

1 BILL LOCKYER
Attorney General of the State of California
2 THOMAS GREENE
Chief Assistant Attorney General
3 KATHLEEN FOOTE
Senior Assistant Attorney General
4 BARBARA M. MOTZ
Supervising Deputy Attorney General
5 EMILIO E. VARANINI, State Bar No. 163952
WINSTON H. CHEN, State Bar No. 166959
6 Deputy Attorneys General
300 South Spring Street
7 Los Angeles, California 90013
Telephone: (213) 897-2164
8 Fax: (213) 897-2801

9 Attorneys for Plaintiff State of California

10
11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF FRESNO

13 STATE OF CALIFORNIA,

14 Plaintiff,

15 v.

16 ACME ROTARY BROOM SERVICE, and
17 BILL KORETOFF, individually and doing business
18 as ACME ROTARY BROOM SERVICE,

19 Defendants.

FILED

SEP 16 2005

FRESNO COUNTY SUPERIOR COURT

By _____ ZJY DEPUTY

No. 05 CE CL 06793

FINAL JUDGMENT
PURSUANT TO
STIPULATION

20
21 WHEREAS, the State of California (hereinafter, Plaintiff), through its attorney, BILL
22 LOCKYER, Attorney General of the State of California, by Winston H. Chen and Emilio E.
23 Varanini, Deputy Attorneys General, and Defendants Acme Rotary Broom Service and Bill
24 Koretoff, individually and doing business as Acme Rotary Broom Service, have stipulated to the
25 entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this
26 Final Judgment constituting any evidence against, or any admission by, any party regarding any such
27 issue of fact or law;

28 AND WHEREAS, Plaintiff requires Acme Rotary Broom Service and Bill Koretoff to

1 agree to certain procedures and prohibitions for the purpose of restoring the loss of competition
2 alleged in the Complaint;

3 AND WHEREAS, Acme Rotary Broom Service and Bill Koretoff, agree to be bound by
4 the provisions of this Final Judgment;

5 AND WHEREAS, Acme Rotary Broom Service and Bill Koretoff expressly deny that the
6 loss of competition occurred and deny all other allegations in the Complaint and further deny any
7 and all alleged liability to the Plaintiff or any other person or entity;

8 AND WHEREAS, Acme Rotary Broom Service and Bill Koretoff have stipulated to the
9 entry of this Final Judgment in order to buy peace and to avoid the further expenditure of attorneys
10 fees and costs; and

11 NOW THEREFORE, before any testimony is taken, without trial or adjudication of any
12 issue of fact or law, without any admission of any liability whatsoever, liability having been
13 expressly denied, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

14 **I. JURISDICTION**

15 This Court has jurisdiction over the subject matter of and each of the parties to this action.
16 The Complaint states a claim upon which relief may be granted against Acme Rotary Broom Service
17 and Bill Koretoff under the Cartwright Act (Bus. & Prof. Code § 16720 et seq.), the Unfair
18 Competition Law (Bus. & Prof. Code § 17200 et seq.), and the False Claims Act (Gov't Code §
19 12650 et. seq.).

20 **II. DEFINITIONS**

21 As used in this Final Judgment:

22 (A) "Acme" means Acme Rotary Broom Service a sole-proprietorship owned by Bill
23 Koretoff organized and existing under the laws of the State of California with its headquarters in
24 Fresno, California, its owners, agents, principals, agents and employees, its successors and their
25 principals and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint
26 ventures, including their directors, officers, managers, agents and employees.

27 (B) "Koretoff" means Bill Koretoff, an individual doing business as Acme Rotary Broom
28 Service, his agents, and/or any other company that provides street sweeping supplies, parts or

1 service which is owned, in whole or in part, actual or beneficial, by Bill Koretoff.

2 (C) "Plaintiff" means the State of California.

3 (D) "Bid-rigging" means any agreement, combination or conspiracy between actual or
4 potential competitors pursuant to which contract offers or terms to a third party, including bids,
5 quotations or purchase orders are to be set, fixed, submitted or withheld.

6 (D) The terms "and" and "or" have both conjunctive and disjunctive meanings.

7 **III. APPLICABILITY**

8 (A) This Final Judgment applies to Acme and Koretoff, as defined above, and all other
9 persons in active concert or participation with any of them who receive actual notice of this Final
10 Judgment by personal service or otherwise.

11 (B) Plaintiff and Acme and Koretoff, by their respective attorneys, have stipulated to the
12 entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final
13 Judgment is not, nor shall any of the terms, provisions or anything therein constitute any evidence
14 against, an admission of liability by, or an estoppel by a third party against, any party to this
15 Stipulation and Final Judgment. The Stipulation and Final Judgment shall not be construed to
16 represent an admission of any type by Koretoff or Acme. Neither the Stipulation nor the Final
17 Judgment is intended to create any right in any third parties.

18 **IV. PROHIBITED AND REQUIRED CONDUCT**

19 (A) Acme and Koretoff are enjoined and restrained from, in any manner, directly or
20 indirectly, entering into, continuing, soliciting, maintaining, engaging, or renewing any market or
21 customer allocation agreement or scheme with any competitor in the market for street sweeping
22 supplies, parts and services.

23 (B) Acme and Koretoff shall not engage in actual or attempted bid-rigging activities,
24 including the submission and solicitation of shadow bids.

25 (C) For a period of five (5) years commencing upon entry of the Final Judgment, Acme
26 and Koretoff shall provide thirty (30) days advance written notice in accordance with Section VII,
27 below, of any merger, sale or joint venture involving Acme and Koretoff with any other company
28 involved in street sweeping supplies, parts and services.

1 (D) Within fifteen (15) days of the filing of the Complaint, Acme and Koretoff shall
2 send a notice, with language approved by the Plaintiff, to American Rotary Broom Company, Inc.,
3 formerly known as San Diego Rotary Broom Company, Inc., located in Escondido, California, and
4 United Rotary Brush Corporation of California, Inc., formerly known as Nationwide Wire and Brush
5 Mfg., Inc., located in Galt, California, that states:

6 1. Acme will not enter into any agreements or participate in any schemes
7 that violate the state and federal antitrust laws; and

8 2. Acme will not act as an exclusive distributor for any of the
9 aforementioned companies.

10 (E) Copies of the notices described in paragraph IV (D) shall be sent to Plaintiff
11 at the same time they are mailed to American Rotary Broom Company, Inc. and United Rotary
12 Brush Corporation of California, Inc.

13 (F) After the notices in paragraph IV(D) are sent out, Acme and Koretoff will be
14 free to choose where and with whom they wish to do business as long as any said decisions are made
15 unilaterally and not as part of any agreement, combination, or conspiracy involving any of its
16 competitors and subject to paragraphs IV(A) through IV(D).

17 (G) Koretoff shall make himself available to provide documents and testimony
18 at the request of the Plaintiff, as if he were a party, in any action initiated by the Plaintiff involving
19 violations of any court orders, or of antitrust, unfair competition, and/or false claims laws, involving
20 the companies listed in paragraph IV (D). However, Koretoff retains all of his privileges to the
21 extent provided by law.

22 **V. RELEASE**

23 (A) The California Attorney General's Office, on behalf of the State of California,
24 releases all state civil antitrust, unfair competition, and False Claims Act, claims, as well as all
25 federal civil antitrust claims, relating to or arising out of the facts that are set forth in the Complaint
26 filed in this matter. With respect to any and all released claims, the California Attorney General's
27 Office waives and relinquishes the provisions, rights and benefits of §1542 of the California Civil
28 Code, which provides: "A general release does not extend to claims which the creditor does not

1 know or suspect to exist in his favor at the time of executing the release, which if known by him
2 must have materially affected his settlement with the debtor.”

3 **VI. OTHER RELIEF**

4 (A) Acme shall pay the sum of \$1,500.00 pursuant to California Business &
5 Professions Code section 17206. Said payment shall be made within thirty (30) calendar days of
6 entry of judgement by providing the California Attorney General’s Office with a check made
7 payable to the State of California in the amount of \$1,500.00.

8 (B) The California Attorney General is awarded reasonable fees and investigative
9 costs in the amount of \$1,500.00. Acme shall pay the sum of \$1,500.00 within thirty (30) calendar
10 days of entry of judgment by a check made payable to the California Attorney General.

11 **VII. NOTICE**

12 For purposes of this Final Judgment, any notice or other communication shall be
13 given to the persons at the addresses set forth below (or such other addresses Parties may specify
14 in writing by providing notice at the addresses listed below):

15 **For the California Attorney General:**

16 Winston H. Chen
17 Deputy Attorney General
18 Antitrust Law Section
19 Office of the California Attorney General
20 300 South Spring Street, Suite 1702
21 Los Angeles, California 90013

22 **For Acme Rotary Broom Service and Bill Koretoff:**

23 William C. Hahesy, Esq.
24 Sagaser, Jones & Hahesy
25 2445 Capitol Street, Second Fl.
26 Fresno, CA 93721

27 AND

28 Bill Koretoff
Owner, Acme Rotary Broom Service
3811 N. Golden State Blvd.
Fresno, CA

VIII. RETENTION OF JURISDICTION

1 This Court retains jurisdiction to enable any party to this Final Judgment to apply to
2 this Court at any time for further orders and directions as may be necessary or appropriate to carry
3 out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to
4 punish violations of its provisions.

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IX. EXPIRATION OF FINAL JUDGMENT

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Unless this Court grants an extension, this Final Judgment shall expire ten years from
the date of its entry.

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10 Dated: SEP 16 2005

DONALD S. BLACK
JUDGE OF THE SUPERIOR COURT

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