

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) Civil Action No. Civ. 73-383
 v.)
) Filed: April. 16, 1973
 GUARDIAN INDUSTRIES CORP.,)
)
 Defendant.)

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the defendant named herein, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted against the defendant under Section 15 of the Act of Congress of October 15, 1914 (15 U.S.C. §25), as amended, commonly known as the Clayton Act, in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 7 of said Act.

2. The defendant transacts business and is found within the Northern District of Ohio, Eastern Division.

II

DEFINITIONS

3. As used herein, the term:

- (a) "Cleveland area" means the geographic area within Cuyahoga County, Ohio;
- (b) "Auto glass" means the windshields, side windows, and back windows of passenger and truck automotive vehicles;
- (c) "Auto glass replacement" means the business of installing new auto glass in place of broken auto glass in passenger and truck automotive vehicles; and
- (d) "Glass shop" means any individual, partnership, or corporation substantially engaged in the performance of auto glass replacement.

III

DEFENDANT

4. Guardian Industries Corp. (hereinafter referred to as "Guardian") is named the defendant herein. Guardian is a corporation organized and existing under the laws of the State of Delaware and maintains its principal place of business in Detroit, Michigan. Guardian operates glass shops in the Cleveland area. Guardian produces raw glass and fabricates glass products, including auto glass, as well as processing photographs and furnishing data process consulting. In its fiscal year 1971, Guardian's net sales were approximately \$46,972,500.

IV

TRADE AND COMMERCE

5. Auto glass for auto glass replacement in the Cleveland area is produced by eight companies, including Guardian, and

is sold by such companies directly to glass shops and other concerns located in the Cleveland area, or to wholesalers who sell to such glass shops and other concerns.

6. Guardian is engaged in interstate commerce in auto glass through its sales and shipments of such glass from its facilities located in the State of Michigan to glass shops located in the Cleveland area, as well as elsewhere in the United States.

7. Customers for auto glass replacement normally patronize glass shops located near to their homes or places of business, particularly when the auto glass in a given customer's vehicle is covered by insurance or new car warranty. Companies insuring auto glass generally will refer insurance claimants to glass shops located in the claimants' vicinity.

8. In 1971, there were approximately twenty-two glass shops located in the Cleveland area whose sales of auto glass were approximately \$1,794,000. These businesses accounted for substantially all the auto glass replacement business in the Cleveland area. Other concerns making auto glass available for auto glass replacement in the Cleveland area included some installers whose major business is in flat glass, rather than auto glass, some new car dealers, and some auto body repair shops. These other concerns had 1971 sales of auto glass totaling about \$42,000. Total 1971 sales of auto glass in the Cleveland area by all concerns engaged in auto glass replacement were approximately \$1,836,000.

9. One of the glass shops located in the Cleveland area in 1971 was the Windshield Glass Center of Ohio, Inc.

(hereinafter referred to as "Windshield Glass"), owned by Guardian. In 1971, Windshield Glass's auto glass sales were approximately \$51,200, ranking Windshield Glass twelfth in sales among glass shops in the Cleveland area, with approximately 3 percent of the total auto glass sales in the Cleveland area. In June 1972, Guardian acquired the stock of Beachland Glass Co. (hereinafter referred to as "Beachland"), a company primarily engaged in auto glass replacement in the Cleveland area. Beachland has two locations for auto glass replacement in the Cleveland area, six others located elsewhere in the State of Ohio, and one in West Virginia. Beachland ranked third in 1971 sales among glass shops located in the Cleveland area, with sales in the Cleveland area of approximately \$118,700, or approximately 6.5 percent of the total sales. Through its ownership of Windshield Glass and Beachland, Guardian accounted for about 9.5 percent of total auto glass sales in the Cleveland area by the end of June 1972.

10. Glass For Cars, Inc. is a corporation organized and existing under the laws of the State of Ohio, which operates glass shops under the trade title of "B&B" or "B&B & Bruening Auto Glass Co." (hereinafter referred to as "B&B"). It maintains its principal place of business in the Cleveland area. In 1971, B&B had six locations for auto glass replacement in the Cleveland area. B&B ranked first in 1971 sales among glass shops in the Cleveland area, with sales of approximately \$592,800, or approximately 32 percent of the total sales.

11. For many years, B&B has been engaged in interstate commerce in auto glass through the purchase and receipt of shipments of such glass from manufacturers located outside the State of Ohio.

V

VIOLATION ALLEGED

12. In July 1972, Guardian acquired B&B's stock. The effect of this acquisition may be to substantially lessen competition or tend to create a monopoly with respect to the above described trade and commerce, in violation of Section 7 of the Clayton Act, in the following ways, among others:

- (a) Actual competition in auto glass replacement in the Cleveland area between B&B and Guardian (through Windshield Glass and Beachland) has been eliminated;
- (b) Actual competition generally in auto glass replacement in the Cleveland area may be substantially lessened;
- (c) Concentration in the auto glass replacement market in the Cleveland area has been increased; and
- (d) The acquisition may trigger other acquisitions of glass shops in the Cleveland area by auto glass wholesalers and manufacturers.

PRAYER

WHEREFORE, plaintiff prays:

- 1. That the aforesaid acquisition described in paragraph 12 be adjudged and decreed to be unlawful, in violation of Section 7 of the Clayton Act.
- 2. That Guardian be required to divest itself of all its interest in and control over B&B.

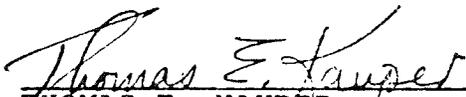
3. That plaintiff have such other and further relief that the Court may deem just and proper.

4. That plaintiff recover the cost of this action.



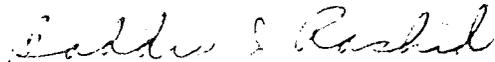
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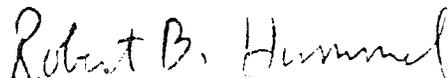
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