



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, MAY 1, 1981

AT
202-633-2016

The Department of Justice today announced that it did not intend to challenge efforts by the Hawaii Trucking Association or its members to join with other businesses in seeking damages from a water common carrier for delays in loading and unloading at terminal facilities.

The Department's position was contained in a business review letter signed by William F. Baxter, Assistant Attorney General in charge of the Antitrust Division, to Laban L. B. Chang, counsel for the Association, which is located in Honolulu, Hawaii.

The Association had asked the Department for a statement of its enforcement intentions if the group or its members joined other businesses in seeking remedies in the courts or before administrative agencies concerning loading delays.

The Department's intentions were also sought with respect to the Association's joining with others to seek Federal Maritime Commission review of the reasonableness of the water common carrier tariffs.

According to the letter, the Department's statement of its enforcement intentions was directed solely to the conduct described in the Association's letter and not to any communication or action preliminary or incidental to that conduct that has an anticompetitive purpose or effect.

Under the Department's Business Review Procedure a person or organization may submit a proposed course of action to the Antitrust Division and receive a statement whether the Division will challenge the activity under the antitrust laws.

(MORE)

A file containing the business review request and the Department's response will be made available to the public immediately and may be examined in the Legal Procedure Unit, Antitrust Division, Room 7416, Department of Justice, Washington, D. C. 20530. After a 30-day waiting period the documents supporting the business review will be added to the file.

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U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 1, 1981

Laban L. B. Chang, Esq.
Suite 1655, Pioneer Plaza
900 Fort Street Mall
Honolulu, Hawaii 96813

Re: Request for Business Review Letter

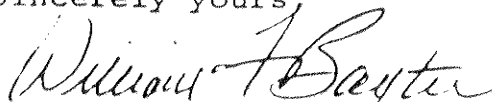
Dear Mr. Chang:

By letter dated January 28, 1981, you requested a statement of the Department's present enforcement intentions under the antitrust laws, pursuant to the Department of Justice's Business Review Procedure. Your letter describes a plan by the Hawaii Trucking Association or a group of its members to join with other businesses to seek damages and/or reparations, through the courts or an administrative agency proceeding, against a water common carrier for delays in loading and unloading at terminal facilities. According to your letter, your clients may also seek a review of the reasonableness of the water carrier's tariffs and practices under the Federal Shipping Act before the Federal Maritime Commission and also may seek redress in state administrative agencies.

Based on the information you have provided, the Department of Justice does not have a present intention to institute an enforcement action with respect to your clients' proposal. This statement of our present enforcement intention is directed solely to the conduct described in your letter and not to any communication or action preliminary or incidental to that activity that has an anticompetitive purpose or effect.

The statement herein is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6, a copy of which is enclosed. Pursuant to its terms, your business review request and accompanying materials will be made publically available within 30 days of the date of this letter unless you request that part of the materials be withheld in accordance with paragraph 10(c) of the Business Review Procedure.

Sincerely yours,

A handwritten signature in cursive script, reading "William F. Baxter".

William F. Baxter
Assistant Attorney General
Antitrust Division

LOUIS L. C. CHANG

Attorney at Law

Suite 1655, Pioneer Plaza
900 Fort Street Mall
Honolulu, Hawaii 96813

~~Antitrust~~
Reidson

Telephone:
(808) 524-4111

January 28, 1981

Louis L. C. Chang
Laban L. B. Chang

Assistant Attorney General
Antitrust Division
Department of Justice
Washington, D.C. 20530

Re: Request for Business Review Letter

Dear Sirs:

Our office represents the Hawaii Trucking Association which is involved in a dispute with a common carrier by water. The nature of the dispute is simple. My clients are local trucking companies operating as common carriers under the jurisdiction of the Hawaii Public Utilities Commission. These truckers have experienced numerous instances of delays in loading and unloading their trucks at the terminal operated by the water common carrier. In some instances, delays of several hours have occurred. My clients have repeatedly submitted bills for delay charges to the water common carrier. The water carrier has consistently refused to pay these charges and denies all liability to the truckers for such delays.

My clients wish to obtain a business review letter concerning whether the Hawaii Trucking Association or a group of its members and possibly other businesses with similar delay damage claims against the same water carrier may collectively seek redress against the water carrier through the courts or an administrative agency proceeding, without violating the Federal antitrust laws. Specifically, my clients are proposing to institute suit in federal or state court for delay damages and/or seek reparations and a review of the reasonableness of the water carrier's tariffs and practices under the Federal Shipping Act before the Federal Maritime Commission. My clients may also seek redress in the state administrative agencies.

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DEPARTMENT OF JUSTICE		R E C O R D
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Assistant Attorney General
Antitrust Division
January 28, 1981
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My clients believe that these proposed actions are an exercise of their First Amendment right of petition, and that they have a right to pursue a judicial or administrative determination of their claims under the Noerr and Pennington line of cases, including California Motor Transport Company v. Trucking Unlimited, 404 U.S. 508 (1972), and that such conduct would not contravene the antitrust laws or come within the sham exception of unprotected activity enunciated under these cases.

I do not believe that there are any relevant documents, nor am I aware of any collateral or oral understandings necessary for your office to make its review of the proposed conduct. However, if your office needs and requests further information or documents, I will endeavor to furnish any information requested. Thank you.

Very truly yours,


Laban L. B. Chang

LLBC:mlt

End