

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:

Timothy J. Muris, Chairman
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour

)	
In the Matter of)	
)	
NEW HAMPSHIRE MOTOR)	Docket No. C-4102
TRANSPORT ASSOCIATION,)	
)	
an association.)	
)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. § 41, et seq.) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that New Hampshire Motor Transport Association (hereinafter sometimes referred to as “respondent” or “NHMTA”), an association, has violated and is now violating the provisions of Section 5 of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

NATURE OF THE CASE

This matter concerns horizontal agreements among competing household goods movers that, through respondent, file tariffs for intrastate moving services in New Hampshire. The tariffs contain rules that state that participating movers must increase their rates to consumers for moving services rendered during the peak moving season. Through these tariff rules, the participating movers engage in a horizontal agreement affecting prices for their services.

RESPONDENT AND ITS MEMBERS

PARAGRAPH 1. Respondent New Hampshire Motor Transport Association is an association organized, existing, and doing business under and by virtue of the laws of the State of New Hampshire, with its office and principal place of business located at 13 West Street, Concord, New Hampshire 03301.

PARAGRAPH 2. Respondent is an association organized for and serving its members' interests, including their economic interests, by promoting, fostering and advancing the household goods moving industry in the State of New Hampshire. One of the functions of respondent is the initiation, preparation, development, dissemination and filing with the New Hampshire Department of Safety's Bureau of Common Carriers of tariffs and supplements thereto on behalf of and as agent for its members that are engaged in the transportation of household goods. Said tariffs and supplements contain rates and charges for the intrastate and local transportation of household goods and for related services, including, among other things, transporting bulky articles; packing boxes and crates; and extra charges for elevator, stair, and long distance carrying of items. (For purposes of this complaint, the term "tariff" means the publication stating the rates of a carrier for the transportation of property between points within the State of New Hampshire, including updates, revisions, and/or amendments, including general rules and regulations.)

PARAGRAPH 3. Pursuant to New Hampshire state law, each household goods mover is required to file a tariff with the New Hampshire Bureau of Common Carriers containing the carrier's rates, fares, or charges for the intrastate transportation of household goods. By New Hampshire law, a household goods mover is not permitted to charge a rate, fare, or charge different from those contained in its tariff or supplements thereto once the Bureau of Common Carriers has accepted it.

PARAGRAPH 4. Members of respondent are engaged, among other things, in the business of providing transportation and other services for compensation as household goods movers between points within the State of New Hampshire. Except to the extent that competition has been restrained as herein alleged, some members of respondent have been and are now in competition among themselves and with other household goods movers.

PARAGRAPH 5. The membership of NHMTA consists of approximately 400 members of which 19 members are household goods movers that conduct business within the State of New Hampshire. Those 19 NHMTA members receive compensation for intrastate and local moves. Members of NHMTA are entitled to and do, among other things, vote for and elect the directors of the association. The control, direction, and management of NHMTA are vested in the directors, who elect a President, a Vice President, and a Treasurer to carry on the day-to-day administration and management of NHMTA.

JURISDICTION

PARAGRAPH 6. The acts and practices of respondent set forth in Paragraph 7 have been and are now in or affecting commerce as “commerce” is defined in the Federal Trade Commission Act, as amended, and respondent is subject to the jurisdiction of the Federal Trade Commission. Among other things, the aforesaid acts and practices:

- (A) Affect the flow of substantial sums of money from the federal government, business, and other private parties to the respondent's members for rendering transportation services, which money flows across state lines;
- (B) Affect the purchase and use of equipment and other goods and services by respondent's members that are shipped in interstate commerce;
- (C) Include the use of the United States mail and other instruments of interstate commerce in furthering the agreements described below; and
- (D) Are supported by the receipt of dues and fees for publications and services from out-of-state members and others.

THE CHALLENGED CONDUCT

PARAGRAPH 7. For many years and continuing up to and including the date of the filing of this complaint, respondent, its members, its officers and directors, and others have agreed to engage, and have engaged, in a combination and conspiracy, an agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which is, was, or may be to unlawfully hinder, restrain, restrict, suppress or eliminate competition among household goods movers in the intrastate New Hampshire household goods moving industry.

Pursuant to, and in furtherance of, said agreement and concert of action, respondent, its members and others have engaged and continue to engage in the following acts, policies, and practices, among others:

- (A) Participating in and continuing to participate in tariffs that contain rules whereby carriers agree to institute automatic changes to rates on file for said carriers;
- (B) Initiating, preparing, developing, disseminating, and taking other actions to establish and maintain tariff rules that have the purpose or effect of fixing, establishing, stabilizing or otherwise tampering with rates and charges for the transportation of household goods between points within the State of New Hampshire;
- (C) Filing tariffs with the New Hampshire Bureau of Common Carriers that contain rules that institute automatic changes to rates of carriers with tariffs on file with the Department of Safety; and

(D) Initiating, organizing, coordinating, and conducting meetings or providing a forum for any discussion or agreement among competing carriers concerning or affecting tariffs that contain rules whereby carriers agree to institute automatic changes to rates on file for carriers.

PARAGRAPH 8. The acts and practices of respondent, its members and others, as alleged in Paragraph 7, have had and are now having the effects, among others, of:

- (A) Raising, fixing, stabilizing, pegging, maintaining, or otherwise interfering or tampering with the prices of household goods moves;
- (B) Restricting, restraining, hindering, preventing, or frustrating price competition in the household goods moving industry; and
- (C) Depriving consumers of the benefits of competition.

THE VIOLATION CHARGED

PARAGRAPH 9. The acts, policies and practices of respondent, its members and others, as herein alleged, were and are to the prejudice and injury of the public and constituted and constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended. The acts and practices, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this fourth day of December, 2003, issues its complaint against NHMTA.

By the Commission, Commissioner Harbour not participating.

Donald S. Clark
Secretary

SEAL