

1987

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO.

STATE OF MAINE,)
)
 Plaintiff)
)
 v.)
)
 WILLIAM TRAINOR, SR., an)
 individual residing in)
 Lebanon, York County,)
 Maine;)
)
 EASTERN STATES MANAGEMENT)
 COMPANY, INC., a Maine)
 corporation located in)
 Portland, Cumberland County,)
 Maine; and)
)
 LAUREL MOUNTAIN TRUST,)
 a trust interest.)
)
 Defendants)

COMPLAINT FOR VIOLATION OF
ANTITRUST LAWS, SECURITIES LAWS
AND UNFAIR TRADE PRACTICES ACT

INTRODUCTION

1. This is an action to enjoin a conspiracy to monopolize the ownership and control of commercial solid waste landfills within the State of Maine and to assess civil penalties for such conduct and to assess penalties for and to enjoin violations of securities laws with respect to the purchase and sale of securities by an enterprise engaged in the development, ownership and/or control of commercial solid waste landfills within the State of Maine.

JURISDICTION AND PARTIES

2. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 152, 5 M.R.S.A. § 209, 10 M.R.S.A. § 1104 and 32 M.R.S.A. §§ 10602-10603.

3. Plaintiff, State of Maine, sues in its sovereign capacity. By statute, the State, through the Department of the Attorney General, is charged with the enforcement of antitrust laws, including 5 M.R.S.A. § 207 and 10 M.R.S.A. §§ 1101, 1102 and 1102-A. In addition, by statute, the Attorney General is entitled to bring civil actions for relief from violations of the revised Maine Securities Act, 32 M.R.S.A. §§ 10602-10603. Finally, the Attorney General is authorized to enjoin unfair and deceptive practices in trade or commerce. 5 M.R.S.A. § 209.

4. Defendant Eastern States Management Company, Inc. is a Maine corporation with registered corporate offices at One Memorial Circle, Augusta, Maine. Eastern States Management Company, Inc. is made a Defendant with respect to Counts I and II in this Complaint.

5. Defendant William Trainor, Sr. is an individual residing in Lebanon, Maine. Defendant Trainor, either personally or through the alter-ego of Defendant Laurel Mountain Trust, owned and controlled a majority of the common shares in Eastern States Management Company, Inc.; either personally or through the alter-ego of Defendant Laurel Mountain Trust, owned 30% of the stock of Defendant

Consolidated Waste Services, Inc.; either personally or through the alter-ego of Defendant Laurel Mountain Trust owned the Wells Quarry landfill site, so-called, in Wells, York County, Maine; and either personally or through the alter-ego of Defendant Laurel Mountain Trust owned the Hebo-Hybo landfill site, so-called in Lebanon, York County, Maine. Defendant Trainor is named as a Defendant in all Counts in this Complaint.

6. Laurel Mountain Trust is a trust interest controlled by Defendant Trainor, and serves as the alter-ego of Trainor in connection with the actions described in this Complaint. Defendant Laurel Mountain Trust is made a Defendant with respect to Counts I and II.

NATURE OF TRADE AND COMMERCE

7. An increasing proportion of the State's solid waste is landfilled. In landfills operations, solid waste, in its raw form, is placed on land. Landfill operators cover the waste with soil and fill in order to minimize or prevent maleferous odors, air pollution and leachate leading to water pollution from the waste.

8. Landfills are classifiable as either "conventional" landfills or "secure" landfills. Conventional landfills generally can accept only "municipal solid waste" -- the type of waste routinely generated by residential and commercial establishments. Secure landfills may accept "special waste" with prior approval from the Departmental of Environmental

Protection. These landfills are "secure" in that they are lined with a putatively impervious layer of clay or synthetic materials or both, with pipes above the liner to collect leachate before it can enter the ground. The leachate is then treated in order to avoid contamination of groundwaters or surface waters. "Special" wastes include ash from oil, coal or wood combustion, non-recoverable oil-contaminated materials, industrial sludge and sewage treatment sludge, and asbestos. These and other wastes are classified as "special" because they are not readily compatible with conventional landfill disposal. Such waste exists in such an unusual chemical or physical state as to disrupt or impair effective waste management or threaten public health or safety or surrounding natural resources when handled at a waste facility that is not appropriately located, designed or operated to receive such wastes.

9. Most of the operating landfills in this State are dedicated to particular uses for particular geographic areas. In particular, most municipal or inter-municipal landfills are of the conventional category and dedicated solely to municipal waste generated in those towns. These landfills generally do not compete for waste generated outside the jurisdiction or jurisdictions controlling the landfill. In addition, certain industries, notably pulp and paper manufacturers, have developed conventional and secure landfills dedicated to wastes

generated by their own operations. These landfills thus do not compete for special waste generated by entities other than the owners.

10. The remaining segment of landfills within the State are commercial landfills. These landfills seek contracts for the municipal wastes of towns in and out of state, and also compete for the special waste generated by industrial operations, sewage treatment plants, and in incinerators.

11. At present only three major commercial landfills operate within the State of Maine. Sawyer Environmental Recovery Facilities, Inc. owns and operates a conventional and secure landfill in Hampden, Penobscot County, Maine. Consolidated Waste Services, Inc. owns and operates a conventional and a secure landfill in Norridgewock, Somerset County, Maine. Down East Landfill, Inc. owns and operates a conventional landfill in Marion Township, Washington County, Maine. Down East Landfill, Inc. is a potential competitor as a secure landfill.

12. The barriers to entry in the commercial solid waste landfill line of commerce are substantial. Intensive and extensive licensing requirements imposed by state environmental authorities, significant development costs and characteristically fervid local political opposition to the siting of such landfills make the prospects for successful development of a landfill a risky enterprise.

13. For waste generators in the State of Maine, out-of-state disposal of municipal and special waste is generally economically infeasible over the mid- and long-term. For municipal solid waste and special waste the transportation to a landfill represents a significant portion of the cost of disposal. In addition, increasingly restrictive regulation of the siting and operation of such landfills threaten the long term availability of out-of-state sites for the disposal of waste generated in Maine.

COUNT I

(Conspiracy to Monopolize)

14. In late 1985 and early 1986, Defendants Eastern States Management Company, Inc., William Trainor, Sr. and Laurel Mountain Trust and others entered into a conspiracy among themselves and with others to monopolize the commercial solid waste landfill industry in the State of Maine. In particular, these Defendants:

a. Entered into an agreement whereby Eastern States Management Company, Inc. managed the operations of the landfill owned by Consolidated Waste Services, Inc. in Norridgewock, including the negotiating of contracts for the disposal of waste at the Norridgewock landfill;

b. Entered into an agreement whereby Eastern States Management Company, Inc. would manage the landfill owned by Sawyer Environmental Recovery Facilities, Inc. in Hampden,

Penobscot County, Maine, as soon as that landfill was purchased by William Trainor, Sr. or Laurel Mountain Trust.

c. Entered into an agreement to develop a commercial landfill, to be managed by Eastern States Management Co., Inc., at either the Wells Quarry site, so-called, in Wells, York County, Maine, or the Hebo-Hybo site, so-called, in Lebanon, York County, Maine;

d. Entered into an agreement whereby William Trainor and others would purchase the landfill in Marion Township, Washington County, State of Maine, owned and operated by Down East Landfill, Inc. and have that landfill be managed by Eastern States Management Co., Inc.; and

e. Entered into an agreement to develop a refuse-to-energy facility at Central Maine Power Co.'s Mason Station, in Wiscasset, Lincoln County, Maine.

15. The effect of the agreements described in paragraph 14, if each agreement had been carried out, would have been to place in a single corporate entity, Eastern States Management Company, Inc., the control of all currently operating commercial landfills within the State of Maine. By their actions, these Defendants intended to monopolize the ownership and control of commercial solid waste landfills in the State of Maine.

16. In so acting, Defendants engaged in a conspiracy or combination in restraint of trade in violation of 10 M.R.S.A.

§ 1101, a conspiracy to monopolize the ownership or control of commercial solid waste landfills in the State of Maine in violation of 10 M.R.S.A. § 1102; and and unfair method of competition in violation of 5 M.R.S.A. § 207.

COUNT II

(Securities Fraud)

17. In late 1985 and through the first half of 1986, Defendants Eastern States Management Company, Inc., Laurel Mountain Trust and William Trainor, Sr. solicited the purchase of common stock in Eastern States Management Company. In connection with each solicitation, Defendants provided a prospective investor with a so-called business plan for Eastern States Management. In reliance upon representations made by Defendants verbally and through the business plan, various persons entered into subscription agreements to purchase stock in Eastern States Management Company, Inc. Defendants intended that the investors rely on these representatons.

18. The business plan prepared and distributed by Defendants Eastern States Management Company, Inc. and William Trainor, Sr., contains a number of untrue statements of material fact relating to the offer of stock in Eastern States Management Company, Inc. These untrue statements of material fact include, but are not limited to, the following:

- a. That Eastern States Management "operates, manages, constructs and engineers several secure

landfills", when, in fact, Eastern States Management only had an oral management agreement with one secure landfill and was not managing, constructing or operating any additional landfills;

b. That a proposed landfill known as the Wells property was transferred by Laurel Mountain Trust to Eastern States Management, Inc. for \$1,200,000 when, in fact, the so-called Wells site was never transferred by Laurel Mountain Trust to Eastern States Management Co., Inc; and

c. That Eastern States Management Co. owned 15% of Consolidated Waste Services, Inc. when, in fact, Eastern States Management Co. did not own any portion of Consolidated Waste Services, Inc.

19. Defendants' conduct as described in Count II constitutes a violation of 32 M.R.S.A. § 10201.

COUNT III

(Deceptive Trade Practices)

20. At all times relevant to this Complaint, Peter Kozlowski was employed as a broker/trader (stock broker) for the firm of Kidder Peabody. Kozlowski worked out of Kidder Peabody's Boston offices.

21. In late 1985 and early 1986 Kozlowski was associated with Defendant Trainor in connection with Trainor's attempts to develop landfills in the State of Maine.

22. On at least two occasions, as described below, Defendant Trainor prepared letters for Kozlowski's signature:

a. On February 11, 1986, Defendant Trainor drafted a letter, which Kozlowski caused to be mailed under Kozlowski's name to W. Tom Sawyer, which stated that Kozlowski was acting as an "Investment Banker" for William Trainor, Sr. with respect to Trainor's efforts to purchase certain businesses which were then owned and operated by W. Tom Sawyer; and

b. On March 11, 1986, Defendant Trainor drafted a letter, which Kozlowski caused to be delivered to William Trainor, Sr. under Kozlowski's name which stated that Kidder Peabody had agreed to handle the public offering of stock for a corporation known as Eastern States Management Co., Inc.

23. The statements contained in these two letters described in the preceding paragraph are false, misleading and deceptive.

24. The conduct of Defendants Trainor and Kozlowski in making misrepresentations concerning their relationship and the relationship between Trainor and Kidder Peabody constitutes an unfair and deceptive trade practice in violation of 5 M.R.S.A. § 207.

PRAYER FOR RELIEF

WHEREFORE, the State of Maine requests this Court to enter the following orders and judgments:

1. An order enjoining Eastern States Management, Inc., William Trainor, Sr., and Laurel Mountain Trust from acquiring, obtaining or exercising control of, operating, or managing a conventional or secure landfill within the State of Maine.

2. An order enjoining Eastern States Management, Inc., William Trainor, Sr., and Laurel Mountain Trust from engaging in any conspiracy or combination in restraint of trade in the commercial landfill industry in the State of Maine; any conspiracy to monopolize the ownership or control of commercial solid waste landfills in the State of Maine; and any unfair methods of competition in the commercial landfill business in the State of Maine.

3. A judgment assessing civil penalties against Defendants Eastern States Management Co. Inc., Laurel Mountain Trust and William Trainor, Sr. for violations of 10 M.R.S.A. § 1101 and 1102.

4. An order enjoining Defendants William Trainor, Sr., Laurel Mountain Trust and Eastern States Management, Inc. from making any untrue statements of material fact or making any material omissions of fact in connection with the offer of stock or other form of security within the State of Maine.

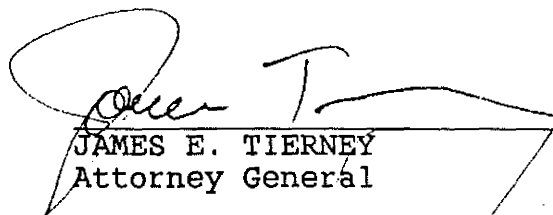
5. A judgment assessing civil penalties against Eastern States Management Co., Inc., William Trainor, Sr. and Laurel Mountain Trust for each material omission of fact or material misstatement as described in Count II.

6. An order enjoining Defendant William Trainor, Sr. from engaging in deceptive trade practices in this State.


7. An order that Defendants jointly and severally pay the Department of the Attorney General the costs of the investigation of this matter and the costs of this suit pursuant to 5 M.R.S.A. § 209.

8. An order for such additional relief as may be just and equitable.

DATED: 7-17-87



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