



H.S. Grace & Company, Inc.

Restraint of Trade: David vs. Goliath

Allegations

H.S. Grace & Company (HSG) was engaged by counsel for a major manufacturer of broad range of healthcare devices (Company) which was sued by smaller manufacturer of a specialized class of competing healthcare devices (Plaintiff) claiming that the Company unreasonably restrained trade by preventing or restricting the Plaintiff's entry into certain markets for its products. The Plaintiff, which had cash flow and earning issues, blamed its problems on actions that the Company had taken in regard to supporting hospital buying groups. It was alleged by the Plaintiff that such buying groups and the Company's support of them impeded the Plaintiff's entry into the hospital purchaser market for its products, thus hurting the Plaintiff's sales and operations.

Analysis

HSG examined business plans of the Plaintiff, SEC Registration Statements, analyst reports, depositions, and other relevant documents to gain an understanding of the operations of the Plaintiff and the factors that contributed to or caused the problems that Plaintiff had alleged were caused by the Company. HSG found that operational issues, mostly from a manufacturing perspective, were the main reasons for sales levels being below its plan. HSG also found that market acceptance of Plaintiff's products was mixed, and that some of the Plaintiff's other competitors, which also did not sell through buying groups, had much stronger revenue growth. HSG also found evidence that the buying groups were willing to purchase products from the Plaintiff, but that the Plaintiff could not meet the potential demand of that market for the Plaintiff's products.

Result

HSG was able to demonstrate that the problems of the Plaintiff were largely due to its own inability to perform according to its strategic plan in ways that were unrelated to the actions of the Company and the buying groups it supported.

H.S. Grace & Company, Inc. is a team of senior executives who diagnose and resolve critical corporate problems in business governance, operations, finance and control. With more than 1,000 years of experience, our goal is to help companies enhance shareholder value, protect reputation and their long-term ability to succeed, avoid and manage litigation, and navigate major changes such as mergers and acquisitions or bankruptcies. We often serve as consulting and testifying experts, identifying and analyzing critical business issues.

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