

private litigants who may have been injured by the alleged violations.

Copies of the Complaint, proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 215, Washington, DC 20530 (telephone: 202-514-2481), and at the Clerk's Office of the United States District Court for the District of Columbia, Washington, DC. Copies of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (telephone: 202-307-0924).

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

#### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

In the matter of: UNITED STATES OF AMERICA, Department of Justice, Antitrust Division, 1401 H Street, NW, Suite 3000, Washington, DC 20530, and STATE OF FLORIDA, Office of the Attorney General, Plaza 1—The Capitol, Tallahassee, Florida 32399-1050, Plaintiffs, v. WASTE MANAGEMENT, INC., 1001 Fannin Street, Suite 4000 Houston, Texas 7702, and ALLIED WASTE INDUSTRIES, INC., 15880 Greenway-Hayden Loop, Suite 100, Scottsdale, Arizona 85260, Defendants.

Case No. 1:03CV02076

JUDGE: James Robertson

DECK TYPE: ANTITRUST

DATE STAMP: October 14, 2003

#### *Complaint for Injunctive Relief*

Plaintiff United States of America ("United States"), acting under the direction of the Attorney General of the United States, and Plaintiff State of Florida ("Florida"), acting under the direction of its Attorney General, bring this civil antitrust action to enjoin the acquisition by Defendant Waste Management, Inc. ("Waste Management") of certain commercial waste collection and hauling assets (hereinafter referred to as "small container commercial hauling assets") from Defendant Allied Waste Industries, Inc. ("Allied") and to obtain equitable and other relief as is appropriate. Plaintiffs complain and allege as follows:

1. Pursuant to an asset purchase agreement and a stock agreement, both dated August 15, 2003, Waste Management plans to acquire from Allied certain small container commercial hauling assets. The proposed transaction would lessen competition substantially as a result of Waste Management's acquisition of small container

commercial hauling assets in Broward County, Florida.

2. Defendants Waste Management and Allied are two of only three significant providers of small container commercial hauling services in Broward County. Unless the acquisition is enjoined, consumers of small container commercial hauling services in Broward County will likely pay higher prices and receive fewer services as a consequence of the elimination of the vigorous competition between Waste Management and Allied.

#### **I. Jurisdiction and Venue**

3. The United States brings this action under section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain the violation by Defendants of section 7 of the Clayton Act, 15 U.S.C. 18. Florida brings this action under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent and restrain the violation by Defendants of Section 7 of the Clayton Act, 15 U.S.C. 18.

4. Defendants Waste Management and Allied are located in and transact business in the District of Columbia. Venue is therefore proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22 and 28 U.S.C. 1391(c).

5. Defendants Waste Management and Allied collect municipal solid waste from residential, commercial, and industrial customers. In their waste collection businesses, Waste Management and Allied make sales and purchases in interstate commerce, ship waste in the flow of interstate commerce, and engage in activities that substantially affect interstate commerce. The Court has jurisdiction over this action and over the parties pursuant to 15 U.S.C. 22 and 28 U.S.C. 1331 and 1337.

#### **II. Definitions**

6. "Broward County" means Broward County, Florida.

7. "MSW" means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments such as retail stores, offices, restaurants, warehouses, and non-manufacturing activities in industrial facilities. MSW does not include special handling waste (e.g., waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites.

8. "Small container hauling" means the business of collection MSW from commercial and industrial accounts, usually in "dumpsters" (i.e., a small container with one to ten cubic yards of storage capacity), and transporting or "hauling" such waste to a disposal site by use of a front-end or rear-end load truck. Typical commercial waste collection customers include office and apartment buildings and retail establishments (e.g., stores and restaurants). Small container commercial hauling, as used herein, does not include collection of roll-off containers.

#### **III. Defendants and the Transaction**

9. Waste Management is a Delaware corporation with its principal office in Houston, Texas. Waste Management is the

nation's largest waste hauling company. It is engaged in providing waste collection and disposal services throughout the United States. In 2002, Waste Management reported total revenues of approximately \$11.1 billion.

10. Allied is a Delaware corporation with its principal office in Scottsdale, Arizona. Allied is the nation's second largest waste hauling company. It is engaged in providing waste collection and disposal services throughout the United States. In 2002, Allied reported total revenues of approximately \$5.5 billion.

11. On August 15, 2003, Defendants Waste Management and Allied entered into an asset purchase agreement and a stock purchase agreement purchase to which Waste Management would acquire from Allied, *inter alia*, small container commercial hauling assets in Broward County, Florida.

#### **IV. Trade and Commerce**

##### *A. The Relevant Service Market*

12. Waste collection firms, or haulers, collect MSW from residential, commercial, and industrial establishments and transport the waste to a disposal site, such as a transfer station, landfill, or incinerator, for processing and disposal. Private waste haulers typically contract directly with customers for the collection of waste generated by commercial accounts. MSW generated by residential customers, on the other hand, is often collected either by local governments or by private haulers pursuant to contracts bid by, or franchises granted by, municipal authorities.

13. Small container commercial hauling differs in many important respects from the collection of residential or other types of waste. An individual commercial customer typically generates substantially more MSW than a residential customer. To handle this high volume of MSW efficiently, haulers provide commercial customers with dumpsters for storing the waste. Haulers organize their commercial accounts into routes, and collect and transport the MSW generated by these accounts in vehicles uniquely well suited for commercial waste collection—primarily front-end load trucks. Less frequently, haulers may use more maneuverable, but less efficient, rear-end load trucks, especially in those areas in which a collection route includes narrow alleyways or streets. Front-end load trucks are unable to navigate narrow passageways easily and cannot efficiently collect the waste located in them.

14. On a typical small container commercial hauling route, an operator drives a front-end load truck to the customer's container, engages a mechanism that grasps and lifts the container over the front of the truck, and empties the container into the vehicle's storage section where the waste is compacted and stored. The operator continues along the route, collecting MSW from each of the commercial accounts, until the vehicle is full. The operator then drives the front-end load truck to a disposal facility, such as a transfer station, landfill, or incinerator, and empties the contents of the vehicle. Often, the operator returns to the route and repeats the process.

15. In contrast to a commercial collection route, a residential waste collection route is