

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

MOTOR CARRIERS TARIFF)
BUREAU, INC.)

Defendant.)

Civil Action No. C 77-1973

Filed: November 16, 1977

COMPLAINT FOR INJUNCTIVE
RELIEF FOR VIOLATION OF
TITLE 15 U.S.C. §1,
SHERMAN ANTITRUST ACT

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the above-named defendant and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed under Section 4 of the Sherman Act (15 U.S.C. §4), in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. §1).

2. Motor Carriers Tariff Bureau, Inc., transacts business in the District of Columbia.

II.

DEFINITIONS

3. As used herein, the term:

(a) "Northeast and Central region of the United States" includes the District of Columbia as well as the States of Connecticut, Delaware, Indiana, Illinois, Iowa, Kentucky, Maine,

Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

- (b) "Interstate for-hire transportation" means for-hire transportation of property across state boundaries by motor carriers authorized to engage in such transportation by the Interstate Commerce Commission and to serve the general public on a common carrier basis.
- (c) "Property" includes all items described in the following Motor Carriers Tariff Bureau, Inc. tariffs:
- Tariff 35, Tariff 35.2, Tariff 35.3, Tariff 36, Tariff 36.1, Tariff 37.2, Tariff 37.3, Tariff 37.5, Tariff 39, Tariff 39.2, Tariff 39.3, Tariff 46, Tariff 48, Tariff 64, Tariff 65, Tariff 65.1, Tariff 67, Tariff 69, Tariff 71, Tariff 73, Tariff 74, Tariff 75, Tariff 76, Tariff 77, Tariff 78, Tariff 79, Tariff 83, Tariff 84, Tariff 86, Tariff 88, Tariff 89, Tariff 90, Tariff 91, Tariff 92, Tariff 93, Tariff 94; all respective supplements thereto; and all predecessor tariffs of the aforesaid tariffs which were effective within the period covered by the Complaint.
- (d) "Persons" means any natural person, firm, individual proprietorship, partnership, association or corporation.

III.

DEFENDANT

4. Motor Carriers Tariff Bureau, Inc., (hereinafter referred to as "MCTB") is made a defendant herein. MCTB is a corporation organized and existing under the laws of the State of Ohio and has its principal offices in Cleveland, Ohio. MCTB is an organization which publishes rates on behalf of motor carriers engaged in interstate for-hire transportation of property.

IV.

CO-CONSPIRATORS

5. Various persons not made defendants herein participated as co-conspirators with the defendant in the violation alleged herein and performed acts and made statements in furtherance thereof.

V.

TRADE AND COMMERCE

6. Truck transportation is an important transport mode in the movement of property in the United States. In 1975, approximately 23 percent of all property transported in the United States was moved by motor carriers. If bulk commodities are excluded, truck transportation is the dominant mode utilized for the movement of property in the United States.

7. Motor carriers engaging in interstate for-hire transportation of property do so under certificates of public convenience and necessity granted by the Interstate Commerce Commission (hereinafter referred to as "ICC") (49 U.S.C. §306). Such motor carriers are subject to ICC rate regulation and must establish, observe and enforce just and reasonable rates (49 U.S.C. §316(b)).

8. Two or more motor carriers engaged in interstate for-hire transportation of property may apply to the ICC for approval of a rate agreement and a rate-making conference (49 U.S.C. §5b(2)). Upon ICC approval, parties to such an agreement made and carried out according to its provisions and terms and in conformity with the terms and conditions prescribed by the ICC are relieved from the operation of the antitrust laws. (49 U.S.C. §5b(9)).

9. On five separate occasions, MCTB has unsuccessfully sought to obtain ICC approval to operate as a rate-making conference. Notwithstanding these unsuccessful attempts to obtain antitrust immunity, during the period covered by this Complaint, MCTB has continued to operate as a rate-making conference.

10. For many years MCTB has proposed and adopted rates for interstate for-hire transportation of property in the Northeast and Central region of the United States. Such rates have customarily been incorporated in various tariffs filed with the ICC to which numerous motor carriers which conduct business in the Northeast and Central region of the United States are parties.

11. In 1975, motor carriers which participated in rates published by MCTB for interstate for-hire transportation of property derived aggregate revenues therefrom in excess of \$75 million.

12. The activities of the defendant and co-conspirators, concerning which they have combined and conspired, as charged below, are within the flow of and substantially affect interstate commerce.

VI.

VIOLATION ALLEGED

13. Beginning sometime in the early 1940's, the exact date being to the plaintiff unknown, and continuing to the

date of this Complaint, the defendant and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforementioned trade and commerce in interstate for-hire transportation of property within the Northeast and Central region of the United States.

14. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which have been and are that they agree to raise, fix, stabilize and maintain rates charged for interstate for-hire transportation of property within the Northeast and Central region of the United States.

15. In furtherance of the aforesaid combination and conspiracy, the defendant and co-conspirators have done and continue to do those things which they have combined and conspired to do, including among other things the following:

- (a) maintain a standing rate committee to consider and pass upon rate proposals;
- (b) coordinate rate-fixing activities with respect to interstate for-hire transportation of property;
- (c) authorize MCTB to publish, issue and file with the ICC jointly on their behalf, in the form of tariffs, rates which are collectively set through MCTB procedures; and
- (d) utilize the personnel and facilities of MCTB to fix rates for interstate for-hire transportation of property.

VII.

EFFECTS

16. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) rate competition among motor carriers in interstate for-hire transportation of property within the Northeast and Central region of the United States has been restrained and suppressed;
- (b) rates charged by motor carriers for interstate for-hire transportation of property within the Northeast and Central region of the United States have been raised, fixed, stabilized and maintained at artificial and noncompetitive levels;
- (c) shippers patronizing motor carriers for interstate for-hire transportation of property within the Northeast and Central region of the United States have been deprived of the benefits of free and open competition in the provision of said service; and
- (d) the consuming public, both nationally and in the Northeast and Central region of the United States, who purchase property transported by motor carriers, have been deprived of the benefits of free and open competition in interstate for-hire transportation of such property within said region.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the aforesaid combination and conspiracy among the defendant and co-conspirators be adjudged and decreed to be an unlawful restraint of trade and commerce in violation of Section 1 of the Sherman Act.

2. That the defendant, MCTB, its successors, assignees, and transferees, and its officers, directors, agents and employees, and all persons acting in concert therewith, be permanently enjoined and restrained from continuing, maintaining or renewing, directly or indirectly, the combination and conspiracy hereinbefore alleged or from engaging in any other combination or conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program or device having a similar purpose or effect.


3. That the defendant MCTB be ordered to cancel all tariffs (and any effective supplements thereto) on file with the ICC establishing rates and services for interstate for-hire transportation of property and to take such action as may be necessary to effectuate cancellation and withdrawal of said tariffs.

4. That the defendant MCTB be ordered to cancel those provisions of its articles of incorporation, bylaws and procedures and every other rule, opinion, resolution, or statement of policy which have the purpose or effect of suppressing or restricting competition in violation of Section 1 of the Sherman Act by and between motor carriers engaged in interstate for-hire transportation of property, and that MCTB promptly file with the Court and serve on plaintiff a report showing the steps it has taken to comply with that order.

5. That the plaintiff have such other and further relief as

the court may deem just and proper.

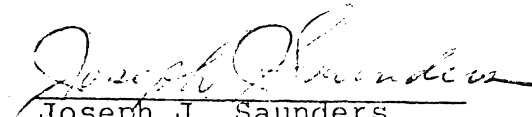
6. That the plaintiff recover the costs of this suit.


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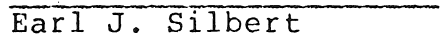

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