IN THE MATTER OF	)	
	)	
MCSAM HOTEL GROUP LLC,	)	
METRO TEN HOTEL LLC AND	)	JULY 5, 2011
JAMSAN HOTEL MANAGEMENT, INC.	)	
	)	

An Agreement By and Among the Attorney General of the State of Connecticut, McSam Hotel Group, LLC, Metro Ten Hotel, LLC and Jamsan Hotel Management, Inc.

This Agreement ("Agreement") is entered into by George Jepsen, the Attorney General of the State of Connecticut ("Attorney General"), McSam Hotel Group LLC, Metro Ten Hotel LLC and Jamsan Hotel Management, Inc., relating to an investigation conducted by the Attorney General into the "Call-Around" practices, as defined below, of certain hotels through which the Attorney General alleges hotel competitors exchange current room rate and occupancy information for the purpose of illegally fixing rates.

WHEREAS, pursuant to Connecticut General Statutes ("CGS") §§ 35-24 et seq., the Attorney General investigated hotel "Call-Around" practices engaged in by Connecticut hotels (the "Investigation"), through which the Attorney General alleges hotel competitors exchange current room rate and occupancy information in a manner that facilitates illegal price fixing;

WHEREAS, McSam Hotel Group L.L.C. ("McSam") is a New York limited liability company located at 420 Great Neck Road in Great Neck, New York whose sole member and manager is Sam Chang. McSam presently oversees the operation of hotels in various states in the United States, including three (3) properties located in

Connecticut.[1] Mr. Chang has an ownership interest in each of the hotels the operations of which are overseen by McSam.

WHEREAS, Metro Ten Hotel L.L.C. ("Metro Ten") is a New York limited liability company with an address of 420 Great Neck Road in Great Neck, New York whose sole member and manager is Sam Chang. Metro Ten owns the Holiday Inn Express located at 88 Union Street in Waterbury Connecticut ("Holiday Inn Express"). The Holiday Inn Express is a limited service hotel with one hundred and eleven (111) guest rooms.

WHEREAS, Jamsan Hotel Management, Inc. ("Jamsan") is a Massachusetts corporation located at 440 Bedford Street, Lexington, Massachusetts. Jamsan is a hotel management company that is in the business of managing hotels in Connecticut and elsewhere. Jamsan was hired by Metro Ten to manage the Holiday Inn Express.

WHEREAS, based upon the Investigation, the Attorney General is prepared to allege the facts set forth in a. through f. below:

ALLEGATIONS

a. "Call-Around," for the purpose of this Agreement, is defined as the process whereby a hotel employee calls or otherwise contacts hotels within a close proximity geographically that may directly compete for hotel guests and, after identifying the hotel from which the employee is calling, shares, collects and exchanges information, which is not otherwise available to the public, concerning the hotel's current, room rates for rooms to be occupied that same day and the current rate of occupancy, and where such sharing, collecting, and exchanging of such information is performed at regular

[1] The three Connecticut properties are the Holiday Inn Express, 440 Asylum Street, Hartford; the Homewood Suites Hartford Downtown, 338 Asylum Street, Hartford; and the Holiday Inn Express, 88 Union Street, Waterbury.

intervals (generally, multiple times daily) via telephone or other medium, including the internet. Call-Arounds include communications in which only one party to the communication provides or collects information, which is not otherwise available to the public, concerning the current hotel room rates and/or occupancy rates solely for the purpose of illegally fixing rates, but shall not include efforts to collect and/or gather information at the specific request of or specifically on behalf of a guest or potential guest inquiring about the availability or rate for hotel accommodations. Call-Arounds include the sharing, collecting or exchanging of information, which is not otherwise available to the public, between hotels concerning current hotel room rate and occupancy on the internet through websites or blogs that are operated to facilitate the sharing, collecting or exchanging of such current rate and occupancy information (e.g., callaround.blogspot.com).

b. The Investigation determined that the Call-Around practice is widespread and long-standing in the hotel and hospitality industry, both within Connecticut and nationally, and is generally conducted as follows:

i. Hotels define a list of other hotels within a close proximity geographically that may directly compete for hotel guests ("Call-Around List");

ii. Hotels engage in regular communications, typically by telephone[2] with the hotels on their Call-Around Lists, two or three times daily, to exchange with such hotels: (a) each hotel's non-public current occupancy rate (generally expressed as a percentage of hotel rooms

[2] The Investigation has uncovered evidence that the Call-Around practice has migrated, in some respects, to the internet where information concerning hotel room rates and occupancy rates is exchanged via websites or "blogs" that contain hotel/motel specific Call-Around pages.

occupied) and (b) the standard rate currently being charged for hotel rooms to be occupied that same day (generally expressed as the "BAR rate" or the "rack rate," which would not include any available discount rates);

iii. The hotels then contemporaneously record the information about occupancy and price provided by the other hotels on that day's Call-Around sheet. A physical copy of the Call-Around sheet was typically maintained at or near the hotels' reception desks for access by the desk staff for some period of time;

iv. The hotel that initiated the communication varied from one day to another. Regardless of who initiated the communication, however, both the hotel initiating the communication and the hotel receiving the communication would, with limited exception, exchange their current occupancy and room rate information and maintain Call-Around sheets to record such information for some period of time.

c. Beginning in 2007, Jamsan has operated the Holiday Inn Express pursuant to an agreement with Metro Ten. All of the hotel's staff were employees of Jamsan and operated the hotel under Jamsan's direction. As part of their responsibilities, certain members of the staff conducted Call-Arounds on a daily basis, in a manner consistent with the description in Paragraphs a. and b. above.

d. Jamsan directed the Holiday Inn Express to adjust its room rates using the non-public information it acquired from its competitors by way of the Call-Arounds. Specifically, when the Call-Around information identified that the Holiday Inn Express'

competitors had limited available occupancy, Jamsan directed Holiday Inn Express to raise rates on certain guest rooms.

e. The Holiday Inn Express ceased engaging in Call-Arounds sometime in June of 2008, after its receipt of a subpoena from the Attorney General.

f. During the time period relevant to this Investigation, the pricing and non-public occupancy information exchanged in the Call-Around process, including information shared by the Holiday Inn Express, was utilized by the Holiday Inn Express and other hotels to raise or stabilize prices charged for hotel rooms in Connecticut. The exchange of non-public information in the Connecticut hospitality industry resulted in a violation of the Connecticut Antitrust Act, Conn. Gen. Stat. §§35-24 et seq. and the Connecticut Unfair Trade Practices Act, Conn. Gen. State. §42-110a et seq.

WHEREAS, McSam, Metro Ten and Jamsan deny all of the allegations set forth in a. through f. above:

WHEREAS, the Attorney General, McSam, Metro Ten and Jamsan are entering into this Agreement prior to any court making any findings of fact or conclusions of law relating to the allegations a. through f. or to any defenses thereto;

WHEREAS, neither this Agreement, nor any acts performed nor documents executed in furtherance of this Agreement are an admission of liability, nor intended to and may not be evidence of any liability or wrongdoing by McSam, Metro Ten or Jamsan;

WHEREAS, this Agreement is entered into solely for the purpose of resolving all issues related to the Investigation with respect to McSam, Metro Ten and Jamsan and not for any other purpose, and this Agreement is not intended to be used for any other purpose;

WHEREAS, McSam, Metro Ten and Jamsan have cooperated and continue to cooperate in the Attorney General's Investigation; and

WHEREAS, the Attorney General finds that the relief and agreements contained in this Agreement are appropriate and in the public interest based upon all of the circumstances.

NOW THEREFORE, in exchange for the mutual obligations described below, the Attorney General, McSam, Metro Ten and Jamsan do hereby enter into this Agreement and agree as follows:

1. Within fifteen (15) business days of the Effective Date of this Agreement, McSam, Metro Ten and Jamsan, jointly and severally shall pay to the State of Connecticut a civil penalty, totaling Fifty Thousand Dollars ($50,000.00). McSam, Metro Ten, and Jamsan may allocate the amount among themselves, but each agrees that it is liable for the entire sum.

Payment shall be made by the parties by wire transfer, certified check or bank teller check, made payable to "Treasurer, State of Connecticut," and delivered to Michael Cole, Chief, Antitrust Department, Office of the Attorney General, 55 Elm Street, Hartford, Connecticut, 06106.

2. McSam and Metro Ten agree that, effective upon the execution of this Agreement by the parties, they shall not conduct Call-Arounds and they shall instruct their respective employees, sub-contractors and agents that the practice of Call-Arounds at all properties under their respective ownership, management or control in Connecticut and elsewhere is strictly prohibited and against company policy.

3. Jamsan agrees that, effective upon the execution of this Agreement by the parties, it shall not conduct Call-Arounds and shall instruct its employees, sub-contractors

and agents that the practice of Call-Arounds at all properties under its ownership, management or control in Connecticut and elsewhere is strictly prohibited and against company policy.

4. Notwithstanding the language in paragraphs 2 and 3, the agreement to cease the Call-Around practices shall not (a) limit the ability of the McSam, Metro Ten or Jamsan to review, consult and participate in commercially available industry reports (e.g., Smith Travel Reports, Travelclick, etc.), internet websites that provide online reservation services and that contain pricing information (e.g., online travel companies such as Expedia, Travelocity, etc.), portals for global distribution systems and online management tools (e.g., GDS, Sabre), billboards or other advertising or (b) prohibit any of the following practices which are intended to allow the hotels to meet legitimate guest or business needs:

i. Communicating with any other hotel/motel on behalf of specific guest(s) when the guest(s) is looking for a room or to relocate;

ii. Communicating with any other hotel/motel seeking to potentially relocate or move a group or block of rooms;

iii. Communicating with any other hotel/motel in order to determine guest relocation options for a guest at a McSam, Metro Ten or Jamsan hotel when that hotel is at or nearly reaching capacity. For the purposes of this subsection, a hotel shall be deemed to be at or nearly reaching capacity when its occupancy rate is eighty-five percent (85%) or higher;

iv. Making "blind calls" or "mystery shopping" to competitors to inquire about current room rates without inquiring about occupancy and without providing any information about hotel occupancy or room rates; and

v. Communicating with any other hotel/motel to accommodate guests in the event of a situation of force majeure, state of emergency, disaster declaration or similar situation.

5. McSam, Metro Ten and Jamsan each enters into this Agreement voluntarily and represent and warrant that they are represented by legal counsel and are fully advised of their legal rights in this matter.

6. Subject to compliance by McSam, Metro Ten and Jamsan with their respective obligations described in paragraphs 1-4 of this Agreement, the Attorney General agrees, covenants and acknowledges that the Attorney General will not initiate, maintain or otherwise bring any complaints, claims, causes of action or other legal proceedings under the antitrust or unfair trade practice statutes (C.G.S. §§ 35-24 et seq. and 42-110a et seq.) against any of the parties or any hotels under their ownership, management or control based upon the acts, practices and/or circumstances that serve as the basis of this Agreement and/or the Investigation and arising prior to the date of this Agreement. Notwithstanding this paragraph or any other provision of this Agreement, this Agreement shall in no way be interpreted to release any person, including but not limited McSam, Metro Ten and Jamsan, with respect to claims that may arise relating to any conduct after the dates set forth in the applicable provisions or paragraphs 1, 2, 3 or 4 of this Agreement or any claim that may be brought by the Attorney General to enforce any of the parties' obligations under this Agreement.

7. In the event McSam, Metro Ten or Jamsan breach any of their respective obligations described herein, the Attorney General will provide written notice thereof to the parties. If the Attorney General determines in his sole, reasonable discretion that the breaching party has not cured the breach within fifteen (15) days of such notice, the

Attorney General may make such application as appropriate to enforce or maintain any action within his legal authority for such other and further relief as the Attorney General may determine in his sole discretion is proper and necessary for the enforcement of this Agreement. In the event of a breach of paragraph 1, this Agreement shall not bar or otherwise preclude the Attorney General from commencing, conducting, or prosecuting any investigation, action, or proceeding against the breaching party, however denominated, related to the Attorney General's Investigation. In addition, this Agreement shall not bar or otherwise preclude the Attorney General from commencing, conducting, or prosecuting any investigation, action or proceeding against the breaching party for actions taken or not taken by the breaching party after the date of this Agreement that are inconsistent with the obligations set forth hereinabove. McSam, Metro Ten and Jamsan recognize that the State of Connecticut's remedy at law regarding enforcement of this Agreement is inadequate and agrees that the Connecticut Superior Court has the authority to specifically enforce the provisions of this Agreement, including the authority to award equitable relief, where appropriate, including specific performance. The exclusive forum for resolving any disputes regarding the parties' obligations under this Agreement shall be the Superior Court for the Judicial District of Hartford, or as otherwise required by law.

8. No failure or delay by the Attorney General in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

9. This Agreement may be changed, amended, or modified only by a writing signed by the parties hereto.

10 This constitutes the entire agreement between the Attorney General, McSam, Metro Ten and Jamsan, and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of the Agreement.

11. The Agreement and its provisions shall be effective and binding only when it is signed by the parties.

12. The Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

13. Unless otherwise provided, all notices as required by the Agreement shall be provided as follows:

To the Attorney General:
Office of the Connecticut Attorney General
55 Elm Street
PO Box 120
Hartford, CT 06141-0120
Tel. (860) 808-5040
Fax. (860) 808-5033
Attn: Michael Cole, Chief, Antitrust Department
Michael.Cole~~@po.state.ct.us~~ @ ct.gov MEC

To Jamsan Hotel Management, Inc.:
c/o Milazzo & Associates, LLC
41 Trumbull Street
New Haven, CT 06510

To McSam Hotel Group LLC:
McSam Hotel Group LLC
420 Great Neck Road
Great Neck, NY 11021

To Metro Ten Hotel LLC:
Metro Ten Hotel LLC
420 Great Neck Road
Great Neck, NY 11021

14. If any non-material portion or part of this Agreement is held invalid, unenforceable or void for any reason whatsoever, that portion shall be severed from the remainder of the Agreement and shall not affect the validity or enforceability of the remaining portions of the Agreement.

15. This Agreement shall be governed by the laws of the State of Connecticut without regard to conflicts of laws principles, and McSam, Metro Ten and Jamsan consent to the jurisdiction of the Connecticut Superior Court.

16. The Attorney General hereby acknowledges that the Investigation as it relates to McSam, Metro Ten, Jamsan and any and all of their respective agents, employees, officers, directors, shareholders and members is closed upon the later of the Effective Date of this Agreement or the satisfaction of the obligations set forth in paragraph 1 above.

WHEREFORE, the following signatures are affixed on the dates set forth below.

Dated: ~~July __~~ August 5, 2011, 2011

GEORGE JEPSEN
Attorney General of the State of Connecticut

By: _____
Michael E. Cole
Chief, Antitrust Department

Dated: July__, 2011

MCSAM HOTEL GROUP LLC

By: _____

Dated: July __, 2011

METRO TEN HOTEL LLC

By: _____

Dated: July __, 2011

JAMSAN HOTEL MANAGEMENT, INC.

By: _____
ASHOK PATEL
ITS VICE PRESIDENT