

RETURN DATE: DECEMBER 10, 2013

STATE OF CONNECTICUT,

Plaintiff,

v.

H.I. STONE & SON, INC., HARRY H. STONE III, S&S ASPHALT PAVING, INC., KEVIN W. STARCHAK, STONE CONSTRUCTION COMPANY, INC. and GEORGE H. STONE, JR.,

Defendants.

SUPERIOR COURT

JUDICIAL DISTRICT OF HARTFORD AT HARTFORD

OCTOBER 22, 2013

COMPLAINT

1. This is an action brought by George Jepsen, Attorney General of the State of Connecticut, pursuant to the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq., to secure restitution, civil penalties and appropriate injunctive relief flowing from unlawful group boycott and bid rigging conspiracies engaged in by the defendants in the snow removal and/or snowplowing services industry, as more fully set forth below. This action is also brought at the request of William M. Rubenstein, Commissioner of the Department of Consumer Protection for the State of Connecticut, pursuant to the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110m, and seeks civil penalties and appropriate equitable relief from the unlawful group boycott and bid rigging conspiracies engaged in by defendants.

2. This action seeks redress for various schemes perpetrated in the State of Connecticut by three companies, as well as the key executives running those companies and directly responsible for promoting and furthering the conspiracies, engaged in snow removal and/or snowplowing services for the Town of Southbury, Connecticut.

3. For many years, the Town of Southbury did not require bids for snowplowing work. Instead, the Town gave the work directly to the corporate defendants without any competitive process. When, for the first time in October 2011, the Town finally decided to put its snow removal work out to bid and seek competitive rates instead of merely offering it to the same companies without competition, the defendants – angry that they would be forced to compete for this business and knowing that an impending nor'easter gave them a unique form of leverage and opportunity – immediately began colluding and jointly refused to deal with the Town and plow for the fast approaching nor'easter unless they were given a guaranteed minimum contract that would potentially provide them with additional compensation. Faced with this group boycott and in light of the impending storm posing a significant threat to public safety, the Town relented and provided the defendants with the contract they demanded – which went beyond anything they had received from Southbury in the past.

4. Thereafter, the Town set out to put the remainder of its snow removal work for the 2011-2012 season out to bid. The defendants, again, immediately began colluding and ultimately entered into a conspiracy with one another designed to eliminate competition amongst them and substantially raise the prices they received for snowplowing services from the Town.

5. In pursuing these illegal business practices, the defendants violated the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq., as well as the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a et seq.

I. PARTIES

6. Plaintiff State of Connecticut, represented by George Jepsen, Attorney General of the State of Connecticut, brings this action pursuant to the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq. and, specifically, Conn. Gen. Stat. § 35-32(a), and at the request of William M. Rubenstein, 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.

7. Defendant H.I. Stone & Son, Inc. (“H.I. Stone”) is a corporation organized and existing under the laws of the State of Connecticut, with a principal place of business at 313 Main Street North, Southbury, Connecticut. At all times relevant to the Complaint, H.I. Stone has transacted business in Connecticut and has engaged in snowplowing services for the Town of Southbury, Connecticut.

8. Defendant Harry H. (“Chuck”) Stone III is an individual residing at 70 Pine Hill Road, Southbury, Connecticut. At all times relevant to the Complaint, Chuck Stone has been the Vice President and part owner of H.I. Stone.

9. Defendant S&S Asphalt Paving, Inc. (“S&S Asphalt Paving”) is a corporation organized and existing under the laws of the State of Connecticut, with a principal place of business at 680 Main Street South, Southbury, Connecticut. At all times relevant to the

Complaint, S&S Asphalt Paving has transacted business in Connecticut and has engaged in snowplowing services for the Town of Southbury, Connecticut.

10. Defendant Kevin W. Starchak is an individual residing at 65 Fox Road, Woodbury, Connecticut. At all times relevant to the Complaint, Kevin Starchak has been the President, Treasurer and a co-owner of S&S Asphalt Paving.

11. Defendant Stone Construction Company, Inc. ("Stone Construction"), is a corporation organized and existing under the laws of the State of Connecticut, with a principal place of business at 168 Main Street South, Southbury, Connecticut. At all times relevant to the Complaint, Stone Construction has transacted business in Connecticut and has engaged in snowplowing services for the Town of Southbury, Connecticut.

12. Defendant George H. Stone, Jr. ("George Stone") is an individual residing at 314 Main Street North, Southbury, Connecticut. At all times relevant to the Complaint, George Stone has been the President and owner of Stone Construction.

13. Whenever any reference is made in this Complaint to any representation, act or transaction of H.I. Stone, S&S Asphalt Paving or Stone Construction, or any agent, employees or representatives thereof, such allegations shall be deemed to mean that such principals, officers, directors, employees, agents or representatives of H.I. Stone, S&S Asphalt Paving, or Stone Construction, while acting within the scope of their actual or apparent authority, whether they were acting on their own behalf or for their own benefit, did or authorized such representations, acts, or transactions on behalf of H.I. Stone, S&S Asphalt Paving and Stone Construction.

I. THE CONSPIRACIES

14. The Town of Southbury, Connecticut plows most of its own local roads during the winter but has – for at least the last several decades – outsourced some of its snowplowing routes to the three corporate defendants in this matter, H.I. Stone, S&S Asphalt Paving and Stone Construction (collectively referred to herein as the “Corporate Defendants” or the “Three Contractors”).

15. Those Three Contractors historically covered five of the town’s snowplow routes, while the remaining routes were plowed by Southbury’s highway crew using town-owned vehicles. The five routes plowed by the Three Contractors represent approximately 20-25% of the roads in Southbury.

16. Traditionally, the Town did not put this work out to bid. Instead, it set what it believed to be a reasonable hourly rate for the work and offered the contracts to the Corporate Defendants, without requiring any competitive bids.

17. For the winter of 2010-11 (and several years prior), the rate established by the Town was \$95 per hour.

18. The Three Contractors are direct competitors in the market for snow removal and/or snowplowing services, as well as other markets.

A. Southbury Decides To Put Snow Plowing Work Out To Bid

19. In October 2011, Southbury elected – for the first time in nearly sixty years – to put the five snowplowing routes out to bid. That decision was announced in a newspaper article

on October 26, 2011, published in the *Waterbury Republican American* newspaper. The Town did not notify the Three Contractors of the decision in advance.

20. The article was published only days before a large nor'easter (Storm Alfred) was forecasted to hit Connecticut.

21. According to the newspaper article, “[a] trio of Selectmen insisted bids be obtained, prompting the Board of Selectmen to reject a recommendation from the Director of Public Works to waive the bidding process so the three local companies could keep working.” The decision was based on a concern raised earlier in the year that Town officials had in some cases been giving work exclusively to local businesses, even though out-of-town companies offered lower prices. That concern resulted in the enactment of a bidding policy applicable to all Town public works projects.

22. The October 26 newspaper article was the first time the Three Contractors had heard about Southbury’s plan to require bids for the snowplowing work. They interpreted the article to mean that they had been fired by the Town, and were angry that they (a) had not been notified directly by the Town and instead heard about it by reading the newspaper, and (b) were not able to make alternative plans for the use of their trucks for that winter.

B. The Three Contractors Discuss Their Response

23. The article sparked a flurry of communications among Defendants Starchak, Chuck Stone and George Stone (collectively referred to herein as the “Three Individual Defendants”) on Wednesday October 26, 2011. After reading the article that morning, the Three Individual Defendants immediately began contacting each other to discuss the issue. That day

they spoke with each other – either by land line, cell phone or a push-to-talk system allowing the cell phone to operate like a “walkie talkie,” where users merely push a button and instantly connect with another (“push-to-talk”) – a total of eleven (11) times. This was more than they had communicated with one another for the entire month combined leading up to October 26, 2011. During these communications, the Three Individual Defendants discussed the article and their positions about snow plowing for the Town of Southbury.

24. Kevin Starchak and George Stone also agreed to meet in-person at the Southbury Town Hall later that day in an unsuccessful attempt to speak to the First Selectman. While there, they spoke further with each other about how they planned to respond to the Town’s decision to put snow plowing out to bid.

25. In a phone call that day between Kevin Starchak and Chuck Stone, Starchak also told Chuck Stone that neither Starchak nor George Stone would be willing to plow for the Town of Southbury – or agree to anything at all – until they were able to speak to the First Selectman and resolve their disputes with the Town over its decision.

26. Storm Alfred was forecasted to hit Connecticut only days later, on Saturday October 29, 2011. As the week went on, forecasts of the storm became more and more threatening. Given the timing of this impending storm, and estimates of significant snow accumulation, the Town did not have adequate time to put out a bid for snowplowing services in advance. Instead, the Town contacted Chuck Stone to ask whether H.I. Stone or any of the Three Contractors would be ready and willing to plow the storm on Saturday, if needed.

27. This call from the Town sparked an even greater flurry of communications among the Three Individual Defendants on Friday, October 28, 2011. Talks between Kevin Starchak and George Stone began before 6:00am. Those communications were followed up by numerous conversations between Starchak and Chuck Stone, followed by more communications between Starchak and George Stone.

28. In all, the Three Individual Defendants spoke to each other at least thirty-one (31) times that day either by landline, cell phone or push-to-talk.

29. By 8:30am, the Three Individual Defendants had already spoken to each other at least thirteen (13) different times. At that point, Chuck Stone placed a call to the Southbury First Selectman. This was the first of four calls between Chuck Stone and the First Selectman over the next hour-and-a-half, where Chuck Stone spoke on behalf of the Three Contractors. In all, they spoke seven (7) times that day. Interspersed between these calls between Chuck Stone and the First Selectman were numerous additional communications between Starchak and Chuck Stone, and Starchak and George Stone.

30. During the phone calls between Chuck Stone and the First Selectman, Chuck Stone told the First Selectman that none of the Three Contractors would plow for the Town on Saturday, the day the nor'easter was expected to hit the State. As the First Selectman recounted to a news reporter on October 28, 2011: "I got a call from Chuck Stone, who said, 'I want to tell you my cousin (George Stone) and (Kevin) Starchak aren't going to plow,'" [the First Selectman] said. "They were insulted to be put out to bid."

31. The First Selectman understood Chuck Stone's statement to mean that the Three Contractors were not going to plow for the Town until they either got a new contract or the Town otherwise remedied the situation.

32. As a result, at some point in the early afternoon on Friday October 28, 2011 the First Selectman decided to call an Emergency Meeting of the Southbury Board of Selectman for 2:30pm that afternoon.

33. Starchak, Chuck Stone and George Stone continued talking for the rest of the morning and into the afternoon, leading up to the Emergency Meeting. From approximately noon until they arrived at the meeting, they spoke fifteen (15) more times.

C. The Emergency Meeting Of The Board Of Selectmen

34. At some point early in the afternoon of October 28, 2011, the First Selectman called Chuck Stone and notified him about the emergency meeting and invited the Three Individual Defendants to attend. He asked Chuck Stone to call Starchak and George Stone and notify them of the meeting. Chuck Stone did so.

35. The Three Individual Defendants continued to communicate with each other even while en route to the meeting. For example, during his drive to the meeting, Kevin Starchak communicated with George Stone using push-to-talk three (3) different times.

36. Upon arrival at the Southbury Town Hall, the site of the Emergency Meeting, Starchak, Chuck Stone and George Stone met in the parking lot and had a discussion about their position on plowing for the storm the next day. After reaching a consensus, the Three Individual

Defendants then walked into the building together and waited in the lobby for a period of time before entering the meeting.

37. The Emergency Meeting was called to order at approximately 2:37pm. The Three Individual Defendants did not enter the room until approximately nine minutes after the meeting was called to order.

38. During the Emergency Meeting, the Three Contractors unanimously refused to plow the roads during the upcoming storm unless they were given a guaranteed minimum amount of business from Southbury without being put out to bid. According to the Minutes of the Emergency Meeting prepared by the Town, the Three Contractors stated that they “would not plow the roads tomorrow without a longer term agreement. They want a guaranteed minimum. They said the state will guarantee \$7,500 per vehicle even if it does not snow.”

39. Starchak, Chuck Stone and George Stone used the urgency created by the impending nor'easter, combined with their collective refusal to provide snowplowing services, to extract from the Town of Southbury a guaranteed minimum payment commitment that (a) they would not have received otherwise, and (b) had never received in the past.

40. During the Emergency Meeting, the Three Individual Defendants made the following statements to the Board, among others, to exploit their position:

- a. “Are you people aware that you are going to be the losers?”
- b. “The question here is do I got to get my truck ready to plow with the storm coming for you and, sorry I’m not in a position to offer that to you after reading that in the paper that you don’t really care if it is us or not.”

- c. "It's called power, you know. I don't think there's any people sitting around with trucks that are waiting for the Town to go to work for the Town I don't think."
- d. "The problem with Saturday is 25% of your roads may not be plowed. . . ."
- e. "Why should we be loyal now when you guys already showed your loyalty card last week?"
- f. "You know, bottom line, if you don't need our help, we can leave"

41. When speaking during the Emergency Meeting, which was recorded, Starchak, Chuck Stone and George Stone often spoke in terms of "we" or "us," speaking for one another and giving the impression that they were standing together and taking a joint position. For example, after the Three Individual Defendants unanimously refused to plow for Southbury on Saturday, one of them added: "Well if you want to give us a guaranteed minimum, we're going to gear up and make sure we're registered and insured to work for you."

42. The Three Individual Defendants also agreed in advance regarding the amount they would demand as a guaranteed minimum. As one of them stated during the Emergency Meeting: "The start up costs of this is \$7,500 per year. . . . So you're looking at for us to put the trucks on the road for one storm, with the possibility of never coming back, it costs us \$7,500."

43. As a result of these unified demands by the Three Contractors, and faced with the exigencies of the upcoming storm and the likelihood that several main roads would not be cleared, the Town of Southbury eventually relented and agreed to waive its bidding policy. The

Town was particularly concerned about public safety and making sure the roads remained navigable for ambulances, police cars and other emergency services vehicles during the storm.

44. Faced with the Three Contractors' position and the prospect that about a quarter of town roads may be inaccessible due to the nor'easter, the Town ultimately agreed to award the Three Contractors a guaranteed minimum contract for 75 hours at \$95 per hour (a total of \$7,125) for each of the five routes that the Three Contractors had previously plowed without such a guaranteed minimum.

45. As a direct result of the guaranteed minimum contracts agreed to at the Emergency Meeting, the Town of Southbury paid more for snowplowing services during the winter of 2011-2012 than it would have absent those agreements.

46. The Town was unwilling to waive its bidding policy for any snowplowing services beyond the 75 hours, however. Because the Town believed there was a possibility that it would require more than 75 hours of winter snow plow work, the Town decided it would still need to put out a bid for the remainder of snowplowing services that might be required for that winter.

47. After the Emergency Meeting, it appears the Three Individual Defendants did not speak to each other for the remainder of the day. In fact, there was only one push-to-talk communication among any of them over the course of the next twelve (12) days.

48. Indeed, there was no longer any reason for the Three Individual Defendants to speak once they had presented their unified demand to Southbury at the Emergency Meeting and extracted a guaranteed minimum contract from the Town. Kevin Starchak, Chuck Stone and

George Stone are not friendly with one another, and did not talk socially. Chuck Stone and George Stone and their respective families – despite the fact that they are related – are, in fact, heated rivals and don't typically speak to one another. Nor were the Three Corporate Defendants working with each other (on other jobs) in late October during the time of these many communications.

49. Storm Alfred ultimately hit Connecticut as forecasted on Saturday, October 29, 2011. The Three Contractors plowed for Southbury during the storm at a rate of \$95 per hour pursuant to the guaranteed minimum contract awarded at the Emergency Meeting the day before.

D. The Bid (November 2011)

50. After cleaning up from the massive storm, Southbury began planning to put the remainder of its snowplowing work for that winter out to bid. The legal notice for the Southbury Invitation to Bid for Supplemental Snow Plowing Services was completed by the Town on November 10, 2011, and was published in the *Waterbury Republican American* newspaper on Friday, November 11, 2011.

51. Sealed bids were due by November 22, 2011 at 10:30am, at which time the Town would conduct a public bid opening.

1. Pre-Bid Communications

52. Publishing the legal notice prompted a new series of communications between the Three Individual Defendants. On November 10, 2011 – the day that Southbury sent the notice to the *Waterbury Republican American* for publication – Kevin Starchak spoke with someone at

Stone Construction for nearly five (5) minutes. This was the first telephone conversation between any of the Three Contractors since the day of the Emergency Meeting.

53. The day after the notice was published – November 12, 2011 – George Stone called the H.I. Stone main telephone number three (3) times. On November 14, George Stone spoke to Kevin Starchak.

54. The key communications leading up to the bid occurred on November 15 and 16, 2011. On November 15, George Stone called the Southbury Public Works Department early in the morning, followed by three successive calls to the H.I. Stone main telephone number. After that, a call was placed from the Stone Construction main telephone number to Chuck Stone's cell phone, and a four (4) minute conversation ensued. Later in the day, Chuck Stone spoke to Kevin Starchak using push-to-talk.

55. The next morning, November 16, 2011, Kevin Starchak and Chuck Stone spoke six (6) times using push-to-talk. Chuck Stone then called George Stone and left a message requesting a meeting. After receiving the message, the two competitors spoke four (4) times that afternoon. After those conversations, George Stone then called Starchak for a four-minute conversation.

56. During these conversations, and in prior conversations, the Three Individual Defendants agreed to submit rigged, anticompetitive bids with substantially higher prices than they had previously received from the Town of Southbury.

57. The very next day, November 17, 2011, Stone Construction submitted its bid to the Town of Southbury. George Stone and Chuck Stone spoke again that afternoon.

58. The communications continued even after Stone Construction submitted its bid. On Saturday, November 19, 2011, Chuck Stone and Kevin Starchak spoke five (5) times via push-to-talk. The next day, George Stone and Starchak spoke twice. They spoke twice again on Monday, November 20, 2011.

59. On Tuesday, November 22, 2011 at 10:30am the Town of Southbury conducted the public bid opening. Both H.I. Stone and S&S Asphalt Paving hand delivered their bids to the Town that morning.

60. While in the midst of preparing the bid for S&S Asphalt Paving on the morning of November 22 – about an hour before the public bid opening was scheduled to begin – Starchak spoke to George Stone four (4) times via push-to-talk. Approximately twenty minutes before the bid opening was scheduled to start, and before Starchak hand-delivered his bid to the Town, Starchak spoke to Chuck Stone via push-to-talk.

61. The Three Individual Defendants did not speak to each other again that day after the bid opening.

62. Bidding for snowplowing services is typically done in late summer, well in advance of the winter plowing season. By November, most snowplowing contractors have already committed their equipment for that season. As a result, only one company other than the Three Contractors even submitted a bid to the Town of Southbury for snowplowing services.

2. Bids Submitted By The Three Contractors Are The Same On Key Components

63. Although the Southbury Invitation to Bid for Supplemental Snow Plowing Services requested bids on seven (7) different categories of equipment, only two of those categories had ever been required previously by Southbury for snowplowing services.

64. Category 3 of the bid – a single axle truck, minimum 40,000 pounds – was the category of truck that had been used by the Three Contractors historically when plowing roads in Southbury, and was the truck that would primarily be used for snowplowing under this contract. All Three Contractors bid the same amount for that category -- \$125 per hour. This was exactly \$30 more per hour than the Three Contractors had agreed to accept in prior years, and at the Emergency Meeting only weeks prior, for the same work.

65. The only other category of equipment that had ever been required in the past by the Town of Southbury was Category 5, a multi-axle dump truck to haul snow. This had been used the previous year during a particularly hard winter. Again, all Three Contractors bid the exact same rate for that category -- \$85 per hour.

66. Categories 3 and 5 were the only two categories where the Three Contractors bid the exact same amount. All others were different.

67. The bid forms submitted by the Three Contractors to the Town all contained a representation that “[t]he undersigned bidder certifies that his bid is made independently without collusion, agreement, understanding or planned course of action with any other bidder and that

the contents of his bid have not been disclosed to anyone other than his employees, agents or sureties prior to the official bid opening.”

68. Kevin Starchak, Chuck Stone and George Stone each signed the bid forms and certifications on behalf of S&S Asphalt Paving, H.I. Stone and Stone Construction, respectively, and submitted them to the Town of Southbury.

3. The Three Contractors Are Awarded The Work

69. The Three Contractors were the low bidders for Categories 3 and 5 of the bid, among others. On November 28, 2011, the Director of Public Works for Southbury reviewed the bids and recommended that the Board of Selectmen award the work to the lowest bidders. This recommendation was adopted by the Board of Selectmen, and the work was awarded to the Three Contractors on December 1, 2011.

70. The snowplowing work was awarded to the Three Contractors in the same proportion as it had been in the past. Stone Construction was awarded two routes, H.I. Stone was awarded two routes, and S&S Asphalt Paving was awarded one route.

71. The snowplowing specifications agreed to by the Three Contractors state that the bid prices established through the bidding process shall remain in full force and effect until June 30, 2012 and may be renewed for four (4) additional one-year periods upon mutual consent.

72. In the fall of 2012, the Town of Southbury and the Three Contractors agreed to extend the term of the contract for an additional year. The Three Contractors plowed the 2012-2013 winter season at the contract rate of \$125 per hour.

73. As a result of these higher rates, the Town of Southbury has paid more for snowplowing services than it would have in the absence of the collusive agreement among the Three Contractors.

II. CAUSES OF ACTION

FIRST COUNT: VIOLATION OF THE CONNECTICUT ANTITRUST ACT (CONN. GEN. STAT. §§ 35-24 et seq.) (Group Boycott) (As To All Defendants)

1-73. Paragraphs 1 through 73 of the Complaint are hereby repeated and realleged as Paragraphs 1 through 73 of the First Count as if fully set forth herein.

74. On or about October 28, 2011, and in the days leading up to the Emergency Meeting of the Southbury Board of Selectmen, the Defendants jointly refused to provide snowplowing services to the Town of Southbury during Storm Alfred unless they obtained a longer-term guaranteed minimum for snowplowing work.

75. That collective refusal to deal with the Town of Southbury was made pursuant to an agreement among the Defendants.

76. The Defendants' actions, in jointly refusing to provide snowplowing services to the Town of Southbury during Storm Alfred unless they obtained a longer-term guaranteed minimum for winter snowplowing work, were aimed at forcing an increase in guaranteed compensation paid to them by the Town of Southbury for snowplowing services.

77. The Defendants entered into a conspiracy and agreed to limit output of snowplowing services shortly before the onset of a severe winter nor'easter in order to increase their leverage to obtain a greater level of guaranteed compensation.

78. The Defendants' concerted actions constitute an unlawful horizontal group boycott and/or refusal to deal.

79. The objective of the unlawful boycott and/or refusal to deal was to gain an economic advantage for the Defendants as a result of their agreement to participate in the conspiracy.

80. The Town of Southbury was disadvantaged by the unlawful boycott and/or refusal to deal in that it was denied access to a supply of snowplowing services unless it agreed to pay the Defendants additional guaranteed money.

81. The Defendants' actions as alleged herein violate Conn. Gen. Stat. §§ 35-26, 35-28 and 35-29 in that the Defendants have engaged in a collective refusal to deal or group boycott that had a significant anticompetitive effect in the State of Connecticut.

82. The Defendants' actions as alleged herein violate Conn. Gen. Stat. §§ 35-26, 35-28 and 35-29 in that the Defendants have entered into agreements and engaged in anticompetitive conspiracies to limit output and availability of snowplowing services in Connecticut.

83. The Defendants' actions as alleged herein violate Conn. Gen. Stat. § 35-26, 25-28 and 35-29 in that they have the purpose and/or effect of unreasonably restraining trade and commerce within the State of Connecticut.

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SECOND COUNT: VIOLATION OF THE CONNECTICUT ANTITRUST ACT
(CONN. GEN. STAT. §§ 35-24 et seq.) (Bid Rigging) (As to All
Defendants)

1-83. Paragraphs 1 through 73 of the Complaint and Paragraphs 1 through 83 of the First Count are hereby repeated and realleged as Paragraphs 1 through 83 of the Second Count as if fully set forth herein.

84. Prior to submitting their respective bids for snowplowing services to the Town of Southbury in November 2011, the Defendants entered into an agreement regarding what prices they would charge for the various types of snowplowing services previously required by the Town.

85. Pursuant to the agreement, the Defendants submitted bids to the Town of Southbury designed to eliminate competition amongst them and substantially raise the prices they received for snowplowing services from the Town.

86. The Defendants entered into an illegal agreement and engaged in an unfair and anti-competitive restraint of trade which caused the Defendants to refrain from submitting genuine, independent, competitive bids for the provision of snow removal and/or snowplowing services.

87. The Defendants' unlawful agreement had the purpose and effect, or the tendency or capacity, to unreasonably restrain and injure competition by:

- a) Artificially increasing the price of snow removal and/or snowplowing services;
- b) Providing the illusion of competition where none existed; and

c) Denying persons in Connecticut access to a free and open competitive market for snow removal and/or snowplowing services.

88. The Defendants' actions as alleged herein violate Conn. Gen. Stat. §§ 35-26, 35-28 and 35-29 in that they entered into agreements and engaged in unfair and anticompetitive conspiracies to submit or cause to be submitted collusive, fraudulent, non-competitive and rigged bids for the provision of snow removal and/or snowplowing services in the State of Connecticut.

89. The Defendants' actions as alleged herein violate Conn. Gen. Stat. § 35-26, 25-28 and 35-29 in that they have the purpose and/or effect of unreasonably restraining trade and commerce within the State of Connecticut.

THIRD COUNT: VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT (CONN. GEN. STAT. §§ 42-110a et seq.) (As To All Defendants)

1-89. Paragraphs 1 through 73 of the Complaint, Paragraphs 1 through 83 of the First Count, and Paragraphs 1 through 89 of the Second Count are hereby repeated and realleged as Paragraphs 1 through 89 of the Third Count as if fully set forth herein.

90. At all times relevant to the Complaint, the Defendants were engaged in the trade or commerce of snow removal and/or snowplowing services in the State of Connecticut.

91. The following acts and practices engaged in by Defendants, and alleged herein, constitute unfair methods of competition:

a) Engaging in, attempting to engage in, or inducing others to engage in an unlawful group boycott or collective refusal to deal in violation of the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq.

b) Agreeing, attempting to agree, or inducing others to agree to reduce output in the relevant market in violation of the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq.

c) Engaging in, attempting to engage in, or inducing others to engage in a conspiracy to rig bids and/or fix prices in violation of the Connecticut Antitrust Act, Conn. Gen. Stat. § 35-24 et seq.

92. Defendants' acts and practices alleged herein have been and are unethical, oppressive and unscrupulous, and cause substantial injury.

93. Defendants' acts and practices alleged herein violate the public policy of the State of Connecticut which prohibits schemes that have the purpose and effect of fixing, controlling or maintaining prices, rates, quotations or fees for the provision of snow removal and/or snowplowing services in the State of Connecticut.

94. Defendants' acts and practices alleged herein violate the public policy of the State of Connecticut which prohibits contracts, combinations or conspiracies in restraint of trade or commerce in the provision of snow removal and/or snowplowing services in the State of Connecticut.

95. Defendants' knew or should have known that their conduct alleged herein violated Conn. Gen. Stat. § 42-110b.

96. Defendants' acts and practices alleged herein constitute unfair methods of competition in violation of Conn. Gen. Stat. § 42-110b.

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 Defendants engaged in the unfair and unreasonable restraint of trade or commerce in violation of the Connecticut Antitrust Act;
2. An injunction pursuant to Conn. Gen. Stat. § 35-32(a) enjoining the Defendants from engaging in any acts that violate the Connecticut Antitrust Act, including, but not limited to, the unfair and anticompetitive acts alleged herein;
3. Civil penalties of up to \$1,000,000 per Corporate Defendant and up to \$100,000 per Individual Defendant pursuant to Conn. Gen. Stat. § 35-38 for each and every violation of the Connecticut Antitrust Act; and
4. Such other and further relief as the Court deems just and equitable.

As to the Second Count:

1. A finding that by the acts alleged herein Defendants engaged in the unfair and unreasonable restraint of trade or commerce in violation of the Connecticut Antitrust Act;
2. An injunction pursuant to Conn. Gen. Stat. § 35-32(a) enjoining the Defendants from engaging in any acts that violate the Connecticut Antitrust Act, including, but not limited to, the unfair and anticompetitive acts alleged herein;
3. Civil penalties of up to \$1,000,000 per Corporate Defendant and up to \$100,000 per Individual Defendant pursuant to Conn. Gen. Stat. § 35-38 for each and every violation of the Connecticut Antitrust Act; and

4. Such other and further relief as the Court deems just and equitable.

As to the Third Count:

1. A finding that by the acts alleged herein Defendants engaged in unfair methods of competition in the course of trade or commerce within the State of Connecticut in violation of the Connecticut Unfair Trade Practices Act;

2. An injunction pursuant to Conn. Gen. Stat. § 42-110m enjoining Defendants from engaging in any acts that violate the Connecticut Unfair Trade Practices Act, including, but not limited to, the unfair acts and practices alleged herein;

3. An order pursuant to Conn. Gen. Stat. § 42-110m requiring Defendants to submit to an accounting to determine the amount of improper compensation paid to them as a result of the allegations in the Complaint;

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


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

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

7. An order pursuant to Conn. Gen. Stat. § 42-110m directing Defendants to pay reasonable attorneys' fees to the State;

8. Costs of suit; and
9. Such other relief as this Court deems just and equitable.

PLAINTIFF
STATE OF CONNECTICUT

BY: 
Michael E. Cole, Juris #417145
Chief, Antitrust Department
W. Joseph Nielsen, Juris #425958
Antonia Conti, Juris #420510
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RETURN DATE: DECEMBER 10, 2013

STATE OF CONNECTICUT,

Plaintiff,

v.

H.I. STONE & SON, INC., HARRY H. STONE III, S&S ASPHALT PAVING, INC., KEVIN W. STARCHAK, STONE CONSTRUCTION COMPANY, INC. and GEORGE H. STONE, JR.,

Defendants.

SUPERIOR COURT

JUDICIAL DISTRICT OF HARTFORD AT HARTFORD

OCTOBER 22, 2013

AMOUNT IN DEMAND

The amount, legal interest or property in demand is \$15,000.00 or more, exclusive of interest and costs.

PLAINTIFF
STATE OF CONNECTICUT

BY:



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