

**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	)	
	)	
	)	
ALABAMA TRUCKING	)	<b>Docket No. 9307</b>
ASSOCIATION, INC.,	)	
	)	
a corporation.	)	
	)	

**DECISION AND ORDER**

The Federal Trade Commission (“Commission”) having heretofore issued its Complaint charging the Alabama Trucking Association, Inc. (“ATA”), hereinafter sometimes referred to as “Respondent,” with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Respondent having been served with a copy of that Complaint, together with a Notice of Contemplated Relief; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Commission Rule 3.25(c), 16 C.F.R. § 3.25(c); and

The Commission having thereafter considered the matter and thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 3.25(f), 16 C.F.R. § 3.25(f), the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent Alabama Trucking Association, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at 660 Adams Avenue, Montgomery, Alabama 36104.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

## **ORDER**

### **I.**

**IT IS ORDERED** that, for the purposes of this Order, the following definitions shall apply:

- A. "Respondent" or "ATA" means the Alabama Trucking Association, Inc., its officers, executive board, committees, parents, representatives, agents, employees, successors and assigns;
- B. "Carrier" means a common carrier of property by motor vehicle;
- C. "Intrastate transportation" means the pickup or receipt, transportation and delivery of property hauled between points within the State of Alabama for compensation by a carrier authorized by the Alabama Public Service Commission to engage therein;
- D. "Member" means any carrier or other person that pays dues or belongs to ATA or to any successor corporation;
- E. "Tariff" means the publication stating the rates of a carrier for the transportation of property between points within the State of Alabama, including updates, revisions, and/or amendments, including general rules and regulations;
- F. "Rate" means a charge, payment or price fixed according to a ratio, scale or standard for direct or indirect transportation service;
- G. "Collective rates" means any rate or charge established under any contract, agreement, understanding, plan, program, combination or conspiracy between two or more

competing carriers, or between any two or more carriers and Respondent; and

- H. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.

## II.

**IT IS FURTHER ORDERED** that Respondent, its successors and assigns, and its officers, agents, representatives, directors and employees, directly or through any corporation, subsidiary, division or other device, shall forthwith cease and desist from entering into and within 120 days after service upon it of this Order cease and desist from adhering to or maintaining, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy to fix, stabilize, raise, maintain or otherwise interfere or tamper with the rates charged by two or more carriers for the intrastate transportation of property or related services, goods or equipment, including, but not limited to:

1. Knowingly preparing, developing, disseminating or filing a proposed or existing tariff that contains collective rates for the intrastate transportation of property or other related services, goods or equipment;
2. Providing information to any carrier about rate changes considered or made by any other carrier employing the publishing services of Respondent prior to the time at which such rate change becomes a matter of public record;
3. Inviting, coordinating or providing a forum (including publication of an informational bulletin) for any discussion or agreement between or among competing carriers concerning rates charged or proposed to be charged by carriers for the intrastate transportation of property or related services, goods or equipment;
4. Suggesting, urging, encouraging, persuading or in any way influencing members to charge, file or adhere to any existing or proposed tariff provision which affects rates, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided;
5. Maintaining any rate or tariff committee or other entity to consider, pass upon or discuss intrastate rates or rate proposals; and
6. Preparing, developing, disseminating or filing a proposed or existing tariff containing automatic changes to rates charged by two or more carriers.

### III.

**IT IS FURTHER ORDERED** that Respondent shall, within 120 days after service upon it of this Order:

1. Cancel all tariffs and any supplements thereto on file with the Alabama Public Service Commission that establish rates for transportation of property or related services, goods or equipment by common carriers in the State of Alabama and take such action as may be necessary to effectuate cancellation and withdrawal;
2. Terminate all previously executed powers of attorney and rate and tariff service agreements, between it and any carrier utilizing its services, authorizing the publication and/or filing of intrastate collective rates within the State of Alabama;
3. Cancel those provisions of its articles of incorporation, by-laws and procedures and every other rule, opinion, resolution, contract or statement of policy that has the purpose or effect of permitting, announcing, stating, explaining or agreeing to any business practice enjoined by the terms of this Order; and
4. Amend its by-laws to require members of ATA to observe the provisions of the Order as a condition of membership in ATA.

### IV.

**IT IS FURTHER ORDERED** that, within fifteen (15) days after service upon it of this Order, Respondent shall mail or deliver a copy of this Order, under cover of the letter attached hereto as "Appendix," to each current member of Respondent engaged in the transportation of household goods, and for a period of three (3) years from the date of service of this Order, to each new member engaged in the transportation of household goods within ten (10) days of each such member's acceptance by Respondent.

### V.

**IT IS FURTHER ORDERED** that Respondent notify the Commission at least thirty (30) days prior to any proposed change in Respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation which may affect compliance obligations arising out of the Order.

### VI.

**IT IS FURTHER ORDERED** that Respondent shall file a written report within six (6) months of the date of service of this Order, and annually on the anniversary date of the original report for

each of the five (5) years thereafter, and at such other times as the Commission may require by written notice to Respondent, setting forth in detail the manner and form in which it has complied with this Order.

**VII.**

**IT IS FURTHER ORDERED** that this Order shall terminate on December 4, 2023.

By the Commission, Commissioner Harbour not participating.

Donald S. Clark  
Secretary

SEAL

ISSUED: December 4, 2003

## APPENDIX

(Letterhead of the Alabama Trucking Association, Inc.)

Dear Member:

The Federal Trade Commission has ordered the Alabama Trucking Association, Inc. (“ATA”) to cease and desist its tariff and collective rate-making activities. A copy of the Commission Decision and Order is enclosed.

In order that you may readily understand the terms of the Order, we have set forth its essential provisions, although you must realize that the Order itself is controlling, rather than the following explanation of its provisions:

(1) The ATA is prohibited from engaging in any collective rate-making activities, including the proposal, development or filing of tariffs which contain any collectively formulated rates for intrastate transportation services. Each member carrier must independently set its own rates for transportation of property or related services, goods or equipment between points within the State of Alabama, but may use ATA as a tariff publishing agent.

(2) ATA is prohibited from providing a forum for its members for the purpose of discussing rates.

(3) ATA is prohibited from urging, suggesting, encouraging or in any way attempting to influence the rates members charge for their intrastate transportation services; ATA may not provide non-public information to any carrier about rate changes ordered by another carrier.

(4) ATA is prohibited from maintaining any rate or tariff committee which discusses or formulates intrastate rates or rate proposals.

(5) ATA is given 120 days to cancel all tariffs and tariff supplements currently in effect and on file at the Alabama Public Service Commission which were prepared, developed or filed by ATA.

(6) ATA is required to amend its by-laws to require its members to observe the provisions of the Order as a condition of membership in ATA.

Sincerely yours,

[appropriate ATA officer]