

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

UNITED STATES OF AMERICA	)	
	)	
Plaintiff	)	CIVIL ACTION NO. 34593
	)	
v.	)	Filed 9/5/61
	)	
THE WHITE MOTOR COMPANY	)	<u>FINAL JUDGMENT</u>
	)	
Defendant	)	

This cause having come on to be considered upon a motion by the plaintiff for a summary judgment against the defendant, The White Motor Company, the Court having determined, upon consideration of the record and the briefs filed by the plaintiff and defendant, that there is no genuine issue between the parties as to any material fact, and the Court having filed its memorandum herein on the 21st day of April, 1961.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

I.

The Court has jurisdiction of the subject matter hereof and of the parties hereto and plaintiff's motion for summary judgment is sustained.

II.

As used in this Final Judgment:

(A) "Defendant" means The White Motor Company, a corporation organized and assisting under the laws of the State of Ohio, with its principal place of business at Cleveland, Ohio;

(B) "Person" means any individual, partnership, firm, association, corporation or other business or legal entity;

(C) "Distributor" means any person engaged, in whole or in part, in the purchase from the defendant of trucks and parts and in the sale thereof at wholesale or at retail in the United States of America, including those persons heretofore designated by the defendant as

"distributor" or "franchised distributor;"

(D) "Dealer" means any person engaged, in whole or in part, in the purchase from the defendant, or from any of the defendant's distributors, of trucks and parts and the sale thereof at retail in the United States of America, including those persons heretofore designated by the defendant as "key dealer," "metropolitan dealer," "dealer," "direct key dealer," "direct metropolitan dealer," and "direct dealer."

### III.

The defendant has entered into contracts and combinations with its dealers and distributors which unreasonably restrain trade and commerce in the distribution and sale of trucks and parts among the several states of the United States and the District of Columbia, in violation of sections 1 and 3 of the Act of Congress of July 2, 1890, as amended, commonly known as the Sherman Act, 15 U.S.C.A., 1,3.

### IV.

The provisions in the contracts between and among the defendant and its distributors and dealers,

- (A) purporting to impose limitations or restrictions on the territories within which, or persons or classes of persons to whom distributors and dealers may sell trucks, and
- (B) purporting to obligate distributors and dealers to sell trucks and parts at prices or discounts established by the defendant,

are hereby adjudged unlawful, illegal, null and void.

### V.

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all persons

in active concert or participation with the defendant who receive actual notice of this Final Judgment by personal service or otherwise.

VI.

The defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, combination, agreement or understanding, with any distributor, dealer, or any other person:

(A) To limit, allocate or restrict the territories in which, or the persons or classes of persons to whom, any distributor, dealer or other person may sell trucks;

(B) To fix, establish, maintain or adhere to prices, discounts, or other terms or conditions for the sale of trucks or parts to any third person.

VII.

(A) Defendant is ordered and directed, within thirty (30) days after the effective date of this Final Judgment, to take all necessary action to effect the cancellation of each provision of every contract between and among the defendant and its distributors and dealers which is contrary to or inconsistent with any provision of this Final Judgment.

(B) Defendant is ordered and directed, within thirty (30) days after the effective date of this Final Judgment, to mail a copy of this Final Judgment to each of its distributors and dealers.

(C) Defendant is ordered and directed to file with this Court, and serve upon the plaintiff, within forty-five (45) days after the effective date of this Final Judgment, an affidavit as to the fact and manner of its compliance with subsections (A) and (B) of this Section VII.

VIII.

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on 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, be permitted, subject to any legally recognized privilege:

(A) Reasonable access, during the office hours of the defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

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

No information obtained by the means provided in this Section VIII 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 plaintiff, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

#### IX.

Judgment is entered against the defendant for all costs to be taxed in this proceeding.

#### X.

Jurisdiction is retained by this Court for the purpose of enabling any party 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 the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, or for the punishment of violations thereof.

#### XI.

The functions provided for hereinabove and all executory

action under this Final Judgment shall not become effective or operative until sixty (60) days after the date of the entry of this Final Judgment, and, in the event an appeal is prosecuted by the defendant, all injunctive and executory actions provided for herein shall be stayed and suspended pending the final dispositions of such appeal, conditioned upon the defendant's entering into an appeal and supersedeas bond in the amount of Two Hundred and Fifty Dollars (\$250.00).

Girard E. Kalbfleisch

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United States District Judge

Date September 5, 1961