

U. S. vs. ALLIED VAN LINES, INC., ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Civil Action No. 44-C-30.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

ALLIED VAN LINES, INC., NATIONAL FURNITURE WARE-
HOUSEMEN'S ASSOCIATION, ET AL., DEFENDANTS.

JUDGMENT

The United States of America having filed its complaint herein on January 11, 1944; the defendants specifically named having appeared and filed their answer thereto; this being a class action in which all members of the defendant National Furniture Warehousemen's Associa-

tion and all member-agents of Allied Van Lines, Inc., are defendants represented by the specifically named defendants; this court having, by order entered November 14, 1945, directed that notice of the proposed entry of this judgment and of the hearing thereon be given to all persons, firms, and corporations who were on January 11, 1944, or have since been members of National Furniture Warehousemen's Association in the United States or member-agents of Allied Van Lines, Inc., or both; the notice so directed having been duly given as appears from the certificate heretofore filed by Roy H. Johnson, clerk of this court; no objections to the entry of this judgment having been filed; and the specifically named defendants having by their counsel consented to the entry of this judgment; and it further appearing to the court that 440 of the class defendants have consented to the entry of this decree:

NOW, THEREFORE, before any testimony has been offered herein and pending such further orders as the court may make pursuant to paragraph X hereof, it is hereby

ORDERED, ADJUDGED, AND DECREED that the court approves the compromise of this action by the entry of this judgment; and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED as follows:

I

That the Court has jurisdiction of the subject matter and of all persons and parties under Section 4 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," and the acts amendatory thereof and supplemental thereto, commonly known as the Sherman Act; that the complaint states a cause of action against the defendants and each of them, under Sections 1 and 3 of said Act.

Definitions: As used in this judgment:

(a) "Transportation" or "transported" means any movement or warehousing of household goods either in or which affects commerce among the states or with foreign nations, or in, or which affects commerce with or in, the District of Columbia or any territory of the United States, and any service, accessorial or otherwise, in connection with such movement or warehousing;

(b) "Carrier" or "warehouseman" means any person who engages in or holds himself out as engaging in the transportation of household goods for others or the performance of any service in connection with such transportation;

(c) "Association" means any organization or corporation or arrangement which includes two or more carriers, and any organization or corporation which acts for or on behalf of two or more carriers;

(d) "Person" includes any government or governmental agency or instrumentality as a shipper and any individual, partnership, firm, corporation, association, trustee, or any other business entity;

(e) "Defendant," in reference to a defendant, includes each of its or his successors, subsidiaries, assigns, officers, directors, agents, members and employees, and each person acting or claiming to act under, through, or for such defendant;

(f) "Defendants" includes any and all of the defendants and each and all of their successors, subsidiaries, assigns, officers, directors, agents, members and employees and each person acting or claiming to act under, through or for each, any, or all of the defendants.

III

Each of the contracts, agreements, leases, arrangements, rules, regulations or by-laws entered into or established prior to the date of the entry of this judgment between defendant Allied Van Lines, Inc. and any other

defendant or defendants or through defendant Allied Van Lines, Inc., or defendant National Furniture Warehousemen's Association, establishing or providing for the establishment of any term, condition or requirement for the booking of shipments in the name of defendant Allied Van Lines, Inc. or for the surrender, diverting or turning over of shipments to defendant Allied Van Lines, Inc. or for the booking of shipments in the name of defendant Allied Van Lines, Inc. or any other defendant, or for the lease or provision of motor vehicles or other equipment to the defendant Allied Van Lines, Inc. or for the observance of the rules, regulations, by-laws or hauling or registration procedures or arrangements promulgated by, through or on behalf of defendant Allied Van Lines, Inc., or defendant National Furniture Warehousemen's Association, is hereby cancelled and each defendant is hereby enjoined and restrained from further performing, or enforcing any such contract, agreement, lease, arrangement, rule, regulation, or by-law, which is not wholly consonant with the provisions of this judgment.

IV

(a) Defendant National Furniture Warehousemen's Association forthwith shall divest itself of any and all interest in or control of the defendant Allied Van Lines, Inc. and of any and all interest in or control over each and every member of defendant Allied Van Lines, Inc.

(b) After such divestment of interest in and control of defendant Allied Van Lines, Inc. directed in preceding paragraph (a), defendant National Furniture Warehousemen's Association is enjoined and restrained from acquiring, holding or exercising, directly or indirectly, any interest in or control over defendant Allied Van Lines, Inc. or any carrier or booking agent, or the business or affairs of any carrier or booking agent, or any agent of a carrier or of a booking agent, by stock ownership, charter provisions, articles of incorporation, contracts, agreements, by-laws, rules, regulations, practices, arrangements, understandings or otherwise.

(c) Defendant National Furniture Warehousemen's Association is hereby enjoined from electing, employing or continuing in office or in the employ of said Association any person who is at the same time an officer or director of defendant Allied Van Lines, Inc.

V

Each defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, arrangement, undertaking, or combination with any other defendant or with any other person, whether through charter provision, articles of incorporation, by-laws, rules, regulation, lease, cooperative organization, common or joint agency agreement, or otherwise:

(a) To agree upon, fix, determine, or adhere to tariffs, rates, charges, rules, regulations, practices, quotations or bids for any transportation filed, published or adhered to, or to be filed, published or adhered to, by or on behalf of any carrier or warehouseman except the establishment by two or more carriers of joint rates applicable over through routes for interline movements moving over the connecting routes of the participating carriers;

(b) To agree upon, fix, determine, or adhere to prices to be charged or quoted by or to others for any transportation except the establishment by two or more carriers of joint rates applicable over through routes for interline movements moving over the connecting routes of the participating carriers;

(c) To make uniform the tariffs, rates, charges, rules, regulations or practices governing transportation filed, published or adhered to, or to be filed, published or adhered to, by or on behalf of any two or more carriers or warehousemen or to adhere to differentials in the tariffs, rates or charges filed, published or adhered to, or to be filed, published or adhered to, by or on behalf of any two or more carriers or warehousemen except the establishment by two or more carriers of joint rates applicable over through routes for interline movements moving over the connecting routes of the participating carriers;

(d) To discriminate in favor of or against members of any association or in favor of or against non-members of any association;

(e) To protect the bids or quotations of any competitor or in any way to operate or participate in a "tip system";

(f) To act as or to appoint an exclusive agent or agents or representative or representatives whether as to the booking or solicitation or hauling of shipments, the filing of tariffs, rules, regulations, practices or otherwise;

(g) To lease or otherwise make vehicles or equipment available exclusively to or from defendant Allied Van Lines, Inc.

VI

Each defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, arrangement, undertaking or combination with any other defendant or with any other person, whether through charter provision, articles of incorporation, by-law, rules, regulations, lease, cooperative organization, common or joint agency agreement, or otherwise:

(a) To allocate the business of transportation, or agree upon or to designate, select or restrict the territory or routes over or for which any carrier or warehouseman may undertake to perform or shall perform transportation for other persons;

(b) To refrain from dealing with any other person or to discriminate in dealing with any other person in providing, accepting, or making available to or from other persons shipment, warehousing, facilities, equipment, hauling or other services;

(c) To limit, restrict or determine the operations or services of any carrier or warehouseman or the transportation to be performed by it for other persons as to area of operation or services, solicitation of business, allocation of business, surrender, diversion, booking, or hauling of shipments, appointment of agents, warehousing or in the leasing, furnishing or exchanging of equipment or facilities, or in similar matters;

(d) To establish terms, conditions or arrangements for the utilization by any carrier or warehouseman of any other person as a booking agent or sub-agent; or to determine the number of such booking agents or sub-agents for any carrier or warehouseman; or to subject to the approval by any other person, the appointment or employment by any carrier or warehouseman of any booking agent or sub-agent; or otherwise to limit or restrict in any way the right of any carrier or warehouseman to appoint, employ, or utilize any person as a booking agent or sub-agent;

(e) To limit or restrict the performance for other persons or any type or category of transportation exclusively through a designated carrier, warehouseman, channel or instrumentality;

(f) To hinder, restrict or interfere with the exercise of any discretion or right of any carrier or warehouseman in his or its own business to select the means by which, or the organization through which, any transportation service shall be performed for other persons;

(g) To hinder, restrict or interfere with the free determination by any carrier or warehouseman of whether any shipment shall be billed or booked or surrendered to any other person, through leasing or control of equipment or otherwise;

(h) To fix or determine the terms or conditions for leasing equipment to or from any other person.

The provisions of this Section VI shall not be deemed to prohibit the lawful exercise of the right of any defendant to make or receive the surrender or diversion of any shipment or of the receiving carrier to conduct and control the subsequent transportation of such a surrendered or diverted shipment, where such surrender or diversion relates only to such shipment and does not affect other business relationships of the surrendering or receiving carrier between themselves or with others.

VII

Defendant Allied Van Lines, Inc. is hereby enjoined and restrained from directly or indirectly:

(a) Conditioning its dealing with any carrier, warehouseman booking or hauling agent or defendant upon such carrier, warehouseman, booking or hauling agent, or defendant dealing with or refraining from dealing with or discriminating in any way in favor of or against any other carrier, warehouseman, booking or hauling agent or any other person;

(b) Limiting or restricting any carrier, warehouseman, booking or hauling agent or defendant from surrendering or diverting shipment to others, or in accepting surrenders or diversions of shipments from others, or in leasing equipment or otherwise making equipment available to or from others, or in making services available to or by others;

(c) Conditioning its dealing with any person upon the approval of any other person;

(d) Conditioning acceptance of any applicant for dealing with defendant Allied Van Lines, Inc. upon the consent of any other person;

e) Requiring that dealings between others be conducted only upon or in accordance with terms, qualifications or procedures established, maintained or determined by or through defendant Allied Van Lines, Inc. or by or through any association or by or through any other person, or conditioning dealings between defendant Allied Van Lines, Inc. and any carrier, warehouseman or defendant, upon such carrier, warehouseman or defendant observing any such terms, qualifications or procedures in dealings by such carrier, warehouseman, or defendant as a principal with others or as an agent of others;

(f) Requiring any carrier, warehouseman or defendant to lease or otherwise make equipment or vehicles available exclusively to or from defendant Allied Van Lines, Inc.

VIII

Each defendant is hereby enjoined and restrained from doing, attempting to do, or inducing others to do, the following things or any of them:

(a) Delegate or vest in any other person the exclusive right or power to file, fix, establish, withdraw, amend or cancel any tariff, rate, charge, rule, regulation or practice of any carrier or warehouseman;

(b) Condition the time or manner of filing, fixing, establishing, withdrawing, amending or cancelling any tariff, rate, charge, rule, regulation or practice for transportation of any carrier or warehouseman upon the procedures of, or upon the approval of, any association or any other carrier or warehouseman or defendant, or condition the fixing, establishing, withdrawing, amending, or cancelling of any joint interline through tariff, rate, charge, rule, regulation or practice for transportation upon the procedures or approval of any person not a participant as a connecting carrier in such joint interline through tariff, rate, charge, rule, regulation or practice;

(c) Agree with any other person not to utilize in its own behalf any authority, certificate or franchise to operate in interstate commerce as a common carrier by motor vehicle;

(d) Refuse to offer or to provide, or agree to refuse to offer or to provide warehouse space, warehouse facilities, or warehouse services to any carrier of household goods by motor vehicle upon terms and conditions at least as favorable as the terms and conditions upon which such space or facilities or services are offered or provided to defendant Allied Van Lines, Inc. or any member or agent of defendant Allied Van Lines, Inc.;

(e) Support, maintain, encourage or participate in any corporation, organization or private instrumentality, if such corporation, organization or instrumentality, directly or indirectly, with the knowledge of such defendant, attempts to enforce or enforces any agreement or arrangement which has the purpose or effect of hindering, delaying or restricting the exercise of any carrier or warehouseman of its rights, duties or privileges as a carrier or warehouseman;

(f) Impose by agreement, rule, practice, coercion, intimidation, boycott or penalty, any control, restraint,

limitation or restriction upon the exercise of any right or duty under the Interstate Commerce Act of any carrier or warehouseman individually to fix, establish, maintain, withdraw, amend or cancel any tariff or individual rate, charge, rule, regulation or practice governing the transportation of property by such carrier or warehouseman;

(g) Make quotations in respect to charges for transportation of shipments except quotations therefor based upon the actual or bona fide estimated weight of such shipments ascertained prior to making such quotations;

(h) Strip equipment or facilities from the route or routes for which the defendant is certificated to transport by motor vehicle or leave such route or routes without adequate equipment or facilities, in the interest of operations beyond such certificated route or routes;

(i) To protest any application by any person for operating rights to transport by motor vehicle before the Interstate Commerce Commission or any state commission, except by a real party in interest where such application is for authority to operate in whole or in part over a route or routes, over which such real party in interest has a certificate or permit to operate.

IX

For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, be permitted (a) access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this judgment; (b) subject to any legally recognized privilege and without restraint or interference from such defendant, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters; and defendant

Allied Van Lines, Inc. on such a request, shall submit such reports in respect to relationship to its stockholders or to carriers or warehousemen, as may from time to time be reasonably necessary or appropriate hereunder; provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in connection with securing compliance with this judgment or as otherwise required by law.

X

At any time hereafter the plaintiff may petition this Court for the dissolution of defendant Allied Van Lines, Inc. or for disposition of the ownership or control of defendant Allied Van Lines, Inc. without showing a change in circumstances subsequent to the date of entry of this judgment and without this judgment being deemed a bar to such further relief as the Court may deem appropriate after hearing upon such petition. Upon the hearing on any such petition, the defendant or any of them shall have the unrestricted right to contest any such petition for further relief upon any ground except that of failure to show a change in circumstances or that such relief is barred by this judgment. Jurisdiction of this action and the judgment entered herein is retained for the purpose of carrying out this Paragraph X.

XI

Jurisdiction of this action is also retained for the purpose of enabling any of the parties to this judgment to apply to the Court at any time for (a) such further orders or directions as may be necessary or appropriate for the construction or carrying out of this judgment; (b) the amendment, modification or termination of the provisions of this judgment; (c) the granting of further or different relief to carry out the purposes of this judgment, and (d) the enforcement of compliance with the provisions of this judgment and the punishment of violations thereof.

The provisions of this judgment relating to the divestment by the defendant National Furniture Warehousemen's Association of the capital stock of the defendant Allied Van Lines, Inc. shall become effective six months after date hereof. All other provisions of this decree shall become effective thirty (30) days after date hereof.

Dated: December 28, 1945.

J. EARL MAJOR
United States Circuit Judge
MICHAEL L. IGOE
WALTER J. LABUY
United States District Judges

IN THE DISTRICT COURT OF THE UNITED STATES FOR
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ORDER

This cause coming on to be heard upon the petition of Allied Van Lines, Inc. and 325 defendants listed in Appendix A attached to the petition, due notice having been given, and the court being fully advised in the premises,

The court finds that, with reference to petitioners, there has been a change in conditions since judgment was entered herein on December 28, 1945, and

IT IS ORDERED, ADJUDGED, and DECREED as follows:

That the court has jurisdiction of this action for the purpose of amending and modifying the judgment entered herein on December 28, 1945;

That said judgment entered herein on December 28, 1945, is hereby amended and modified by adding thereto the following paragraph:

XIII

The provisions of this judgment shall not enjoin or restrain the defendants or any of them, their officers and employees, or any other persons participating in the transaction approved and authorized by the Interstate Commerce Commission in docket number MC-F2787, from doing any or all acts necessary to enable them to carry into effect the transaction so approved and provided for in accordance with the terms and conditions imposed by the Commission, and to hold, maintain, and operate the properties and exercise the control and franchises acquired through the transaction so approved and provided for.

ENTER:

October 16, 1946.

s/ J. EARL MAJOR
*Judge of the Circuit Court
of Appeals*
s/ M. L. IGOE
s/ WALTER J. LABUY
Judges of the District Court