

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 81-003-Orl-CIV-Y
)	
TIME FINANCE ADJUSTERS,)	Filed: July 14, 1981
)	
Defendant.)	Entered: November 17, 1981
)	

PROPOSED FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint on January 6, 1981, and the plaintiff and the defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction over the subject matter of this action and over each of the parties. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. §1).

II

As used in this Final Judgment:

(A) "Repossessor" or "adjuster" means any individual, partnership, corporation, association, firm, or any other business or legal entity which provides repossession services for banks, credit unions or other lenders that seek to recover merchandise sold under security agreements where the debtor has forfeited possessory rights by defaulting on loan terms.

(B) "Repossession services" includes, but is not limited to, tracing of property, collection and adjustment of loans, as well as repossession, sale or return of collateral.

(C) "Member" means any reposessor who is listed in any Time Finance Adjuster ("TFA") publication.

III

This Final Judgment applies to the defendant and to its officers, directors, members, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

The defendant, whether acting unilaterally or in concert with any other person, is enjoined from, directly or indirectly:

(A) fixing, establishing, or maintaining any price schedule or list for repossession services;

(B) advocating, urging, recommending or suggesting any price schedule or list for repossession services;

(C) publishing or distributing any price schedule or list for repossession services;

(D) participating in any conversations, discussions or other communications with representatives of other reposessor associations that in any way relate to any price, price schedule or list for repossession services; or

(E) engaging in any other conduct the purpose or foreseeable effect of which is to influence the formulation of any price schedule or list for repossession services.

V

The defendant is ordered to publish in a prominent manner in the prefatory section of each TFA membership directory or other similar publication, the following statement:

In conformity with a consent decree entered into with the United States Department of Justice, Time Finance Adjusters has discontinued publishing and disseminating fee schedules. All schedules contained in prior editions are, in their entirety, null and void. Time Finance Adjusters makes no suggestion whatsoever concerning fees or prices for repossession services and does not restrict or limit the right of any of its members to determine, in accordance with his or her individual business judgment, the fees to charge for repossession services.

VI

The defendant is prohibited from publishing any other reference to fees or prices for repossession services in

its directory or other publications; provided however, that nothing in this Judgment shall:

(A) limit the ability of TFA to urge prospective purchasers of repossession services to negotiate in advance with members as to prices or fees; or

(B) limit the ability of TFA to allow individual TFA members to advertise in the TFA directory, or other TFA listings, his or her individual prices or fees for repossession services.

VII

The defendant is enjoined from expelling any member or from denying or delaying any application for TFA membership, in whole or in part, on the basis of:

(A) the population or other demographic information of a TFA member's or an applicant's service area; or

(B) the number of other TFA members or applicants who operate or may operate in that service area.

VIII

The defendant is ordered and directed to eliminate any restrictions on TFA members concerning the manner or extent of advertising their service area in any advertisement, directory or other publication.

IX

The defendant, whether acting unilaterally or in concert with any other person, is enjoined from any activity the purpose or foreseeable effect of which is to allocate, protect, limit, or otherwise influence the service area or territory in which any of its members operate or advertise that they operate.

X

The defendant is ordered and directed to eliminate the following TFA membership requirements:

- (A) any time period of experience in the repossession business that is greater than one year;
- (B) full-time repossession business;
- (C) United States citizenship; or
- (D) any requirements based on any evaluation or determination of an applicant's financial condition, personal character or morals, or local referral business.

XI

The defendant is ordered and directed to admit any applicant for TFA membership who meets the following requirements:

- (A) ability to obtain and retain in the commercial market, reasonable fidelity bonds;
 - (B) applicant is licensed under all applicable state and local licensing laws;
 - (C) certification that he or she has not been convicted of a felony within a period of up to ten years prior to his or her membership application;
 - (D) one year of experience as an active reposessor;
- and
- (E) maintains a principal office location specifically for his or her repossession business during TFA membership.

XII

The defendant is enjoined from establishing or maintaining unreasonable fees for TFA membership.

The defendant is ordered to publish in the prefatory section of each TFA membership directory, or other similar publication, the address to which applications for TFA memberships should be forwarded. Within fifteen (15) days of receiving any application for membership, the defendant shall furnish to each applicant a written response stating when the application will be reviewed, whether the application is complete, and if the application is not complete, a written itemization of any document or information necessary to complete the application. TFA shall convene at least two meetings per year at which membership applications shall be reviewed. All applications completed before any TFA meeting shall be reviewed at that meeting. Within ten (10) days after reviewing any membership application, the defendant shall furnish a written notice to each applicant indicating whether the applicant was accepted for TFA membership, and, if the applicant was not accepted, a written statement of reasons why the applicant was not accepted for membership.

XIV

The defendant is ordered and directed:

(A) To furnish within sixty (60) days after entry of this Final Judgment a copy thereof to each of its officers, directors, employees and members engaged in the repossession business;

(B) To furnish a copy of this Final Judgment to each person who in the ten (10) years after entry of this Final Judgment, becomes an officer, director, employee or member engaged in the repossession business within thirty (30) days

after such person is employed by or becomes associated with the defendant;

(C) To direct each person to whom a copy of this Final Judgment is furnished pursuant to subparagraphs XIV(A) and XIV(B) hereof to retain such copy as long as he or she is employed by or associated with the defendant;

(D) To require each person to whom a copy of this Final Judgment is furnished pursuant to subparagraphs XIV(A) and XIV(B) hereof to sign and submit to the defendant a certificate in substantially the following form; and the defendant shall retain such certificates as long as this Final Judgment is in effect and for one year thereafter:

I (1) acknowledge receipt of a copy of the 1981 antitrust Final Judgment, (2) represent that I have read and understand the Final Judgment, and (3) acknowledge that I have been advised and understand that non-compliance with the Final Judgment may result in conviction for contempt of court and imprisonment and/or fines;

(E) At least once each year, during the ten (10) years after entry of this Judgment, to call to the attention of each of its officers, directors, employees and members engaged in the repossession or finance adjustment business the limitations imposed upon them by this Final Judgment, and of the sanctions that may be imposed for non-compliance therewith;

(F) To file with the court and serve upon the plaintiff, within ninety (90) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsection XIV(A); and

(G) To furnish the plaintiff within thirty (30) days after each anniversary date of the entry of this Final Judgment, for a period of ten (10) years, an affidavit as

to the fact of and manner of securing and ascertaining compliance with, the provisions of Sections IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, and subsections XIV(B), XIV(C), XIV(D) and XIV(E) of this Final Judgment.

XV

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, duly authorized representatives of the Department of Justice shall be permitted:

(1) Access during the office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this decree; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, directors, employees, agents, or members of the defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath if

required, with respect to any of the matters contained in this Final Judgment as may be requested. No information or documents obtained by the means provided in this Section XV shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by the plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

XVI

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for construction or implementation of this Final Judgment, for modification of any of the provisions, for enforcement or compliance, and for punishment of violations.

XVII

This Final Judgment shall remain in effect until ten
(10) years from date of entry.

XVIII

Entry of this Final Judgment is in the public interest.

Dated: November 17, 1981

/s/ Judge George Young
UNITED STATES DISTRICT JUDGE