

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

GARY L. MCALILEY,
DANIEL F. CARMICHAEL,
JOHN C. DOWLING,
THOMAS E. HAIGH,
S. MARK JORDAN,
D. BRUCE MCLEAN, and
PAUL YOUNG,

Defendants.

CIVIL ACTION NO. 80-111-S

Filed: June 1, 1982

Entered: August 31, 1982

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint on December 9, 1980, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act, 15 U.S.C. §1.

II

As used in this Final Judgment:

(A) "Legal fees" means any charge made by an attorney or law firm for services provided to a client.

(B) "Law firm" means a partnership, professional association, or professional corporation, formed by two or more attorneys pursuant to a written or oral agreement, through which the attorneys practice law as a group.

III

This Final Judgment applies to the defendants and to each of their partners, members, agents, employees, 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

(A) Each defendant is enjoined and restrained from directly or indirectly:

(1) Entering into, adhering to, participating in, maintaining, reviving, furthering, or enforcing with any other defendant, law firm, or attorney, any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy to fix, establish, raise, or maintain legal fees, or which has the effect of fixing, establishing, raising, or maintaining legal fees.

(2) Formulating, adopting, publishing, reviving, or renewing with any other defendant, law firm, or attorney, any list, formula, guide, or schedule for legal fees.

(3) Recommending, suggesting the use of, circulating, or otherwise transmitting to any other defendant, law

firm or attorney, any list, formula, guide, or schedule for legal fees.

(4) Communicating to, requesting from, or exchanging with any other defendant, law firm or attorney any statistics or other information concerning past, current, or future legal fees, or consideration or contemplation of changes in legal fees by any attorney. Any defendant, however, may communicate with another defendant, attorney or law firm about legal fees where (a) such legal fees are to be determined by a court or included in a court order, (b) an attorney-client relationship exists between a defendant and another defendant, attorney or law firm with whom he is communicating, and the communications concern only legal fees incurred as a result of such relationship, (c) the attorneys communicating about legal fees are representing the same client in the same matter, and the communications concern the legal fees to be charged that client, or (d) such legal fees are to constitute all or part of a settlement of any dispute between the client of a defendant and a client of another defendant, attorney or law firm with whom he is communicating about legal fees, and the communications concern the amount of legal fees that one client will pay the attorney of the other.

(B) Nothing in paragraph IV(A) shall apply as between any defendant and any member, partner, stockholder, associate, or employee of his law firm.

(C) Nothing in paragraph IV(A) shall prevent any defendant from attending any seminar presented by the Alabama State Bar.

(D) Each defendant shall destroy the original and all copies of any list, formula, guide, or schedule for legal fees that was formulated, directly or indirectly, by him and any other attorney not a member of his law firm, together with any notes, fee schedules or other guides used in the preparation of any such list, formula, guide, or schedule for legal fees.

V

Each of the defendants is ordered and directed to file with this Court and serve upon the plaintiff, within sixty (60) days from entry of this Final Judgment, an affidavit describing the fact and manner of compliance with paragraph IV(D).

VI

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

(A) Any duly authorized representative 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 to his business office, be permitted:

(1) Access during any defendant's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of that defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of any defendant and without restraint or interference from him, to interview him, his partners, employees, agents, or associates, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to any defendant's business office, that defendant shall submit such written reports, under oath if required, with respect to any of the matters contained in this Final Judgment as may be requested. No information or documents obtained by the means provided in this paragraph VI 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 the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by any defendant to plaintiff, that defendant represents and identifies in writing any material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to that defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

VII

Jurisdiction is retained by this Court to enable any of the parties, but no other person or entity, to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the enforcement or modification of any of its provisions, or for the punishment of any violations.

VIII

This Final Judgment shall expire ten (10) years after its entry.

IX

Entry of this Final Judgment is in the public interest.

Dated: August 31, 1982

/s/ Judge Virner
UNITED STATES DISTRICT JUDGE