or assets of defendants;

3. That plaintiff receive such other and further relief as the case requires and the Court deems proper; and

4. That plaintiff recover the costs of this action.

Dated: July 14, 1999.

Respectfully submitted,

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Denise Cheung

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## APPENDIX A

### HERFINDAHL-HIRSCHMAN INDEX CALCULATIONS

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ( $30^2 + 30^2 + 20^2 + 20^2 = 2600$ ). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See *Merger Guidelines* §1.51.