

RETURN DATE: NOVEMBER 10, 2009 : **SUPERIOR COURT**
:
STATE OF CONNECTICUT, : **JUDICIAL DISTRICT OF HARTFORD**
Plaintiff, :
:
:
v. : **AT HARTFORD**
:
:
JAMES E. GALANTE : **OCTOBER 26, 2009**
Defendant :

COMPLAINT

I. SUMMARY OF THE CASE

1. This is an action by Richard Blumenthal, Attorney General, State of Connecticut, pursuant to the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-2 et seq., to secure damages and civil penalties flowing from unlawful bid rigging schemes engaged in by James E. Galante (“Galante”) as more fully set forth below. This action is also brought at the request of Jerry Farrell, Jr., Commissioner of the Department of Consumer Protection for the State of Connecticut, pursuant to Conn. Gen. Stat. § 42-110m, and seeks damages, civil penalties and appropriate equitable relief from the unlawful bid rigging and deceptive, unfair and unlawful scheme engaged in by Mr. Galante in the trash collection and disposal industry. This action also seeks redress for a scheme to engage in certain unfair, deceptive, anticompetitive and illegal practices employed by trash hauling companies under the ownership, control and direction of Mr. Galante. On at least two occasions, Galante artificially raised contractual prices to his commercial customers by ten percent (10%), each time falsely claiming that he was simply passing through increased disposal costs, when in fact there were no corresponding actual

increases in disposal costs. Additionally, on at least two separate occasions, Galante and a competitor agreed to and did rig bids for certain trash hauling contracts in Connecticut. In pursuing these corrupt and illegal business practices, Mr. Galante violated the Connecticut Antitrust Act, §§ 35-24 *et seq.* as well as the Connecticut Unfair Trade Practices Act, §§ 42-110b, *et seq.* (“CUTPA”).

II. PARTIES AND JURISDICTION

2. Plaintiff State of Connecticut (the “State”), represented by Richard Blumenthal, Attorney General of the State of Connecticut, brings this action: (a) in its sovereign enforcement capacity in the name of the state and on behalf of the people of the state pursuant to the Connecticut Antitrust Act, Conn. Gen. Stat. §35- 32(a); (b) as *parens patriae* for residents of Connecticut harmed by the acts enumerated herein pursuant to Conn. Gen. Stat. §35-32(c)(1); and (c) in its sovereign enforcement capacity at the request of Jerry Farrell, Jr., Commissioner of the Department of Consumer Protection for the State of Connecticut, pursuant to Conn. Gen. Stat. § 42-110m of the Connecticut *Unfair Trade Practices Act* (“CUTPA”), Conn. Gen. Stat. § 42-110a *et seq.*

3. Pursuant to Conn. Gen. Stat. §§ 35-33 and 42-110m, jurisdiction over this action rests with the Superior Court for the State of Connecticut.

4. The State has an interest in the economic health and well-being of those who reside and/or transact business within its boundaries. The State also has an interest in assuring the presence of an honest marketplace in which economic activity is conducted in a competitive

manner for the benefit of consumers and other marketplace participants – without collusion, fraud or deception.

5. Defendant Galante is an individual currently incarcerated at the federal correctional facility in Allenwood, Pennsylvania.

6. At all times relevant to this complaint, Galante was a resident of Connecticut and the owner of a trash hauling empire in southwestern Connecticut and parts of New York. Companies in which he had a majority ownership interest included Automated Waste Disposal, Inc. (“AWD”), Thomas Refuse Service (“Thomas”), American Disposal Services of CT (“ADS”), Transfer Systems Inc. (“TSI”) and Greensphere Inc., (collectively, the Galante companies), each of which was a Connecticut corporation conducting business in the State of Connecticut, including, in addition to their work for commercial customers, contracting with the State and certain its municipalities to perform trash hauling services. At all times relevant to this Complaint, Galante was the President and sole Director of each of the Galante companies, and he dominated and controlled their operations.

7. In 2006, following a multi-year investigation of Mr. Galante’s business operations, including those described herein, the federal government indicted Mr. Galante and a number of co-conspirators on various charges including, *inter alia*, violations of the Racketeer Influenced and Corrupt Organizations Act, and violations of the Internal Revenue Code. In June 2008, Mr. Galante pleaded guilty to racketeering conspiracy in violation of 18 U.S.C. § 1962(d), conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349, and a conspiracy to defraud

the Internal Revenue Service in violation of 18 U.S.C. § 371. Mr. Galante was subsequently sentenced to, *inter alia*, 87 months of incarceration, a \$100,000 criminal fine, and an order by the court to have no future involvement in the trash hauling industry. In addition, the plea agreement between the federal government and Mr. Galante provided that he forfeit all of his interests in his various trash related companies to the federal government, subject to a reimbursement to him of \$10.75 million upon the sale of the companies to a third party.

8. The acts and omissions described herein were conducted within and caused harmful effects in and to the State of Connecticut. Mr. Galante's actions are, therefore, within the flow of, and have substantially and adversely affected, intrastate and interstate trade and commerce.

III. THE TRASH INDUSTRY IN CONNECTICUT

9. The trash industry in Connecticut is comprised of a web of interlocking companies that play various roles in taking solid waste from the doorstep of a residential or business customer to its ultimate disposal site. There are four major types of players in the industry – carting companies (sometimes known as carters or haulers), transfer stations, burn plants and disposal sites. Some companies specialize in one aspect of the industry, while others are vertically integrated, performing two or more of these distinct functions.

10. In many instances, a residential or business customer executes a written contract with a carting company, which calls for the carter to collect solid waste from that business or residence on a periodic basis. In return, the customer pays a fixed monthly fee to the carter.

11. Carters employ fleets of trucks (known as “loaders”) to collect the solid waste from dumpsters and curbside trash cans. Once each truck is filled, it takes the solid waste to a transfer station (or occasionally directly to a burn plant).

12. Transfer stations, also known as Volume Reduction Facilities, collect the solid waste from many different carters and then transfer that waste, by either truck or railroad, to a disposal site or a burn plant. Transfer stations charge carters a fee to dump (or “tip”) their trucks at the transfer station. Essentially, a truck is weighed when it arrives at the transfer station and then weighed again after it dumps the trash – the difference is the weight of the trash. The carter is then assessed this “tipping fee”, which is calculated on a per ton basis.

13. Resource recovery facilities, more commonly called burn plants or waste to energy plants, burn solid waste to create energy. The solid waste is delivered to the burn plant from carters and/or transfer stations, for which the burn plants charge a per ton tipping fee. There are currently six burn plants located in Connecticut.

14. Disposal sites, also known as landfills, receive solid waste from transfer stations and bury it. Disposal sites charge a per ton tipping fee to the transfer stations that send trash to them. Connecticut currently has two landfills permitted to accept solid waste, one of which is controlled by the Connecticut Resources Recovery Authority, and the other operated by the Town of Manchester.

15. Another important entity related to the trash industry in western Connecticut is the Housatonic Resources Recovery Authority (“HRRA”), which is a regional, governmental, waste

management and recycling authority serving eleven municipalities in western Connecticut and a population of over 225,000 people. The Housatonic Valley municipalities that are members of HRRA are Bethel, Bridgewater, Brookfield, Danbury, Kent, New Fairfield, New Milford, Newtown, Redding, Ridgefield, and Sherman. HRRA member towns agree to act as a group in connection with solid waste management. All qualifying trash collected by carters within an HRRA member town must be delivered to the place and entity specified by HRRA.

IV. THE GALANTE TRASH EMPIRE

16. For many years, Galante operated a vertically integrated trash hauling empire in southwestern Connecticut. Galante companies AWD and Thomas are carting companies that collect waste from business and residential consumers within the HRRA towns and deliver it to a transfer station at 307 White Street in Danbury, Connecticut, which is located on land owned by another Galante entity and operated by still other Galante-controlled entities. From that transfer station, solid waste is either delivered to a burn plant located in Bridgeport, Connecticut and operated by Wheelabrator Environmental Services Inc. ("WESI") or shipped to out of state disposal sites.

17. The Danbury transfer station was run as a single unified operation under the control of Galante and his employees. Although the transfer station only has one scale for weighing the trucks, it actually performed two legally distinct roles. On one hand, the transfer station was the home of a Galante-owned and controlled company - - Transfer Systems Inc. ("TSI"), which accepted solid waste from various carters, both Galante and non-Galante

companies. At the same time, the transfer station was operated by WESI to receive solid waste from HRRRA towns and transfer it to the WESI burn plant in Bridgeport. While the trash tipped by non-HRRRA carters was eventually comingled with the trash tipped from the HRRRA carters, the tonnage for each entity - - TSI or WESI - - was recorded separately and billed according to either the TSI tip fee or the WESI/HRRRA tip fee. TSI-designated trash was usually shipped to out-of-state disposal sites. WESI/HRRRA designated trash was to be sent to the WESI burn plant in Bridgeport, Connecticut.

18. Greensphere, Inc., a company that until its forfeiture was owned and controlled by Galante, is the WESI subcontractor that actually operates the transfer station on behalf of WESI. Pursuant to the agreement between WESI and Greensphere, Galante was obligated to deliver all acceptable solid waste collected in HRRRA towns, including the trash collected by AWD and Thomas, to the WESI burn plant in Bridgeport or as otherwise designated by WESI.

19. Solid waste collected in HRRRA towns and accepted at the Danbury transfer station by Greensphere was to be assessed the HRRRA specified per ton tipping fee. This fee, which is fixed on a yearly basis by WESI in consultation with HRRRA, was charged directly by WESI to the carters, AWD and Thomas.

V. THE FRAUDULENT PRICE INCREASES

20. In addition to his trash empire, Galante had a variety of other business interests. Among other things, he owned the Danbury Trashers, a minor league professional hockey team, as well as an automobile racing team.

21. Galante's hockey team and racing team were funded, in large part, using the cash generated by the Galante trash businesses, which periodically would experience cash flow shortages due to the costs of maintaining his hockey and racing teams.

22. Galante-owned and controlled carting companies AWD and Thomas each used standard contracts for the vast majority of their commercial solid waste customers. The contracts were typically for a five-year period and were self renewing. That is, in order to prevent the contract from automatically renewing for an additional five year period, the customer was required to affirmatively comply with certain notice provisions if it chose to terminate its contract. These contracts provide for a yearly percentage price increase tied to changes in the consumer price index (CPI).

23. Other than the regular yearly CPI-based price increases, there are only two ways prices may be increased under the contracts. These methods differ in whether the customer is required to accept the increase or not. First, paragraph 5 of the standard customer contract allowed the Galante carting company to give notice of a pending price increase (for any reason or no reason whatsoever). Upon receipt of such notice, the customer has the right to terminate the contract if it does not consent to the increase.

24. There is a second provision pursuant to which the increases are mandatory. Specifically, paragraph 4 of Galante's standard customer contract provides that in the event the disposal site used by his carting company increases its prices, the carting company may pass

these increases on to its customer. Under this provision, the customer may not terminate the contract.

25. In or about October 2004, Galante met with certain of his senior executives and his outside accountant to discuss the cash flow problems his trash-related businesses were experiencing. At that meeting, Galante, in an attempt to offset the cash flow problems caused by the siphoning of funds to the hockey and racing teams, and in the guise of passing on legitimate disposal site increases, directed that a 10% price increase be imposed upon all his commercial trash customers, including those served by AWD and Thomas. By falsely attributing the price rise to the paragraph 4 “disposal site increase” provision, the scheme was designed to raise the customer’s price in a manner that would not permit these customers to escape the increase by changing haulers.

26. On information and belief, this was not the first time Galante employed this artifice as a means to increase his customer’s prices. In or about July 2002, he personally directed a false 10% price increase that became effective October 1, 2002 and was attributed to an across the board disposal site increase.

27. Hence, in or about October 1, 2002 and again in or about December 1, 2004, Galante falsely raised the prices that his carting companies charged their customers by 10%, in order to generate more profits and, therefore, cash flow to support his other interests. To avoid giving the customers the right to terminate their contracts and seek possibly less expensive alternative haulers, however, Galante deceptively represented that the increases were the result of

“disposal site increases” and were being automatically passed along to the customers under Paragraph 4 of their disposal contracts. These false written representations were printed on the monthly invoices sent to many of AWD’s and Thomas’s customers in Connecticut.

28. In truth, there were never any disposal site increases corresponding to the price increases Galante imposed on his unwitting customers. The tipping fee charged to AWD and Thomas for HRRRA-generated solid waste - - which represented these companies’ “disposal site” costs - - was \$78 per ton in 2002. In 2003, the HRRRA tipping fee *decreased* to \$73 per ton (which did not result in any corresponding decrease to customers). It never again increased above \$78 per ton until 2007.

29. Moreover, those Galante customers serviced by AWD and Thomas in 2002 and who were still customers in 2004 incurred the compounding effect of the two false price increases (i.e., a ten percent fictitious price increase on top of a previous fictitious price increase), such that their respective damages were further magnified.

30. Accordingly, the misrepresentations made by the Galante carting companies AWD and Thomas to their customers were false, misleading, and deceptive, and the subsequent charging of falsely inflated rates was unfair, all in violation of the public policy of the State of Connecticut.

31. As a consequence of Galante’s unfair and deceptive scheme, a large number of customers of AWD and Thomas paid artificially inflated amounts each and every month after the price increases were affected. The sum of these excess charges is in the millions of dollars.

VI. BID RIGGING

32. ADS, which operates out of Seymour, Connecticut, is a carter primarily serving the southern New Haven and Fairfield County area. At all times relevant to this Complaint, Galante owned and controlled ADS.

33. John's Refuse & Recycling LLC ("John's Refuse"), operating out of Northford, Connecticut, is another carter serving primarily the southern New Haven and Fairfield County area. The principal owners and officers of John's Refuse are three brothers -- Andrew Bozzuto, Dennis Bozzuto and Stephen Bozzuto.

34. At all times relevant to this Complaint, ADS and John's Refuse were competitors for waste disposal business in the southern New Haven and Fairfield County area.

35. In or about March 2005, Yale University was a customer of ADS. Specifically, ADS serviced the Hamilton Street property owned by the university. At that time, Yale had become dissatisfied with the pricing and service provided by ADS and determined to put the Hamilton Street property account out to bid. Among the carters Yale invited to bid was John's Refuse.

36. In March 2005, Richard Galietti was one of Galante's employees in charge of sales for Galante's various companies. In connection with the Yale bid, Galietti had a telephone conversation with Dennis Bozzuto, one of the principals of John's Refuse. In that conversation, Galietti requested that John's Refuse submit an artificially inflated bid designed to give the false impression of competition to Yale while allowing ADS keep the account (a "cover bid"). At that

time, ADS was charging Yale \$181.86 per month to pick up waste at Hamilton Street. Bozzuto agreed to submit the cover bid as requested and did so. Subsequent to his phone call with Galietti, Bozzuto submitted a bid of approximately \$250 per month to Yale. ADS kept the account.

37. Several days after the Yale bid, Galietti and Bozzuto again spoke on the telephone, this time about a bid to be submitted to Preproperty Properties for waste disposal service at two apartment complexes in Waterbury. Again, Galietti requested that John's Refuse submit a cover bid and, again, Bozzuto agreed to Galietti's request. Subsequent to that conversation, Bozzuto faxed to Preproperty Properties a cover bid at \$12 per yard, which was substantially above the price ADS was charging Preproperty Properties.

38. Unbeknownst to Galietti and Bozzuto, their conversations were being recorded by the FBI, and, in 2006, the federal government indicted both of them, along with Mr. Galante and other co-conspirators on various RICO related charges. Bozzuto subsequently pleaded guilty to a violation of 18 U.S.C. §1962(d) based on his agreements with Mr. Galietti to submit cover bids to Yale and Preproperty Properties. Mr. Galietti also pleaded guilty to charges based on this and other conduct enumerated in the federal indictment.

VII. CAUSES OF ACTION

FIRST COUNT: VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT (CONN. GEN. STAT. §§ 42-110a et seq.)

1-38_. Paragraphs 1 through 38 of the Complaint are hereby repeated and realleged as Paragraphs 1 through 38 of the First Count as if fully set forth herein.

39. At all times relevant to the Complaint, Galante was engaged in the trade or commerce of providing solid waste collection and disposal services in the State of Connecticut.

40. By engaging in the acts and practices alleged herein, Galante made or caused to be made, directly or indirectly, explicitly or by implication, representations which are material, reasonably interpreted, false and likely to mislead, including but not limited to, the following:

- a) That price increases instituted by AWD and Thomas were the result of increased disposal costs when , in fact, they were not; and
- b) That bids to Yale and Preperty Properties for trash removal services were compiled genuinely and not as a result of collusion when, in fact, they were collusive.

41. Galante's acts and practices alleged herein are oppressive or unscrupulous and violated the public policy of the State of Connecticut, including but not limited to:

- a) Rigging bids for trash removal services to Connecticut consumers in violation of Connecticut and U.S. law;
- b) Obtaining property by false pretenses in violation of Conn. Gen Stat. § 53a-119; and
- c) Passing onto his company's customers artificially inflated costs for trash hauling services by falsely claiming that his companies incurred increased disposal site costs.

42. Galante's acts and practices as alleged herein have been and are unethical, oppressive and unscrupulous, and cause substantial injury.

43. Galante knew or should have known that his conduct alleged herein violated Conn. Gen Stat. § 42-110b.

SECOND COUNT: VIOLATION OF THE CONNECTICUT ANTITRUST ACT (CONN. GEN. STAT. §§35-24 et seq.)

1-38. Paragraphs 1 through 38 above are hereby repeated and realleged as Paragraphs 1 through 38 of the Second Count as if fully set forth herein.

39. Galante's actions as alleged herein violate Conn. Gen. Stat. §§ 35-26, 35-28 and 35-29 in that Galante and his companies entered into contracts, combinations or conspiracies for the purpose of, or having the effect of, fixing, controlling and maintaining prices, rates, quotations or fees for trash disposal services in the State of Connecticut.

40. Galante's actions as alleged herein violate Conn. Gen. Stat. §§ 35-26, 35-28 and 35-29 in that they have the purpose and/or effect of substantially lessening competition and unreasonably restraining trade and commerce within the State of Connecticut and elsewhere.

41. Galante entered into contracts and agreements and engaged in a corrupt, unfair and anticompetitive conspiracy with John's Refuse to cause John's Refuse to submit false, fictitious and inflated bids and quotes for trash hauling services in Connecticut.

42. Galante's actions as alleged herein have damaged, directly and indirectly, the prosperity, welfare, and general economy of the State of Connecticut and the economic well being of a substantial portion of the People of the State of Connecticut and its citizens and businesses at large. Richard Blumenthal, Attorney General of the State of Connecticut, seeks

recovery of such damages as *parens patriae* on behalf of the those persons in the State of Connecticut harmed by Galante's conduct, pursuant to Conn. Gen. Stat. § 35-32(c)(1)

PRAYER FOR RELIEF

WHEREFORE, the State of Connecticut requests the following relief:

As to the First Count

1. A finding that by the acts alleged herein Galante engaged in unfair and deceptive acts and practices in the course or trade of commerce within the State of Connecticut in violation of the Connecticut Unfair Trade Practices Act;

2. An order pursuant to § 42-110m requiring that Galante submit an accounting to determine:

a) The amount of by which AWD and Thomas inflated their trash hauling charges billed to its customers by virtue of the false and misleading representations on their monthly invoices; and

b) The amount of revenue ADS derived by virtue of its conspiracy with John's Refuse to engage in a collusive scheme to submit false and inflated bids for trash hauling services to Yale University and Preperty Properties.

3. An order pursuant to Conn. Gen. Stat. § 42-110o directing Galante to pay a civil penalty of \$5,000 for each and every willful violation of the Connecticut Unfair Trade Practices Act;

4. An order pursuant to Conn. Gen. Stat. § 42-110m directing Galante to pay restitution;

5. An order pursuant to Conn. Gen. Stat. § 42-110m directing Galante to disgorge all revenues, profits, and gains achieved in whole or in part through the unfair and/or deceptive acts and practices complained of herein;

6 An order pursuant to Conn. Gen. Stat. § 42-110m directing Galante to pay reasonable costs and attorneys' fees;

7. Costs of suit; and

8. Such other and further relief as this Court deems just and equitable.

As to the Second Count

1. A finding that by the acts alleged herein Galante engaged in the unfair and unreasonable restraint of trade or commerce in violation of the Connecticut Antitrust Act;

2. Damages pursuant to Conn. Gen. Stat. § 35-32(c)(1);

3. Damages pursuant to Conn. Gen. Stat. § 35-32(c)(2);

4. Reasonable attorneys' fees and costs pursuant to Conn. Gen. Stat. § 35-34;

5. Treble damages pursuant to Conn. Gen. Stat. § 35-35;

6. Civil penalties pursuant to Conn. Gen. Stat. § 35-38 for each and every violation of the Connecticut Antitrust Act;

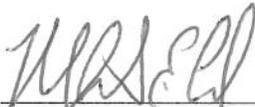
7. Such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff State of Connecticut hereby demands a trial by jury on all issues and causes of action so triable.

Dated at Hartford, Connecticut this 19th day of October, 2009.

PLAINTIFF
STATE OF CONNECTICUT
RICHARD BLUMENTHAL
ATTORNEY GENERAL

By 

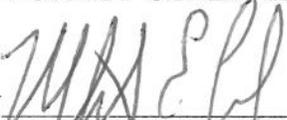
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AMOUNT IN DEMAND

The amount in demand herein exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs.

PLAINTIFF
STATE OF CONNECTICUT
RICHARD BLUMENTHAL
ATTORNEY GENERAL

By 

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