

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

GARAGE DOOR MANUFACTURERS
ASSOCIATION, INC.,
CALDER MANUFACTURING COMPANY,
THE COMMANDER DOOR, INC.,
GENERAL DOORS CORPORATION,
HOWELL MANUFACTURING COMPANY,
IRV SNYDER DOORS, INC., and
RIDGE NASSAU CORPORATION,

Defendants.

Civil No. 72-199

Filed: August 15, 1973

Entered: Sept. 17, 1973

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on January 27, 1972, the defendants having appeared herein, and the parties, by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by any party with respect to any such issue:

NOW THEREFORE, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties hereto, and the Complaint states claims upon which relief may be granted

against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Overhead doors" means one piece or sectional residential garage doors, consisting of a wooden framework and hardboard, fiberglass, or wood panels which operate vertically through manual or electronic means;

(B) "Accessories" includes all hardware such as bolts, hinges, rollers, tracks, springs, and locks, as well as astragal, stops, glazing, painting, and other items which are part of a finished overhead door;

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

(D) "Overhead door manufacturer" means any person engaged in the manufacture and sale of overhead doors;

(E) "Overhead door distributor" means any person engaged in the sale and installation of overhead doors.

III

The provisions of this Final Judgment applicable to a defendant shall apply also to its subsidiaries, successors, assigns, officers, directors, agents, and employees and to all other persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, maintaining, or

furthering any contract, agreement, understanding, plan or program with any other overhead door manufacturer or overhead door distributor to:

1. Fix, raise, maintain, or stabilize prices or other terms or conditions for the sale of overhead doors or accessories to any third person;
2. Communicate or exchange information concerning prices or other terms or conditions for the sale of overhead doors or accessories to any third person; or
3. Refuse to sell overhead doors or accessories to any person.

V

(A) Each defendant is enjoined and restrained from, directly or indirectly, joining, participating in, belonging to, or contributing anything of value to any trade association, organization, or other group, knowing that any of the activities thereof are inconsistent with any term of this Final Judgment;

(B) Within sixty (60) days of the entry of this Final Judgment, the defendant Garage Door Manufacturers Association, Inc. shall distribute a copy of this Final Judgment to each of its current members and former members, as shown on the attached list designated as Schedule A, and thereafter shall dissolve forthwith. The remaining assets, if any, shall be applied to the outstanding fine levied against the defendant Garage Door Manufacturers Association, Inc. as a part of the Final Judgment entered on September 5, 1972 in United States v. Garage Door Manufacturers Association, Inc. et al.,

Criminal No. 72-47, E.D. Pa. Within seventy-five (75) days of the entry of this Final Judgment, defendant Garage Door Manufacturers Association, Inc. shall file with this Court and serve upon the other parties to this action an affidavit as to the fact and manner of compliance with this subsection V(B).

VI

Within ninety (90) days after the entry of this Final Judgment, each defendant shall independently and individually review, redetermine, and put into effect, based upon its own costs, business judgment, and other lawful considerations, the prices at which it will sell overhead doors and accessories, unless such action has been taken within the last twelve (12) months. Each defendant shall furnish plaintiff an affidavit as to the fact and manner of its compliance with this Section VI.

VII

During the period of five (5) years following entry of this Final Judgment, each defendant shall, within thirty (30) days after each publication of that defendant's prices which amends or adds to the prices or other terms or conditions of sale for overhead doors or accessories, cause to be executed an affidavit by one of its officers or another employee with authority to initiate such action stating that the amendments or additions were individually and independently arrived at by that defendant and were not the result of any agreement or understanding with any other overhead door manufacturer.

VIII

Each defendant shall make a record of each meeting, formal or informal, during the ten (10) year period following entry of this Final Judgment, attended by any of its officers, directors, or employees having managerial or supervisory

authority in the sale or pricing of overhead doors or accessories and by similar representatives of any other overhead door manufacturer at which there is any discussion concerning prices or other terms or conditions of sale of overhead doors or accessories to any third person. The record shall include the date and place of the meeting, the names of all persons in attendance, and a list of the topics or subjects discussed.

IX

Within ninety (90) days after the entry of this Final Judgment, each defendant shall furnish a copy thereof to each of its officers and directors.

X

The injunctions contained in Sections IV, VII and VIII of this Final Judgment do not apply to contracts, agreements, understandings, plans, programs, or communications between a defendant and a parent or subsidiary of, or corporation under common control with, such defendant.

XI

Within ten (10) days of each of the first ten (10) anniversary dates of this Final Judgment, each defendant shall file with the Assistant Attorney General in charge of the Antitrust Division, Washington, D.C., a report setting forth the steps it has taken during the prior year to carry out the terms thereof and to advise its officers, directors, and employees having managerial or supervisory authority in the sale or pricing of overhead doors or accessories of its and their obligations under this Final Judgment. The report shall include copies of the affidavits and records required to be prepared in compliance with Sections VII and VIII of this Final Judgment.

XII

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege and subject to the presence of that defendant's counsel if so desired:

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

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

Upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, such defendant shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by means provided in this Section XII 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XIII

Jurisdiction is retained 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 or directions as may be necessary or appropriate for the construction of or carrying out of this Final Judgment, or for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and the punishment of violations thereof.

/s/ DANIEL H. HUYETT, 3rd
United States District Judge

Dated: September 17, 1973