

In Equity, No. —

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**In the District Court of the United States  
in and for the Southern District of New  
York**

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UNITED STATES OF AMERICA, PETITIONER

*v.*

GENERAL OUTDOOR ADVERTISING COMPANY, INC.,  
NATIONAL OUTDOOR ADVERTISING BUREAU, INC.,  
OUTDOOR ADVERTISING ASSOCIATION OF AMERICA,  
INC., FOSTER AND KLEISER COMPANY, FOSTER  
AND KLEISER INVESTMENT COMPANY, KERWIN H.  
FULTON, GEORGE JOHNSON, GEORGE ARMSBY,  
INDIVIDUALLY AND AS VOTING TRUSTEES, AND  
GEORGE W. KLEISER, DEFENDANTS

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**PETITION**

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UNITED STATES OF AMERICA, PETITIONER,

*v.*

GENERAL OUTDOOR ADVERTISING COMPANY, INC.,  
National Outdoor Advertising Bureau, Inc., Out-  
door Advertising Association of America, Inc.,  
Foster and Kleiser Company, Foster and Kleiser  
Investment Company, Kerwin H. Fulton, George  
Johnson, George Armsby, Individually and as  
Voting Trustees, and George W. Kleiser, defend-  
ants.

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To the Honorable Judges of the District Court of  
the United States for the Southern District of New  
York, sitting in equity:

I

**THE PARTIES**

The petitioner, United States of America, by its  
attorney for the Southern District of New York,  
acting under the direction of the Attorney General of  
the United States, brings this proceeding in equity  
against:



The General Outdoor Advertising Company, Inc., a corporation organized and existing under and by virtue of the laws of the State of New Jersey (hereinafter sometimes referred to as the "General Company"), and having an office at No. 1 Park Avenue, New York, N. Y.

The National Outdoor Advertising Bureau, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter sometimes referred to as the "Bureau"), and having its principal office at No. 1 Park Avenue, New York, N. Y.

The Outdoor Advertising Association of America, Inc., a membership corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter sometimes referred to as the "Association"), and having its principal office at No. 307 South Green Street, Chicago, Illinois.

Foster and Kleiser Company, a corporation organized and existing under and by virtue of the laws of the State of Nevada, and having its principal office at No. 1675 Eddy Street, San Francisco, California.

Foster and Kleiser Investment Company, a corporation organized and existing under and by virtue of the laws of the State of California, and having its principal office at No. 1675 Eddy Street, San Francisco, California.

Kerwin H. Fulton, a citizen and resident of the State of New York, having his office at No. 1 Park Avenue, in the City of New York.

George A. Johnson, a citizen and resident of the State of New York, having his office at No. 1 Park Avenue, in the City of New York.

George Armsby, a citizen and resident of the State of New York, having his office at No. 24 Broad Street, in the City of New York.

George W. Kleiser, a citizen and resident of the State of California, having his office at No. 1675 Eddy Street, San Francisco, California.  
and for its cause of action alleges on information and belief:

## II

### THE PURPOSE OF THE PETITION

This proceeding is brought under the provisions of Section 4 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies" (26 Stat. 209), known as the "Sherman Antitrust Act," and Section 15 of the Act of Congress of October 15, 1914 (38 Stat. 730), as amended May 15, 1916, and May 26, 1920, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," known as the "Clayton Act," (1) to prevent and restrain all the defendants from further engaging in this district, and elsewhere in the United States, in violation of the provisions of Sections 1 and 2 of the said Act of Congress of July 2, 1890, and (2) to prevent and restrain the defendant George W. Kleiser from violating the provisions of Section 8 of the said Act of Congress of October 15, 1914, as amended, all in the manner and by the means hereinafter alleged.



JURISDICTION AND DESCRIPTION OF THE COMMERCE  
RESTRAINED

The defendants herein are carrying on in this district and elsewhere in the United States a combination and conspiracy in restraint of interstate trade and commerce, and are monopolizing and attempting to monopolize such trade and commerce in the business of national outdoor advertising. This commerce includes two principal classes of activities: (1) the solicitation of contracts for national advertising, and (2) the operation of advertising display plants.

The solicitation of national outdoor advertising contracts involves (a) the preparation and submission to advertisers of advertising copy or designs for reproduction, either in print or in paint, on signboards, walls, or panels constructed for that purpose; (b) the procurement from lithographers and the submission to advertisers of estimates covering the cost of printing posters; (c) the procurement, primarily through the Association, from poster-plant and paint-plant operators, of statistical information concerning the location of poster-plants and paint-plants in the various towns and cities throughout the United States, as well as the charges for displays thereon, and the submission to prospective advertisers of estimates of the cost of displaying advertising matter on such plants; (d) entering into contracts, either as principal or as agent for the advertisers, for the purchase of advertising posters pursuant to the copy or

designs approved by the advertisers, and the subsequent transportation and delivery of the same in interstate commerce from the lithographer to the operators of poster-plants located in cities, towns, and villages throughout the United States for posting on such poster-plants in accordance with the instructions of the advertiser; (e) causing the approved copy or designs for painted signs to be transported in interstate commerce from the office or studio of the solicitor to operators of paint-plants in the various cities and towns throughout the United States for reproduction on such paint-plants, in accordance with the advertisers' directions; (f) entering into contracts, either as principal or as agent for the advertisers, with operators of poster-plants and paint-plants, for the display of poster and painted advertising matter, which has been transported in interstate commerce, in accordance with the advertisers' instructions; (g) checking and inspecting the displays of advertising matter on the poster and paint-plants which have been selected by the advertisers or by the solicitors on their behalf; (h) making payment to the operators of the poster-plants and paint-plants for the use of their plants; and (i) finally collecting from the advertisers for all services rendered. Persons who solicit outdoor-advertising contracts and perform the activities outlined above are said to be engaged in operating an outdoor-advertising agency.

The operation of outdoor advertising display-plants includes the maintenance of two kinds of plants, (1)



a poster-plant and (2) a paint-plant. A poster-plant consists of a system of billboards or poster-panels (whether built as separate structures or attached to building-walls, fences, or other structures) under common ownership and used for the purpose of exhibiting thereon outdoor advertising posters or lithographs, which are transported in interstate commerce. The poster-boards or panels which are illuminated at night by electricity are called "specials." Non-illuminated boards or panels are called "regulars." For the purpose of contracting for advertising displays the poster-boards and panels are arranged in groups of substantially an equal number of "regulars" and "specials" distributed throughout a particular city, town, or village, designated a "showing." A "showing" is intended to provide an outdoor advertising display in substantially all places available in a particular city, town, or village for that purpose having advertising value. "Showings" are subdivided into "full", "half," or "quarter showings," depending upon whether the advertiser contracts for a display on all of the panels of a particular group of panels or a half or quarter thereof. A paint-plant consists of a system of one or more signboards, panels, or bulletin-boards (whether built as separate structures or attached to building-walls, fences, or other structures) under common ownership and used for the purpose of painting thereon designs or copy for outdoor advertising matter, which are transported in interstate commerce. Each separate board or panel is usually located at some conspicuous point near a public highway on

which a large volume of traffic is continually passing. Frequently these painted boards or panels are illuminated at night. Usually contracts for painted displays are made for each separate board or panel.

The paper posters or lithographs and the designs or copy for painted advertising displays which are transported in interstate commerce are intended to, and do, convey information concerning the goods, wares, and merchandise of the advertiser to prospective buyers in all parts of the country; and the contracts entered into by advertisers and advertising agencies with plant operators engaged in national outdoor advertising are made for the purpose of having the information contained in such posters and designs transported in interstate commerce to the display-plants located in states other than that in which the advertiser, the advertising agency, or the manufacturer of the lithographs is located.

#### IV

#### DEFENDANTS' RELATION TO THE INTERSTATE COMMERCE WHICH IS AND HAS BEEN RESTRAINED AND MONOPOLIZED

The General Outdoor Advertising Company, Inc., is engaged in both the solicitation of national outdoor advertising and the operation of poster-plants and paint-plants. It maintains offices in the cities of New York, Chicago, Philadelphia, Cleveland, Detroit, Cincinnati, St. Louis, Kansas City, Minneapolis, Omaha, San Francisco, and other important cities throughout the United States. It operates poster and paint-plants in substantially all the larger cities,



towns, and villages east of the Rocky Mountains. It is by far the largest single operator of display-plants in the United States, owning approximately 1,500 separate display-plants, located in at least twenty-three States and the District of Columbia. The poster and paint-plants which the General Company operates in the larger cities and towns of the United States, commonly designated "key cities," are so essential to an advertiser desiring to contract for a national outdoor advertising campaign that it would be impossible for an advertiser to conduct such a campaign without contracting for these plants. The General Company, through the combination hereinafter alleged, controls approximately 80 per cent of the total national outdoor advertising business transacted in the United States.

Foster and Kleiser Company is also engaged in both the solicitation of national outdoor advertising and the operation of poster-plants and paint-plants. It maintains an office for the solicitation of contracts in San Francisco, California, and New York City, New York. It operates poster-plants and paint-plants in the States of Washington, Oregon, California, and Arizona.

Foster and Kleiser Investment Company is a personal investment holding corporation for defendant George W. Kleiser and one Walter F. Foster, each of whom owns one-half of its issued capital stock. Defendant George W. Kleiser and Mr. Walter F. Kleiser each own 54,342 shares and, together with the members of their respective families,

own 416,490 shares, of a total of 588,945 shares of defendant Foster and Kleiser Company. Defendant Foster and Kleiser Investment Company owns 50,000 shares of common stock of defendant General Outdoor Advertising Company, Inc., which it acquired by the means and for the purposes hereinafter more fully alleged.

The National Outdoor Advertising Bureau, Inc., is engaged in the business of aiding and assisting its stockholders and others employing its services in soliciting and executing contracts for national outdoor advertising. The stockholders of the Bureau, called "Bureau members," are engaged in conducting general advertising agencies, the activities of which include periodical advertising, as well as outdoor advertising. That part of the business of these stockholders and others employing the services of the Bureau which relates to outdoor advertising is under the direction and supervision of the Bureau, which maintains offices both in the City of New York, and in Chicago, Illinois. The "members" of the Bureau constitute practically all of the large general advertising agencies in the United States and have offices in all of the larger cities and towns throughout the country.

The Outdoor Advertising Association of America is a membership corporation, the members of which are divided into two classes: (1) the owners and operators of poster-plants, and (2) owners and operators of paint-plants. The memberships in the



Association are designated by separate display-plants, located in separate cities, towns, and villages throughout the United States. There is only one membership for each separate city, town, or village. Voting in the affairs of the Association is according to the number of separate display-plants owned or operated by the voting member. There are 15,435 memberships representing poster-plants, and 207 memberships representing paint-plants. The two largest owners of memberships are (1) the defendant General Outdoor Advertising Company, Inc., which has 980 memberships, representing poster-plants which it owns and operates, and 89 memberships, representing paint-plants which it owns and operates, and (2) the defendant Foster and Kleiser Company, which has 576 memberships representing poster-plants which it owns and operates.

The Association functions under the dominance and control of these two defendants, especially the General Company, frequently to the prejudice or injury of other plant-owners who are endeavoring to conduct their business in competition with the General Company, as follows: The Association undertakes to compile statistical information concerning the number and location of the poster and paint-plants operated by its members, the number of panels constituting a "showing" and the charges for a "showing" of outdoor advertising matter on the members' plants. This statistical information is furnished national outdoor advertising solicitors on payment of fixed fees, and frequently only on compliance

with unreasonable and arbitrary conditions imposed by the Association. The furnishing of this statistical information to such solicitors constitutes practically the sole means by which plant-owners, members of the Association, other than the General Outdoor Advertising Company, Inc., and Foster and Kleiser Company, may obtain contracts for the display of national outdoor advertising matter on their plants. Conversely, the statistical information obtained by national outdoor advertising solicitors from the Association furnishes practically the only means by which solicitors, other than the General Outdoor Advertising Company, Inc. and Foster and Kleiser Company, may obtain knowledge of the existence of poster-plant and paint-plant operators, with whom contracts for the display of national outdoor advertising matter may be made, and which knowledge is essential to the conduct of the solicitors' business.

In accepting statistical information from members to be furnished solicitors, the Association frequently undertakes to, and does, impose unreasonable, arbitrary, and illegal restrictions, especially with reference to changes in allotments of the number of poster-panels constituting a "showing" on a member's poster-plant. In addition, the Association imposes unreasonable, arbitrary, and illegal conditions for membership, and delays taking action on applications for membership where the applicant operates a display-plant in competition with a member of the Association, in order to secure for existing members a monopoly of the outdoor advertising displays in the particular



city, town, or village in which such member operates, and thus illegally prevents such applicant from obtaining contracts for national outdoor advertising displays through the facilities provided by the Association.

Kerwin H. Fulton is a director as well as the president and general manager of the General Company. He is also a director and member of the Executive Committee of the Association.

George A. Johnson is a director and chairman of the Board of the General Company. Prior to the formation of the General Outdoor Advertising Company he was vice-president of the Thomas Cusack Company, to which company reference is hereinafter made.

George Armsby is a director of the General Outdoor Advertising Company.

Defendants Fulton, Johnson, and Armsby constituted the Committee in charge of the Plan, hereinafter referred to, for the organization of the General Company.

Defendants Fulton, Johnson, and Armsby are also the voting trustees under a Voting Trust Agreement, dated as of February 26, 1925, hereinafter referred to, pursuant to the terms of which all of the issued common stock of the General Outdoor Advertising Company is held and voted by them.

George Kleiser is a director as well as president of both the Foster and Kleiser Company and the Foster and Kleiser Investment Company. He is also a director of the General Outdoor Advertising Com-

pany, Inc., having been elected to such office by the means and for the purposes hereinafter more fully alleged.

## V

### THE UNLAWFUL MONOPOLY

## A

#### FORMATION OF GENERAL OUTDOOR ADVERTISING COMPANY, INC.

Prior to 1925 there were two principal groups of companies in the United States (exclusive of the Foster and Kleiser Company) engaged in soliciting national outdoor advertising and operating large poster-plants and paint-plants. These were (1) the so-called Thomas Cusack group, and (2) the so-called Fulton group.

#### (1) THE CUSACK GROUP

The principal company in the Cusack group was the Thomas Cusack Company, incorporated in 1903 under the laws of the state of New Jersey. Originally this company was engaged only in the operation of painted display advertising. In about 1908, however, this company acquired the poster-plants of the so-called Gunning System, which operated not only painted display advertising boards, but also operated poster-plants in the city of Chicago and elsewhere, notably in Omaha, Nebraska, and Oklahoma City, Oklahoma. The Cusack Company gradually extended its ownership of both paint and poster-plants until during the period from 1918 to 1920 it attained such a dominant position in the advertising industry in the



United States that it endeavored to control both the Association (in which it then had the largest number of memberships by reason of its extensive ownership of poster-plants and paint-plants) and the solicitors engaged in obtaining contracts for national advertising. In order to make its monopoly effective, in 1920 the Cusack Company refused to accept contracts for national outdoor advertising matter to be displayed on its plants unless the contracts for such advertising were placed directly with it and without the intervention of competing solicitors. The Cusack Company and its subsidiary companies conducted soliciting offices and operated poster-plants in many of the principal cities of the United States, including New York City, Chicago, St. Louis, Kansas City, Omaha, Denver, New Orleans, Indianapolis, St. Joseph, Philadelphia, Buffalo, Rochester, Cleveland, Toledo, Dayton, Baltimore, Washington, D. C., Hartford, Memphis, Pittsburgh, Akron, Davenport, Duluth, Nashville, Youngstown, and Jacksonville, Florida. It also operated poster-plants and paint-plants in about 100 smaller cities throughout the United States. The subsidiary companies owned or controlled by the Cusack Company, constituting the Cusack group of companies, at the date of the formation of the General Outdoor Advertising Company, were as follows:

Name of company	State of incorporation
American Sign Co.....	Delaware.
American Posting Service.....	Illinois.
A. & W. Electric Sign Co.....	Ohio.
Atlanta Advertising Service.....	Georgia.
Aurora Bill Posting Co.....	Illinois.
Baltimore Poster Advertising Co.....	Delaware.

Name of company	State of incorporation
Block-Rogers Advertising Co.....	Maine.
The Bryan Co.....	Ohio.
W. E. Bryan Company.....	Indiana.
The Buchholz Co.....	Massachusetts.
The Carnegie Twelfth Company.....	Ohio.
Council Bluffs Poster Advertising Co.....	Iowa.
The Curran Billposting & Distributing Co.....	Colorado.
Garlick Poster Advertising Co.....	Louisiana.
Hartford Poster Advertising Co.....	Connecticut.
Indianapolis Billposting Co.....	Indiana.
Joliet Bill Posting Co.....	Illinois.
Kale & Bryan Co.....	Indiana.
Massengale Bulletin System.....	Georgia.
Morrison Posting Service.....	Illinois.
Mott, Jr., Bulletin System.....	Florida.
Northern Display Advertising Co.....	Minnesota.
North Shore Advertising Co.....	Illinois.
Thos. Cusack Co.—Oklahoma.....	Oklahoma.
Omaha Posting Service.....	Nebraska.
Philadelphia Posting Advertising Co.....	New Jersey.
Poster Display Company.....	Pennsylvania.
S. H. Robinson Company.....	Pennsylvania.
Russell Posting Service.....	Illinois.
Southern Advertising Co.....	Alabama.
South Shore Advertising Co.....	Indiana.
Tagney & Hudson Co.....	Illinois.
U. S. Display Advertising Co.....	Minnesota.
Western Bill Posting Co.....	Illinois.

In addition to the soliciting and display facilities owned and operated directly by the Cusack Company or a subsidiary thereof, there was in existence a contractual arrangement between the Cusack Company and the Bureau (hereinafter more fully referred to) whereby the Cusack Company executed all of the contracts for national outdoor advertising obtained by the members of the Bureau.

As a result of the ownership and control of poster-plants and paint-plants, together with the contractual arrangement with the Bureau, in 1924 the Cusack group of companies constituted the largest outdoor advertising business in the world, transacting approxi-



mately 50 per cent of the total national outdoor advertising business of the entire United States.

## (2) THE FULTON GROUP

The original company in the so-called Fulton group was the Poster Advertising Company, Inc., organized under the laws of New York in 1917. Kerwin H. Fulton became the president of the Company shortly after its organization. This company was engaged solely in the business of soliciting national outdoor advertising. Associated with the Poster Advertising Company, Inc., was a group of companies, under the control of Kerwin H. Fulton, either individually or as one of the executors of the Barney Link Estate, engaged in the operation of paint and poster-plants in various towns and cities chiefly in the Eastern part of the United States. Prior to the year 1920, in those cities and towns where the group of companies associated with the Poster Company did not operate poster or paint-plants, a large part of the contracts for national outdoor advertising obtained by the Poster Advertising Company, Inc., were executed on the poster and paint-plants operated by the Thomas Cusack Company and its subsidiaries. In 1920, with the refusal of the Cusack Company to accept further contracts for execution on its plants, which contracts had not been obtained by its own solicitors, or through its contract with the National Outdoor Advertising Bureau, Inc., the Poster Advertising Company, Inc., was unable to have its contracts for national advertising fully executed, unless it would submit to the domination of the industry by the

Cusack Company and enter into contracts for the display of outdoor advertising matter through the agencies controlled by the Cusack Company. Other large solicitors for national outdoor advertising were in the same situation. Under the leadership of the Poster Company, defendant Fulton and others associated with him then began the development of a competing group of companies engaged in operating poster-plants and paint-plants, which companies, together with the companies then under the control of defendant Fulton, as aforesaid, known collectively as the Fulton group of companies, constituted the only companies in the outdoor advertising industry which were capable of competing with the group of companies controlled by the Cusack Company. The development of the Fulton and associated companies continued under the direction and with the support of defendant Fulton, the Poster Advertising Company, Inc., and others, until in 1924 there were some 20 companies, hereinafter named, actively engaged in operating poster-plants and paint-plants in competition with the so-called Cusack Companies, as well as elsewhere.

By reason of the strong position of the Fulton group of companies, particularly the Poster Advertising Company and others associated with it, this group of companies continued to prosper notwithstanding the attempted monopoly of the industry by the Cusack Company, until in 1924 it was transacting a substantial portion of the total national



outdoor advertising business. The companies constituting the Fulton group of companies, at the date of the formation of the General Outdoor Advertising Company, were as follows:

Name of company	State of incorporation
Atlantic City Poster Advertising Company-----	New Jersey.
Binghamton Poster Advertising Company-----	New York.
Briel Poster Advertising Co., Inc.-----	New York.
Brooklyn Poster Advertising Company-----	New York.
The Burton System, Inc.-----	Virginia.
Capitol City Poster Advertising Co., Inc.-----	Connecticut.
Dixie Poster Advertising Co., Inc.-----	Virginia.
East St. Louis Posting Co.-----	Illinois.
The O. J. Gude Co., of New York-----	New York.
Jamaica Poster Advertising Co., Inc.-----	New York.
Long Island Poster Advertising Co., Inc.-----	New York.
Mohawk Valley Poster Advertising Co., Inc.-----	New York.
Old Colony Poster Advertising Co.-----	
Pittsburgh Poster Advertising Co.-----	Pennsylvania.
Poster Advertising Co., Inc.-----	New York.
Quaker City Poster Advertising Co.-----	Pennsylvania.
Ripley Poster Advertising Co.-----	Georgia.
St. Louis Poster Advertising Co.-----	New York.
Standard Poster Advertising Co.-----	New York.
Van Buren & New York Bill Posting Company.---	New York.

### (3) MERGER OF 1925

Toward the end of 1924 the attempted monopoly by the Cusack Company having been unsuccessful and the Fulton group of companies, under the leadership of the Poster Advertising Company, having become a formidable competitor in the industry, negotiations were commenced by defendant George L. Johnson, then a vice-president of the Cusack Company, with defendant Fulton, through the intervention of Blair & Company, Bankers of New York, for the merger and consolidation of the businesses and properties of the Cusack and Fulton Companies. As a result of these negotiations there was promulgated

under the direction of defendants Johnson, Fulton, and Armsby (representing Blair & Co., Inc.) as a committee, a plan and agreement, dated January 23, 1925, for the merger of the Cusack and Fulton Companies, as well as a number of other companies, not then included in either group. In March of 1925 the plan was declared operative, resulting in the formation of General Outdoor Advertising Company, Inc. (incorporated under the laws of New Jersey, February 7, 1925), which acquired and succeeded to all the properties, businesses and good will of the former Cusack and Fulton groups of companies, the names of which have been stated herein above.

Subsequent to declaring the plan operative, and which resulted in the formation of General Outdoor Advertising Company, Inc., as herein alleged, this corporation was merged and consolidated with (1) Thomas Cusack Company, and (2) Atlantic City Poster Advertising Company, all being New Jersey corporations, by an agreement of consolidation and merger, dated as of December 1, 1925, although actually executed January 5, 1926. Furthermore, subsequent to declaring the plan operative, the General Company has acquired the properties, business, and good will of the following companies, as well as other companies, the names and locations of which are unknown to the petitioner.

Name of company	Location
Aultman, Inc.-----	Minneapolis and St. Paul.
National Poster Co. of Denver-----	Denver, Colorado.
Bolles Poster Advertising Co.-----	Southern New Jersey.
Outdoor Advertising Company.-----	Akron, Ohio.
Dave Lodge Posting Company-----	Philadelphia, Pa.
New Orleans Poster Adv. Co.-----	New Orleans, La.



Name of company	Location
Jacksonville Poster Adv. Co. ....	Jacksonville, Fla.
Miami Poster Advertising Co. ....	Dayton, Ohio.
Memphis Poster Advertising Co. ....	Memphis, Tennessee.
Interstate Advertising Service. ....	Omaha, Nebraska.
Omaha Outdoor Advertising Co. ....	Omaha, Nebraska.
Cedar Rapids Poster Adv. Co. ....	Cedar Rapids, Iowa.
Interstate Poster Adv. Company. ....	Napoleon, Ohio.
Weber Poster Adv. Service, Inc. ....	Duluth, Minnesota.

Under the plan and agreement, dated January 23, 1925, for the merger of the Cusack and Fulton Companies to form the General Outdoor Advertising Company, Inc., as hereinbefore alleged, it was provided that the committee in charge of the said plan, consisting of defendants Johnson, Fulton, and Armsby, might by unanimous vote determine to place the common stock of the General Outdoor Advertising Company, Inc., in a voting trust, the trustees whereof should be selected by the committee, in which case voting trust certificates representing shares of such common stock would be deliverable under the plan in lieu of certificates for shares of common stock.

On the organization of the General Outdoor Advertising Company, Inc., provision was made in the certificate of incorporation for three classes of stock, namely, preferred stock, Class A stock, and common stock. Only the common stock has full voting rights. (Holders of the preferred stock and the Class A stock are not entitled to vote, except as provided by statute and except whenever the corporation is in default in the payment of dividends, as more fully provided in the certificate of incorporation.) Pursuant to the provisions of the plan and

agreement, dated January 23, 1925, with respect to the common stock of the General Outdoor Advertising Company, Inc., immediately following the organization of the Company, as hereinbefore alleged, all of its common stock was issued to defendants Fulton, Johnson, and Armsby, as voting trustees under the terms of a Voting Trust Agreement, dated as of February 26, 1925, and these defendants issued their voting trust certificates, which are now outstanding in the hands of the public in lieu of certificates for shares of common stock. This Voting Trust Agreement provides that it shall continue until February 26, 1930, unless sooner terminated by unanimous vote of the voting trustees. In the exercise of their power and authority as voting trustees, continuously since the organization of the defendant General Outdoor Advertising Company, Inc., defendants Fulton, Johnson, and Armsby have exercised and are now exercising all of the voting rights of the stockholders of the corporation and thus have controlled, and are now continuing to control, all of the affairs of the defendant General Outdoor Advertising Company, Inc.

## B

### THE RELATION BETWEEN THE GENERAL COMPANY AND THE NATIONAL BUREAU

At the time of the formation of the General Company there was in existence a contract between the Thomas Cusack Company and the National Bureau whereby all contracts for national outdoor advertising obtained by members of the Bureau were executed



exclusively on the poster-plants and paint-plants of the Thomas Cusack Company and its subsidiary companies. In August, 1925, a new contract was made between the General Company and the Bureau, a true copy of which is annexed hereto, marked "Exhibit A," and made a part hereof. Under this contract, which is now in full force and effect, the Bureau was constituted the agent of the General Company to solicit contracts for national outdoor advertising to be executed upon the plants owned or operated by the General Company, and, at the option of the Bureau, to be executed upon plants not owned or operated by the General Company. The contract further provides that all advertising contracts procured or obtained by the Bureau to be performed by the General Company shall forthwith be assigned by the Bureau to the General Company. In the practical operation of this contract more than 90 per cent of all of the contracts for outdoor advertising obtained by the Bureau are assigned to the General Company.

In addition, the General Company and the Bureau have agreed in this contract not to compete in the solicitation of national advertising from specified advertisers, the names of which are appended to the contract, but which are changed from time to time by mutual agreement between the General Company and the Bureau.

With the exception of the General Company itself, the Bureau (including so-called members thereof) is the largest single agency in the United States for the

solicitation of national outdoor advertising. The combined volume of business obtained by the General Company and the Bureau represents about 80 per cent of the total volume of national outdoor advertising business in the United States.

The contract between the General Company and the Bureau is now in operation and will continue for an indefinite period by virtue of the provision therein for automatic renewal until cancelled by written notice, and even on the giving of such written notice the contract shall not terminate until five years from the end of the year in which notice of a desire to terminate is given.

While the contract between the Bureau and the General Company remains in force, all of the stock of the Bureau is held by trustees under the terms of a so-called "option to Purchase Stock of National Outdoor Advertising Bureau, Inc.," a copy of which is annexed hereto, marked "Exhibit B," and made a part hereof.

### C

#### THE RELATION BETWEEN THE GENERAL COMPANY AND THE OUTDOOR ASSOCIATION OF AMERICA, INC.

The General Company has the largest number of memberships in the Association and controls the largest number of votes in the conduct of the affairs of the Association. A large number of the officers of the Association are either officers or employees of the General Company. Kerwin H. Fulton is president of the General Company and chairman of the board of directors of the Association. Of the 27 directors



of the Association, 6 are either officers or employees of the General Company. In 1926, at the instance and under the direction of the representatives of the General Company, a new constitution and set of by-laws was adopted by the Association, providing for more direct regulation of the affairs of the Association by the board of directors, the practical effect of which is to concentrate the control of the Association and its affairs in the hands of the General Outdoor Advertising Company, Inc., and its representatives.

#### D

##### THE RELATION BETWEEN THE GENERAL COMPANY, AND FOSTER AND KLEISER COMPANY AND FOSTER AND KLEISER INVESTMENT COMPANY

At the time of the formation of the General Outdoor Advertising Company, Inc., by the merger and consolidation of the so-called Cusack and Fulton Companies, as hereinbefore alleged, it was proposed by the committee in charge of the plan for the formation of the General Company that defendant Foster and Kleiser Company should be included among the companies whose business and properties were to be acquired by the General Company, and negotiations to that end were had with defendant George W. Kleiser, acting on behalf of defendant Foster and Kleiser Company. In the course of these negotiations, an appraisal was made of the physical properties, and an audit was made of the accounts of the Foster and Kleiser Company. Eventually, the committee and defendant George W. Kleiser determined that the Foster and Kleiser Company should not be

actually included among the companies whose business and properties were to be acquired by the General Company, but that a community of interest should be established and maintained between the General Company and the Foster and Kleiser Company (1) by having defendant George W. Kleiser elected to the board of directors of the General Company, and (2) by having defendant Foster and Kleiser Investment Company (all of the stock of which is owned or controlled by defendant George W. Kleiser and Walter F. Foster or the members of their respective families) acquire a substantial number of the shares of stock to be issued by the General Company. Accordingly, subsequent to the organization of the General Company, defendant George W. Kleiser was elected to the board of directors of the General Company, in violation of the provisions of Section 8 of the Clayton Act (more fully alleged hereinafter), and defendant Foster and Kleiser Investment Company agreed to purchase 50,000 shares of the common stock of the General Company. After the completion of the organization of the General Company, all of its common stock having been placed under a voting trust agreement, as hereinbefore alleged, there were issued to defendant Foster and Kleiser Investment Company voting trust certificates representing 50,000 shares of the common stock of the General Company, which voting trust certificates are now held by defendant Foster and Kleiser Investment Company. As a result of the



establishment of the community of interest between the General Company and the Foster and Kleiser Company, as aforesaid, an understanding was reached between these two companies whereby substantial areas of territory were allocated in which each company would conduct the operation of its advertising display plants without competition by the other, that is to say, the Foster and Kleiser Company would conduct its business operations on the Pacific Coast and the territory west of the Rocky Mountains, and the General Company in the territory east of the Rocky Mountains, in each case without competition by the other.

All of the acts, contracts, understandings, and transactions and the combination hereinbefore alleged have been entered into and performed by these defendants with the intent and with the direct and necessary effect of restraining interstate trade and commerce in national outdoor advertising, and to monopolize and to attempt to monopolize such trade and commerce.

## VII

### RESULTS OF THE UNLAWFUL MONOPOLY AND ATTEMPT TO MONOPOLIZE

As a result of the combination and conspiracy to restrain interstate trade and commerce in national outdoor advertising and to monopolize and attempt to monopolize such commerce, as hereinbefore alleged, in place of the active competition heretofore existing in the industry between the Cusack and Fulton groups of companies, there is now but one organization represented by defendant General Outdoor Adver-

tising Company, Inc., which possesses power to control the entire industry, there being no other person, firm, or corporation engaged in the industry which is comparable to the General Company in size, or which is able to engage in free and unrestricted competition with the General Company. This power of the General Company has resulted, not from normal expansion and legitimate business enterprise, but from deliberate, calculated purchases and acquisitions of competing companies and by contracts and other arrangements intending to ~~have~~ and having the power to control the entire industry.

By virtue of the relation between the General Company and the Association, and between the General Company and the Foster and Kleiser Company, there is effected a control of approximately 90 per cent of the total poster-plants and paint-plants in the United States, located in cities, towns, and villages having a population of 10,000 people or more.

By reason of the fact that the General Company owns and operates the largest number of display-plants in the United States, many of which are operated without competition in the so-called "key" cities, which are essential to a national outdoor advertising campaign, solicitors and advertising agencies competing with the General Company must necessarily enter into contracts with their largest and most important competitor (the General Company) in order to obtain execution of their clients' contracts.



In addition, as hereinbefore alleged, the Bureau assigns approximately 90 per cent of the contracts obtained by its members to the General Company to be executed. As a result of the contracts received from competing solicitors, advertising agencies, and members of the Bureau, as well as from its own direct solicitation, the General Company exercises a monopolistic control over the placing of contracts with operators of display-plants for the local display of advertising matter constituting parts of national outdoor advertising campaigns. In the cities, towns, and villages where the General Company does not operate its own display-plants, the so-called independent display-plant operators therein receive from the General Company, on the average, approximately 75 per cent of their total business, about one-half of which represents contracts which are sublet by the General Company, acting for competing solicitors, advertising agencies, and Bureau members, and is not the result of direct solicitation of business by the General Company. Accordingly, the monopolization by the defendant General Company of the poster and paint display-plants in key cities throughout the country, and over display-plants generally, as hereinbefore alleged, carries with it the power to control not only the so-called independent poster and paint display-plants in all parts of the country and the interstate trade and commerce flowing thereto, but also gives the General Company the power to interfere with and restrain competing solicitors and advertising agencies in the conduct of their

business in obtaining space on display-plants for the display of outdoor advertising matter on behalf of national advertisers.

The monopolistic power of the General Company, as aforesaid, has resulted and is resulting in a substantial decline in the volume of national outdoor advertising business transacted by competitors of the General Company, engaged both in the solicitation of national outdoor advertising and in the operation of poster-plants and paint-plants, which power, if continued, will result in the total suppression of competition in the industry, and the establishment of a complete and absolute monopoly in the General Company.

## VIII

### USES OF THE MONOPOLISTIC POWER

The power resulting from the unlawful combination and conspiracy, hereinbefore alleged, is being used (1) to oppress and coerce competitors of defendant General Outdoor Advertising Company, Inc., and with the intent to exclude them from the business of operating competing display-plants by outbidding them and unduly interfering with their procuring leases of locations for prospective or existing poster-and/or paint-panels; (2) to intimidate advertisers by threats of discrimination in service and to induce them by unfair representations and otherwise, not to deal with competitors of the defendant General Outdoor Advertising Company, Inc.; (3) to induce advertisers not to employ the services of solicitors in competition with defendant General



Outdoor Advertising Company, Inc., by granting secret rebates and by entering into arrangements for the formation of an advertising agency which in fact is merely a department of the business of the advertiser, whose business is thus obtained, and which is not a *bona fide* independent contractor engaged in soliciting national outdoor advertising, and by making unlawful discriminations in prices and services; (4) to control the defendant Outdoor Advertising Association and require it to limit the number of members in such Association so that there shall be but one poster-plant and one paint-plant membership in each city, town, or village of the United States, thus preventing potential and actual competitors of defendant General Outdoor Advertising Company, Inc., operators of local display-plants, from making use of the facilities provided by the Association to publish to advertisers statistical data concerning such local display-plants, which publication is essential to obtain contracts for local displays of large national outdoor advertising campaigns; (5) to control the Association and require it to withhold from solicitors in competition with defendant General Outdoor Advertising Company, Inc., or make it burdensome and unduly difficult for them to obtain from the Association the statistical information concerning display-plants of members of the Association, which is essential to the conduct of the solicitors' business, thus preventing such competing solicitors from using the facilities of the Association to employ the services of the display-plants of members of the Association;

(6) to delay unjustly and unreasonably the delivery to the operators of display-plants in competition with defendant General Outdoor Advertising Company, Inc., of contracts obtained by the Bureau members, providing for the employment of display-plants of competitors of the said General Company, but which in the course of transmission to such competitors have been assigned by the Bureau to the General Company, the delay in such delivery being made for the purpose of injuring competitors and to exclude them from interstate trade and commerce in national outdoor advertising by inducing the advertiser not to contract with such competitors; (7) to maintain prices at arbitrary levels and to enhance many of the prices charged for the use by advertisers of poster and/or display-plants above the prices charged for the use of such plants prior to their acquisition by defendant General Outdoor Advertising Company, Inc.; (8) to injure competitors of defendant General Outdoor Advertising Company, Inc., engaged in the operation of poster and paint display-plants with the intent to exclude them as competitors by threatening national advertisers that unless their contracts for national outdoor advertising displays are executed on the poster and/or paint-plants owned and operated by the General Company and/or its subsidiary or affiliated companies, and not on the plants of competitors, where such competition exists, the General Company will refuse to accept contracts from advertisers for execution on any of the plants owned and/or operated by it and/or its sub-



subsidiary and affiliated companies; (9) to compel owners and operators of so-called independent display-plants to sell their display-plants to, or exchange the same with, the General Company on such terms and conditions as may be determined by the General Company, by threatening, either expressly or impliedly, that unless such sale or exchange is made, the General Company will construct and operate a display-plant in competition with the display-plants of such so-called independent operators, or prevent them from receiving contracts for local outdoor advertising displays, being parts of large national outdoor advertising campaigns, in which the subletting of contracts for local displays is under the control of the General Company; and (10) to control the so-called independent operators of display plants throughout the United States, many of whom are members of the Association, and thus interfere with competing solicitors, by making such so-called independent operators subservient to the wishes of the General Company in their dealings with advertisers, and with solicitors and advertising agencies who are engaged in competition with the General Company, by virtue of the large volume of sublet business which such independent display-plant operators receive from the General Company.

## IX

### EXTENSION OF THE MONOPOLY POWER

Since the organization of the General Outdoor Advertising Company, Inc., in 1925 by the merger of the Cusack group of companies and the Fulton

group of companies, as hereinbefore alleged, this defendant has owned and operated a poster-plant and a paint-plant in the city of Baltimore, Maryland, and in the territory surrounding that city (hereinafter sometimes collectively called "the Baltimore plant"), which, prior to the organization of the General Company, was owned and operated by the Cusack Company or one of its subsidiary corporations. At the present time and continuously for several years prior to the acquisition of the Baltimore plant by defendant General Outdoor Advertising Company, Inc., the P. & H. Morton Advertising Company, a Maryland corporation, has owned and operated a poster-plant and paint-plant in the city of Baltimore, Maryland, and in the surrounding territory, including Annapolis, Maryland; Cumberland, Maryland; Washington, D. C.; and Alexandria, Virginia (hereinafter sometimes collectively called "the Morton plant"). Continuously since the acquisition of the Baltimore plant by the General Company, defendant General Company and the P. & H. Morton Company have been and now are engaged in active competition in the business of national outdoor advertising. In the course of this competition defendant General Outdoor Advertising Company, Inc., its officers, agents, and employees, have used the monopolistic power hereinbefore described and employed many of the unfair practices hereinbefore alleged, with the intent to injure the P. & H. Morton Company in the conduct of its national outdoor ad-



vertising business, and to exclude this company and the Morton plant as a competitor. The effect of the unlawful use by defendant General Company, its officers, agents, and employees of its monopolistic power against the Morton Company, as aforesaid, has been to cause the Morton Company to suffer losses of business, and it has been unlawfully restrained and interfered with in the conduct of its business, which, if continued, will cause the Morton Company to discontinue its national outdoor advertising business.

At frequent intervals during the past year or more, prior to the filing of this petition, defendant General Company has made offers to the Morton Company to purchase the outdoor advertising business conducted by it in competition with the General Company, including the Morton plant. Concurrently with the making of these offers of purchase, defendant General Company, by its executive officers, has threatened the president of the Morton Company that unless the Morton Company would agree to sell its business and plant to the General Company the General Company would put the Morton Company out of business.

As a result of these offers and threats on the part of the officers of the General Company, the stockholders of the Morton Company have finally been compelled to agree to sell its business and the Morton plant to the defendant General Company, believing that it will be impossible to continue successfully the outdoor advertising business now conducted by the Morton Company, by reason of the continued threats and

unlawful uses of the monopolistic power on the part of the General Company, as hereinbefore alleged. Accordingly, under date of November 22, 1927, defendant General Company and Henry Morton, of Baltimore, Maryland, as the representative of the owners of all of the outstanding capital stock of the Morton Company, entered into a contract, a copy of which, marked "Exhibit C," is annexed hereto and made a part hereof, whereby the said Henry Morton agreed to cause the business and assets of the Morton Company, including the Morton plant, to be conveyed to the General Company on the terms and on the conditions set forth in the said contract annexed hereto, such conditions, among others, being that neither Henry Morton nor the Morton Company will engage in the outdoor advertising business in the State of Maryland, the District of Columbia, and in Alexandria, Virginia, following the delivery of instruments of transfer, in accordance with the terms of the said contract, excepting only as Henry Morton might engage in business in this territory in connection with the business of the defendant General Outdoor Advertising Company, Inc.

Defendant General Company has entered into the contract, dated November 22, 1927, for the acquisition of the business and assets of the Morton Company, with the intent and for the purpose of extending its monopolistic control of the outdoor advertising industry, and to secure to itself the more absolute power of directing and thus restraining interstate trade and commerce in the business of national



outdoor advertising, as hereinbefore described, and to obtain absolute control of the display of national outdoor advertising matter in the city of Baltimore and the territory surrounding that city, which is essential to national outdoor advertisers in placing their advertising matter before the public of the United States. Petitioner further alleges that unless the proposed acquisition by defendant General Company of the business and property of the Morton Company in the city of Baltimore, Maryland, and the surrounding territory, is enjoined by this court, the monopolistic power in the outdoor advertising industry now held by defendant General Company and the other parties to the unlawful combination, as hereinbefore alleged, will be further extended, contrary to law.

In addition to the making of the contract for the acquisition of the business and property of the P. & H. Morton Company as aforesaid, defendant General Company has acquired additional display plants in Indianapolis, Indiana; Kansas City, Missouri; Dayton, Ohio; Memphis, Tennessee; Rome, Georgia; and Birmingham, Alabama, as well as in other places, the names of which are unknown to this petitioner, each acquisition having been made for the purpose and with the effect of extending its monopolistic control over the outdoor advertising industry.

Defendant General Company is acquiring and intends to acquire other display-plants now in existence and is constructing and intends to construct additional display-plants, the names and locations of

which are unknown to your petitioner, for the purpose and with the effect of excluding competitors and extending further its monopolistic control. Unless the defendant, General Company, is enjoined by this court from making such acquisitions and constructing such additional display-plants, this defendant will continue to extend its monopolistic control until eventually all competition in the operation of display-plants and in the interstate trade and commerce flowing thereto shall be entirely eliminated.

## X

### VIOLATION OF SECTION 8 OF THE CLAYTON ACT

In June, 1925, defendant George W. Kleiser, then being a director of defendant Foster and Kleiser Company, was elected to the board of directors of defendant General Outdoor Advertising Company, Inc., and he is now serving as a director of that company, and of the Foster and Kleiser Company. The capital, surplus, and undivided profits (exclusive of dividends declared, but not paid to stockholders) of the defendant General Outdoor Advertising Company, Inc., and of the defendant Foster and Kleiser Company, at the end of the fiscal year of each of said defendants next preceding the election of the said defendant Kleiser to the board of directors of the General Outdoor Advertising Company, Inc., did aggregate and continuously since that date have aggregated more than one million dollars. The defendants, General Outdoor Advertising Company and Foster and Kleiser Company, are engaged in



interstate and foreign trade and commerce in national outdoor advertising, as hereinbefore alleged, and by virtue of their businesses and the location of their respective operations, have been, now are, and but for the unlawful acts herein complained of, would now continue to be competitors, so that the elimination of competition by agreement between them would constitute, and in fact does constitute, a violation of the provisions of the Antitrust Laws of the United States. The election of the said defendant George W. Kleiser to the board of directors of the General Company, as aforesaid, is in violation of Section 8 of the Act of Congress of October 15, 1914, as amended May 15, 1916, and May 26, 1920, commonly called the Clayton Act.

#### PRAYER FOR RELIEF

Wherefore your petitioner prays:

That writs of subpcena issue directed to each and every of the defendants commanding them to appear and answer, but not under oath (answer under oath being hereby expressly waived) the allegations contained in this petition and to abide by and perform such orders and decrees as the court may make in the premises;

That this court order, adjudge, and decree:

I. That the combination and conspiracy to restrain interstate trade and commerce, and to monopolize and attempt to monopolize such commerce, as described in the petition herein, be declared illegal and in violation of the Act of Congress of July 2, 1890 (26 Stat. 209) commonly called the Sherman

Act, and the Acts amendatory thereof, and supplemental or additional thereto.

II. That the defendants and each of them, and each and all of their respective officers (in the case of corporate defendants), agents, employees, and all persons acting or claiming to act on behalf of them, or any of them, be enjoined and restrained from continuing to carry out, directly or indirectly, expressly or impliedly, the combination and conspiracy described herein, and from entering into, or performing, either directly or indirectly, expressly or impliedly, a similar combination.

III. That this court order, adjudge, and decree that the defendant, General Outdoor Advertising Company, Inc., in and of itself is an illegal combination and an unlawful monopoly and attempt to monopolize interstate trade and commerce in outdoor advertising, in violation of Sections 1 and 2 of the Act of Congress of July 2, 1890 (26 Stat. 209), commonly called the Sherman Act, and that it be dissolved either entirely or in such separate parts and under such terms and conditions and within such period of time and under such directions as to this court may be just and fitting in the premises.

IV. That in the event, after hearing this cause, the court determines not to order, adjudge, and decree the dissolution of defendant, General Outdoor Advertising Company, Inc., as prayed for herein, then, in the alternative, this court order, adjudge, and decree as follows:

(1.) That the contract dated August 24, 1925, a copy of which is annexed hereto and marked "Ex-



hibit A," entered into and now existing between the General Company and the Bureau, be declared illegal and null and void, and that the General Company and the Bureau be perpetually enjoined, directly or indirectly, expressly or impliedly, from further carrying out this agreement; or from entering into or performing any similar agreement, or from entering into or performing any agreement or agreements, the intent or effect of which is, or will be, to restrain or monopolize the business of soliciting contracts for outdoor advertising displays, or the execution of such contracts.

(2.) That the several agreements designated "Option to Purchase Stock of National Outdoor Advertising Bureau, Inc.," a copy of the form of which is annexed hereto and marked "Exhibit B," entered into by George C. Sherman, Frederick J. Ross, and William D. McJunkin, as trustees for the Bureau and each stockholder of the Bureau, be declared null and void, and the Bureau and its trustees named in the option agreement, and each of them, be perpetually enjoined from carrying out the so-called option agreement, or from entering into or performing any similar agreement or agreements.

(3.) That within such time after the hearing of this cause as the court may determine, the General Company be perpetually enjoined from entering into or performing any contract or contracts for outdoor advertising displays to be executed on display plants owned or operated by persons other than the General Company, excepting only such contracts as are

entered into directly with the General Company by the advertiser or advertisers for whom such contracts are to be executed.

(4.) That the Bureau be perpetually enjoined from giving or granting any preference, priority, rebate, or discrimination, in any form whatsoever, to, or in favor of, the General Company, in connection with any contract or contracts for outdoor advertising displays; or from interfering in any manner whatsoever with the selection of display-plants which have been made by Bureau members, or other persons employing its services in their several contracts for outdoor advertising displays, or from changing or refusing to comply with the instructions of such members, or other persons, with respect to the selection of the particular display-plant or display-plants on which such contracts are to be executed.

(5.) That the General Company be perpetually enjoined and restrained from doing, either directly or indirectly, any or all of the following acts:

(a) Giving or granting any preference, priority, rebate, or any illegal discrimination, in any form whatsoever, to, in favor of, or against the Bureau or any member thereof or any person employing the services of the Bureau, or any other person, in connection with any contract or contracts for outdoor advertising displays.

(b) Refusing or failing to furnish or to sell advertising space on the display-plants owned or operated by the General Company, or refusing or failing to permit the employment of such plants, when space



thereon is available for sale or employment, with the intent or the effect of preventing competing solicitors from engaging in the solicitation and/or execution of contracts for outdoor advertising displays.

(c) Requiring, or attempting to require, any person or persons to purchase, or agree to purchase, space on, or to use, or to agree to use, the display-plants of the General Company, or to employ, or to agree to employ, its services, in any place or places where the General Company operates display-plants or furnishes services in competition with competitors, in preference to the display-plants or the services of a competitor, as a condition to the making of a contract with such person or persons for the purchase of space on, or the use of, display-plants of the General Company, or the employment of its services in other localities.

(d) Inducing, or attempting to induce, advertisers not to employ, or to discontinue the employment of, the services of competing solicitors by granting secret rebates, or by entering into any arrangement for the formation of an advertising agency which in fact is a department of the business of an advertiser, or by making discriminations in price or service, where the purpose or the effect thereof is or may be to substantially lessen competition or tend to create a monopoly in the outdoor advertising business; provided, however, that the relief granted pursuant to this prayer shall not prevent the General Company from making discriminations in price between purchasers or users of space or employers of service on account of diff

in grade, quality, or quantity thereof, or that makes due allowance for difference in the cost of selling or transportation, or discriminations in price in the same or different communities made in good faith to meet competition, or from selecting its own customers in *bona fide* transactions, and not in restraint of the outdoor advertising business.

(e) Requiring or attempting to require as a condition to the acceptance of any contract for an outdoor advertising display to be executed in part on the display plants owned and/or operated by the General Company and in part on display plants owned and/or operated by persons other than the General Company, that the General Company shall sublet the part or parts of such contracts to be executed on the display plants owned and/or operated by persons other than the General Company.

(f) Knowingly and falsely representing to persons that the quality of the services rendered, or to be rendered, by competitors of the General Company, whether display-plant operators or solicitors, is, or will be, inferior to the quality of the services rendered, or to be rendered, by the General Company, where the purpose or effect thereof is, or will be, to induce such persons not to purchase space on, or to use the display-plants of, or employ the services of, such competitors of the General Company.

(g) Adopting or carrying out a practice, either generally or with respect to any particular community, of interfering with competitors, operators of display plants, with the purpose or knowingly with the effect



of excluding such competitors from carrying on their regular course of business by (1) making unreasonable and exorbitant offers for locations for prospective and/or existing poster and/or paint display-boards or panels, or (2) with the intent to so exclude by building display-boards or panels immediately in front of the display-boards or panels of competitors or immediately in front of sites known to be held by competitors for prospective display-boards or panels, or (3) by employing any direct physical means which prevents the construction, maintenance, or operation of such competing display-plant.

(h) Constructing any additional display-plant or display-plants (except by way of replacement of an existing plant now owned by the General Company), where the purpose of constructing such additional display-plant or display-plants is primarily to exclude the owner or operator of an existing display-plant from engaging in, or continuing to engage in, the business of displaying national outdoor advertising matter.

(i) Acquiring the ownership or control of any additional display-plant or display-plants, whether now in existence or which may hereafter come into existence, where the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly in the ownership, control, or operation of display-plants, either in a particular locality or generally throughout the United States or a section thereof.

(6.) That the General Company and Foster and Kleiser be perpetually enjoined and restrained from

entering into or executing any contract, agreement, or understanding, either directly or indirectly, expressly or impliedly, concerning the division or allocation of the respective territory or territories, or place or places in which these corporations, or either of them, shall or shall not engage in the business of owning or operating outdoor advertising poster or paint-plants, or in which these corporations or either of them shall or shall not engage in the business of soliciting contracts for outdoor advertising; provided, however, that the relief granted under this prayer shall not prevent either Foster and Kleiser or the General Company from purchasing advertising space on the poster or paint-plants owned or operated by the other, whenever such purchase is necessary in connection with the performance of contracts for outdoor advertising displays procured by either of these defendants in the usual course of its business.

(7.) That, subject to the proviso contained in paragraph (6.) of this alternative prayer, the General Company, Foster and Kleiser, the Association, and the Bureau be, jointly and severally, perpetually enjoined and restrained from entering into or executing any contract, agreement, or understanding, either directly or indirectly, expressly or impliedly, fixing prices for the use of the outdoor advertising poster or paint-plants or any part or parts thereof, owned, controlled, and/or operated by any of the said defendants.

(8.) That the election of George W. Kleiser as a member of the board of directors of the General Company be declared a violation of Section 8 of the



Act of Congress of October 15, 1914; that forthwith the said George W. Kleiser resign his office as a director of the said General Company; that the said George W. Kleiser be perpetually enjoined from accepting office as a director of the said General Company while he shall hold office as a director of Foster and Kleiser, or of any other corporation with which the General Company is, or may be, in competition in the outdoor advertising business.

(9.) That within such time as may be fixed by the court after the termination of the voting trust agreement dated February 26, 1925, as hereinafter prayed, under which the shares of the issued common stock of the General Company are now held, defendant Foster and Kleiser Investment Company be ordered and directed to dispose of either the 50,000 shares of the common stock of the General Company owned by it, or the voting trust certificates representing such stock now held by it, so that the community of interest now existing between defendant Foster and Kleiser Investment Company, defendant Foster and Kleiser Company, and the General Company, by virtue of the ownership of the said stock or the voting trust certificates representing it, shall be permanently discontinued, and that the said Foster and Kleiser Investment Company, the Foster and Kleiser Company, and each and all of their respective officers, agents, and employees and all persons acting or claiming to act on behalf of them or either of them, be perpetually enjoined from acquiring any shares of stock in the

General Company or any voting trust certificates representing the same, for the purpose or with the effect of establishing a community of interest between the Foster and Kleiser Company and the General Company, in connection with the conduct of their respective businesses in outdoor advertising; provided, however, that after the termination of the voting trust agreement dated February 26, 1925, and before the disposition of the 50,000 shares of common stock of the General Company shall have been made, as herein prayed, defendant Foster and Kleiser Investment Company shall not exercise any voting rights or make any other use whatsoever of the said 50,000 shares of common stock of the General Company by which the community of interest between the General Company and the Foster and Kleiser Company may be continued pending the final disposition of the said 50,000 shares of common stock, as herein prayed, or at any time subsequent thereto.

(10.) That within such time after hearing and determining this cause as the court may fix, the defendants Kerwin H. Fulton, George L. Johnson and George Armsby, individually and as voting trustees, be ordered and directed to cause the Voting Trust Agreement, dated as of February 26, 1925, referred to in the petition herein, to be terminated; and after the expiration of the period of time fixed by the court these defendants and each of them be enjoined from further performing this Voting Trust Agreement, either directly or indirectly, or from doing



any act pursuant thereto, excepting only the transfer and delivery of certificates representing the shares of common stock in the General Company to such persons as are entitled to receive the same in exchange for voting trust certificates now issued and outstanding; and that the General Company and the defendants Kerwin H. Fulton, George L. Johnson and George Armsby, and each of them, be enjoined for a such period as the court may fix from entering into or performing any agreement similar to the Voting Trust Agreement, dated as of February 26, 1925.

(11.) That the contract dated November 22, 1927, referred to in the petition herein, entered into and now existing between the General Company and Henry Morton, as the representatives of the owners of all of the outstanding capital stock of the P. & H. Morton Advertising Company, a Maryland corporation having its principal office at Baltimore, Maryland, be declared illegal and null and void, and that the General Company be perpetually enjoined, directly or indirectly, expressly or impliedly, from carrying out this agreement, or doing or performing any acts pursuant thereto, or in accordance therewith, or from entering into or performing any similar agreement.

V. That within such period after hearing and determining this cause as the court may fix, the Association be ordered and directed to submit to this Court a proposed plan for the reorganization of the administration of the affairs of the Association, which shall include the following provisions:

(a) That membership and voting rights in the association shall be granted, within a reasonable time after proper application, considered in the order filed, without discrimination, to all reputable persons, firms or corporations who are engaged in the business of owning and/or operating outdoor advertising display-plants which conform to a reasonable standard of minimum requirements as to plant construction, operation, and coverage according to circulation of population, and who (1) shall conform to a reasonable and lawful code of ethics or standards of business practices adopted by the Association, (2) shall pay annually reasonable dues, (3) shall register currently with the Association statistical information concerning each separate display-plant now owned or operated, or which may hereafter be owned or operated by such member, including the price fixed by each individual member for the use of each of his display-plants, according to cities, towns, villages or other local political subdivisions, and (4) shall pay annually reasonable registration fees, without discrimination, in connection with the registration of each separate display-plant, and in determining the amount of such fees consideration shall be given primarily to the services actually rendered by the Association.

(b) That membership and voting rights shall be irrespective and independent of ownership, control, or location of any specified number of display-plants; provided, however, that in the national association the directors may be elected by geographical districts, and in voting for such directors according to districts, each member may cast one



vote in each district in which such member is a *bona fide* operator of a display-plant; but provided always that not more than one director shall be elected who is an officer, agent, or employee of, or is associated with, a particular member.

(c) That the number of members shall not be arbitrarily restricted to any specified number of members for each city, town, village, or other local political subdivision.

(d) That the statistical information concerning the display-plants registered by each member shall be made available by the Association to all reputable advertising solicitors, and all other persons who, either as principal or agent, desire to purchase outdoor advertising space, or to employ the services of members in connection with outdoor advertising, on payment of reasonable charges therefor, but without arbitrary discrimination or selection, and without the imposition of any restriction with reference to the number of persons who may receive such statistical information.

(e) That changes in the prices fixed by each individual member for the use of his separate display-plant or display-plants, or the employment of his separate services may be made at any time by each individual member without giving prior notice of such change to the Association; provided that after a change in price has been made by a member, and notice thereof is given the Association, information of such change shall immediately be furnished to advertising solicitors and all persons entitled to receive the statistical information furnished by the

Association, under the provisions of paragraph (d) hereof.

(f) That changes in allotments which constitute a showing of advertising matter on a particular display-plant of a member in accordance with the minimum requirements of the Association as to coverage according to circulation of population (which is included in the statistical information furnished by members to the Association) may be made by such member at any time; provided that, in the interest of promoting trade and commerce in the outdoor advertising industry through the facilities ~~afforded~~ by the Association in gathering and disseminating statistical information concerning poster-plants of members, including information as to allotments, reasonable notice of such changes in allotments shall be furnished the Association by members in advance of the date on which such change in allotments is to be made effective by such member, which notice of change in allotments shall immediately be furnished by the Association to advertising solicitors and all persons entitled to receive the statistical information furnished by the Association under the provisions of paragraph (d) hereof, to enable them to make reasonable use thereof in preparing estimates of the cost of outdoor advertising displays in advance of entering into contracts with advertisers on behalf of individual members of the Association.

VI. That the terms of the decree prayed for herein shall be binding upon and shall extend to each and every one of the successors in interest of any and/or all of the defendants herein, and to any and all cor-



porations, copartnerships, and/or individuals who may hereafter acquire ownership or control, directly or indirectly, of the stock or of the property, business, and good will of any of the corporate defendants, whether by merger, consolidation, reorganization, transfer of assets, or otherwise.

VII. That the court retain jurisdiction of this cause for the following purposes: (a) Enforcing this decree, (b) enabling the petitioner to apply to the court for a modification or enlargement of any provisions of this decree on the ground that the decree is inadequate, or (c) enabling the defendants or any of them to apply for a modification of any of the provisions of this decree on the ground that they have become inappropriate or unnecessary.

VIII. That the petitioner have such ~~other~~, further, and different relief as may be necessary and the court may deem proper in the premises.

IX. That the petitioner recover its taxable costs.

UNITED STATES OF AMERICA,

By CHARLES H. TUTTLE,

*United States Attorney.*

Under the direction of—

JOHN G. SARGENT,

*Attorney General.*

WILLIAM J. DONOVAN,

*Assistant to the Attorney General.*

RUSH H. WILLIAMSON,

HORACE R. LAMB,

*Special Assistants to the Attorney General.*

## EXHIBIT "A"

MEMORANDUM OF AGREEMENT BETWEEN NATIONAL  
OUTDOOR ADVERTISING BUREAU, INC., AND GEN-  
ERAL OUTDOOR ADVERTISING CO., INC., DATED  
AUGUST 24, 1925

THIS CONTRACT, made this 24th day of August, 1925, by and between GENERAL OUTDOOR ADVERTISING CO., INC., a New Jersey corporation (hereinafter called "the Company"), party of the first part, and NATIONAL OUTDOOR ADVERTISING BUREAU, INC., a New York corporation (hereinafter called "the Bureau"), party of the second part:

### WITNESSETH

That for and in consideration of the mutual covenants hereinafter contained and of the sum of One Dollar and other good and valuable considerations, by each of the parties to the other paid, receipt whereof is hereby acknowledged, the parties hereto do agree with each other as follows:

I. The Company hereby authorizes the Bureau, upon the terms and subject to the limitations hereinafter expressed, to solicit contracts for outdoor advertising to be executed upon outdoor advertising plants owned and/or operated by the Company and, at the option of the Bureau, to solicit such contracts to be executed upon such plants not owned and/or operated by the Company. For the purpose aforesaid, but for no other purpose, and subject always to the terms and limitations expressed in this contract, the Bureau shall be deemed to and shall be the agent of the Company.



II. The Company shall forthwith furnish to the Bureau a complete memorandum of the standard or card rates applicable to that portion of the display advertising plants and bulletins owned and/or operated by the Company with respect to which standard or card rates have been established. If the Company shall at any time make any change and/or changes in the said standard or card rates, the Company shall notify the Bureau of such change and/or changes at least thirty days prior to the date upon which the same shall become effective and not later than the Company shall give notice thereof to any soliciting unit other than the Bureau, including its own direct sales organization.

The Company shall also from time to time furnish to the Bureau full information regarding the painted and electric display bulletins owned and/or operated by the Company with respect to which no standard or card rates shall have been established and of all special rates or terms upon which such bulletins may be offered to advertisers, and shall furnish to the Bureau copies of all bulletins of rate space and service information prepared by the Company for the use of its own direct sales organization and/or any other soliciting unit.

The Company shall also from time to time furnish to the Bureau full information at the time possessed by the Company regarding outdoor advertising plants other than those owned and/or operated by the Company, and in all its transactions with any such plant and/or plants with respect to the Bureau business, the Company shall observe the same care and endeavor to obtain the same service as in connection with business developed by its own direct sales organization.

It is the intention and purpose of this article of this contract that the Bureau shall at all times have available to it for the purposes of its solicitation under this contract, full, accurate, and current information regarding the outdoor advertising plants owned and/or operated by the Company and of the terms, both standard and special, if any, which at the time may be offered to advertisers, and that the position of the Bureau in this respect shall be fully as favorable as that of the Company's own direct sales organization; further, that the Company shall cooperate in every way with the Bureau in its effort to secure full recognition as a solicitor from all the owners of outdoor advertising plants and/or the Poster Advertising Association to the end that the Bureau may secure from all currently standard commissions, terms, and facilities.

All contracts procured by the Bureau to be carried out upon plants owned and/or operated by the Company shall be at rates established by the Company, whether standard or special, and no allowance, rebate, adjustment, concession, cut-rate, and/or free service and/or other terms, the effect of which would be to reduce and/or modify such rates, shall be made and/or allowed by the Bureau and/or by the advertising agency or person connected and/or affiliated therewith. Similarly, all contracts obtained by the Company by direct solicitation shall be at the Company's current rates, standard or special, and no allowance, rebate, adjustment, concession, cut-rate, and/or free service and/or other terms, the effect of which would be to reduce and/or modify such rates, shall be made or allowed by the Company. The Company shall also use its best endeavors to see that the aforesaid practice is followed by all solicitors of outdoor adver-



tising with respect to all contracts to be performed upon plants owned and/or operated by the Company.

III. All advertising contracts procured and/or obtained by the Bureau shall be subject to the written acceptance thereof by the Company, signed by an officer of the Company duly authorized. The action and policy of the Company with respect to acceptance of all such contracts shall be in accordance with the general policies of the Company at the time in force and in respect thereof as the Company shall accord to the Bureau as great a degree of consideration and as favorable treatment as the Company shall accord to any other soliciting unit, including the Company's own sales force engaged in direct solicitation.

IV. Any and all advertising contracts, procured and/or obtained by the Bureau to be performed by the Company, shall forthwith be assigned by the Bureau to the Company.

V. The Company shall pay to the Bureau in full of all compensation and expenses of the Bureau a commission of twelve per cent (12%) computed upon all amounts actually paid by advertisers under contracts for outdoor advertising procured and/or obtained by the Bureau for the Company and accepted by and assigned to the Company as hereinbefore provided (including all contracts to be carried out either in whole or in part upon advertising plants other than those owned and/or operated by the Company), and in respect of which the Company shall receive payment.

In practice, the Company shall currently render invoices for service performed by the Company under contracts obtained by the Bureau upon a special form or forms similar to those now in use and which shall

appropriately display the name of the Company and the Bureau. All such invoices shall be rendered to the Agencies respectively through whom the contracts respectively shall have been obtained, and duplicates thereof shall be furnished to the Bureau. Such Agencies shall in remitting deduct the amount of the commission, not exceeding twelve per cent (12%), which may be payable to them under arrangements currently existing between them and the Bureau, of which the Company shall have had previous written notice, and shall pay the amount of the invoice, less such deduction, to the Company. On the first day of each month during the term of this contract, the Company shall render to the Bureau a true and correct report of the amount of the invoices with respect to which the Company shall have received payment as aforesaid to the twentieth day of the preceding calendar month and not theretofore returned to the Bureau, and therewith the Company shall pay to the Bureau an amount equivalent to the difference between twelve per cent (12%) of the aggregate face amount of such invoices and the aggregate of the amounts in respect thereof returned by the agencies as aforesaid.

By way of explanation of the foregoing, the amount which would be retained by an Agency under the foregoing provisions and under arrangements presently existing between the Agencies and Bureau would be ten per cent (10%) of the face amount of the invoice, and the amount payable to the Bureau by the Company would be two per cent (2%) thereof.

The Bureau shall aid and assist the Company, in so far as may be practicable, in the collection of accounts due from advertisers and/or agencies under any and all contracts aforesaid.



VI. So long as the accounts of the advertisers whose names are set forth upon a schedule thereof hereto annexed, marked Exhibit A, and by reference made a part hereof, are active in outdoor advertising and are upon the books of the Bureau and/or an advertising Agency which at the time shall be affiliated and/or connected with the Bureau, the Company shall refrain from any solicitation of the said advertisers. Excepting as may be hereafter otherwise agreed on in writing by the parties hereto, the Company shall have the right to solicit contracts for outdoor advertising from any of the said advertisers if and so long as the account and/or accounts thereof shall not be upon the books of the Bureau and/or any affiliated or connected Agency, and/or if such account and/or accounts, though remaining on the books of the Bureau and/or any affiliated or connected Agency, shall become inactive in outdoor advertising.

So long as the accounts of the advertisers shown upon a schedule thereof hereto annexed marked Exhibit B and by reference made a part hereof, are upon the books of the Company and are active in outdoor advertising, the Bureau shall have no authority to solicit contracts for outdoor advertising from the said advertisers, and the Bureau and its affiliated and connected agencies shall refrain from solicitation thereof. The Bureau, however, shall have the right to solicit contracts for outdoor advertising from any of the said advertisers if and so long as the account and/or accounts thereof shall not be upon the books of the Company and/or if such account and/or accounts, though remaining on the books of the Company, shall become inactive in outdoor advertising.

Seasonal or periodical accounts shall not be deemed inactive during the normal period of their suspension.

Accounts acquired hereafter by the Bureau or the Company shall be automatically added respectively to Exhibits A and B, and thereupon shall become subject to the pertinent provisions of this article of this contract.

All accounts at the time not included among the accounts currently listed in Exhibits A and B shall be open to solicitation by either the Company or the Bureau, excepting as may be otherwise hereafter agreed upon in writing.

VII. The Company shall forthwith in aid of the sales effort of the Bureau, establish an adequate department composed of capable and experienced representatives who shall cooperate with the Bureau and/or its affiliated Agencies in securing and servicing outdoor advertising accounts through the Bureau and/or its affiliated Agencies only. Excepting as may be otherwise agreed from time to time, the Company, however, shall not be obligated to furnish the services of any person in the Department aforesaid for actual participation in negotiations with advertisers whose accounts are at the time the subject of active competitive solicitation by the Bureau and the Company.

The Company at all times shall use all due diligence in executing all contracts procured by the Bureau and accepted by the Company, and in performing all such contracts the Company shall in all branches of its service, excepting those having to do with the creation and development of design, copy, and ideas for the merchandising of the advertiser's product, assist and cooperate with the Bureau fully and as fully as with any other solicitor of contracts for



outdoor advertising, including the Company's own sales force. The Bureau and its affiliated and connected Agencies shall use and employ its and their best endeavors in the development and extension of the use of the outdoor medium and in the solicitation of contracts to be performed upon the plants and bulletins of the Company.

The Bureau shall at all times during the term of this contract apply a reasonable portion of its total revenues to the employment of competent salesmen soliciting outdoor advertising.

VIII. Each contract for outdoor advertising tendered by the Bureau to the Company shall be plainly marked or stamped with the name of the Agency affiliated or connected with the Bureau by which the contract shall have been procured. If any such Agency shall perform any act which, if done by the Bureau, would be a breach of this contract, or omit to do any act which, if omitted by the Bureau, would be a breach of this contract, and shall fail to make good such default after reasonable written notice thereof to the Agency and to the Bureau, the Company shall have the right to refuse to pay any commissions with respect to contracts for outdoor advertising thereafter procured by such agency, for such time as the Company, in its sole discretion, may determine, but neither the Bureau nor its affiliated or connected Agencies other than the Agency in default shall be under any liability with respect to such a default.

All contracts made by the Company with plant owners other than the Company with respect to the execution of outdoor advertising service required under any contract procured by the Bureau and not to be performed on the outdoor advertising plants

owned and/or operated by the Company shall be stamped or marked with the name of the Bureau.

IX. The term "outdoor advertising" shall be construed to include poster advertising, painted display advertising, electrical display advertising, and any and all other forms of advertising now or hereafter developed and/or engaged in by the Company.

X. Anything hereinbefore contained apparently to the contrary notwithstanding, no commissions shall be payable by the Company to the Bureau with respect to "local business" under contracts and/or renewals hereafter obtained, excepting the "local business" accounts shown upon Exhibit A with respect to which commissions shall be paid at the rate and in the manner provided by paragraph V of this contract.

The term "local business" shall be construed to mean all contracts for outdoor advertising for account of any person operating a retail merchandising business within the city, town, or village in which the contract is to be performed.

XI. The Company recognizes that the cost of the service to be rendered by the Bureau, as contemplated by this contract, will exceed the cost of the service commonly performed in connection with outdoor advertising by a general advertising agency. To avoid discrimination against the Bureau and in favor of any general advertising agency, the Company shall pay to any such general advertising agency commissions upon business produced at not more than the maximum rate of ten per cent (10%).

XII. This contract shall continue and be in full force for a minimum period of five years from the date hereof, which period shall be automatically extended by an additional year for each year of opera-



tion hereafter under it or if, as so extended, until notice in writing be given by either party to the other of its desire to terminate the same. Following the giving of such notice the period of this contract shall continue to and terminate at five years from the end of the year of the contract in which such notice be given. Any such notice shall be in writing, subscribed by the party giving the same, enclosed in a customary envelope or wrapper, addressed to the Company at its then executive office in the City of New York, and to the Bureau at its then executive office in the City of New York, and shall be complete from the time of deposit thereof as aforesaid, postage prepaid, in any United States post office, official mail box, and/or official mail chute.

Upon the expiration or sooner termination of this contract, all current contracts for outdoor advertising theretofore assigned by the Bureau to the Company shall be forthwith reassigned to the Bureau.

XIII. The parties shall cause the contract between Thomas Cusack Company and the Bureau, dated November 19, 1918, to be cancelled as of the date of this contract.

XIV. This contract shall extend and apply to the Company and to all and singular the corporations controlled and/or operated by the Company.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in their respective corporate names and their respective corporate seals

to be hereunto affixed and attested by their respective officers thereunto duly authorized.

GENERAL OUTDOOR  
ADVERTISING CO., INC.,  
(Signed) By KERWIN H. FULTON,  
*President.*

Attest:  
GEO. L. JOHNSON (signed).  
NATIONAL OUTDOOR  
ADVERTISING BUREAU, INC.,  
(Signed) By GEO. C. SHERMAN,  
*President.*

Attest:  
F. T. HOPKINS (signed).

(Appended to the original contract are Exhibits A and B, being lists of "Bureau Accounts" and "Company Accounts," respectively, referred to in Paragraph VI of the foregoing contract.)



## EXHIBIT "B"

### OPTION TO PURCHASE STOCK OF NATIONAL OUTDOOR ADVERTISING BUREAU, INC.

WHEREAS, THE NATIONAL ADVERTISING BUREAU, INC., hereinafter called the Bureau, is a corporation organized for the promotion of Outdoor Advertising; and

WHEREAS, the Bureau has a contract with General Outdoor Advertising Co., Inc., dated August 24, 1925, which is effective until notice of cancellation by either party be given and for five years from the close of the year in which such notice is given; and

WHEREAS, the Bureau has most advantageous facilities for the placing of outdoor advertising throughout the United States through the said contract with General Outdoor Advertising Co., Inc., and otherwise; and

WHEREAS, it is the policy of the Bureau to transact business only for those advertising agencies of approved standing, which have become qualified as members of the Bureau by payment of an initiation fee and by purchase of an option upon some amount of the Bureau's capital stock and otherwise complying with the Bureau's terms, and

WHEREAS, hereinafter called the grantee, desires so to qualify and become a member of the Bureau;

W, THEREFORE, GEORGE C. SHERMAN, FREDERICK J. ROSS, AND WILLIAM D. McJUNKIN, who are trustees for the Bureau and those purchasing options upon the capital stock of the Bureau, hereby grant to the grantee an option to purchase at any

time at and after the date of the expiration of said contract between the Bureau and General Outdoor Advertising Co., Inc., aforementioned, One share of said stock at the price of \$100 upon the following terms and conditions:

First. That the grantee shall, within fifteen days from the date hereof, pay to said trustees as the price of this option the sum of One hundred dollars and shall return to said trustees a duplicate hereof duly signed by the grantee.

Second. That, as the share covered by this option is subject to assessment by the Bureau during the life of this option to an amount not exceeding \$100 in any calendar year, the grantee agrees to pay to the Bureau the amount of any such assessment and/or assessments, if any, when and as the same may be made.

Third. During the life of this option, the trustees will, upon request from the grantee, give a stock proxy on the share hereby covered at any time and from time to time, and will pay or cause to be paid to the grantee all dividends which may be paid thereon, or a sum equivalent thereto.

Fourth. During the life of this option the grantee covenants and agrees that the Bureau shall be the grantee's sole agent for the placing of outdoor advertising and shall collect and receive for its services and expenses of every nature that percentage of the commissions which may be paid on account of such advertising as is currently charged to all its other members.

Fifth. This option is personal to the grantee and is not transferable, nor can any rights or privileges under it, or of membership in the Bureau, be transferred.



Sixth. It is agreed that any breach of any of the terms hereof by the grantee or any act or conduct of the grantee which shall or may be prejudicial to the interests of the Bureau, may cause the suspension or expulsion of the grantee from membership in the Bureau and the forfeiture of all the rights and privileges of membership, as well as the forfeiture and cancellation of this option, and the forfeiture of the moneys paid therefor.

Seventh. If any complaint be made by the Bureau or any of its officers, agents, or members of any breach of the terms hereof or of any act or conduct prejudicial to it by the grantee, the trustees shall notify the grantee thereof, giving reasonable time and opportunity for the latter to reply. After hearing the complainant and the grantee and any evidence pertaining to the facts which may be offered the Trustees, it is hereby covenanted and agreed by the Bureau and the grantee that the Trustees shall act as arbitrators and, as such, shall determine the issues and define the penalty, both the Bureau and the grantee hereby agreeing to be bound by their decision.

Eighth. The Bureau consents to execution of this option upon the terms stated, will deliver a certificate of its capital stock to the trustees to be held by them against said option upon receipt from them of payment therefor in the sum of \$100 and will, itself, be bound by such of the terms of this agreement as are pertinent to it.

IN WITNESS WHEREOF, the parties hereto have executed this instrument this day of ———, 192—.

NATIONAL OUTDOOR ADVERTISING BUREAU, INC.,  
By ———, *President*.  
Agency ———,  
By ———.

## EXHIBIT "C"

THIS AGREEMENT, made this 22nd day of November, 1927, between HENRY MORTON, of Baltimore, Md., hereinafter called the Seller, and GENERAL OUTDOOR ADVERTISING Co., Inc., a New Jersey Corporation, having its principal office for the transaction of business in the City of New York, N. Y., hereinafter called the Buyer—

WHEREAS P. & H. MORTON ADVERTISING COMPANY, a Maryland Corporation of Baltimore, Md., hereinafter sometimes referred to as the Company, is presently engaged, among other things, in the Outdoor Advertising business, but is about to retire from the Outdoor Advertising business and to distribute its Outdoor Advertising Plant and certain of its assets incidental thereto to its stockholders in partial liquidation; and

WHEREAS the Seller does hereby represent and warrant by these presents that he owns or controls all of the outstanding capital stock of the Company.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That the parties hereto, in consideration of the mutual covenants hereinafter expressed and of the sum of One Dollar by each of the parties to the other in hand paid, the receipt whereof is hereby acknowledged, hereby agree as follows:

I. The Seller shall duly acquire from the Company, and shall grant, convey, sell and deliver to the Buyer, and the Buyer shall purchase from the Seller the following assets of the Company incidental to its Outdoor Advertising business, namely—

(a) All and singular the poster panels, painted bulletins and/or other structures (including ground, wall, roof, illuminated and/or



nonilluminated panels and/or bulletins of every kind and description) for the display of copy in outdoor advertising presently owned by the Company consisting of approximately 1404 Regular Poster Panels, 335 Special Poster Panels, 569 Three-Sheet Poster Panels, 373 Painted Bulletins, and 619 Wall Spaces, located in Baltimore, Cumberland, Frederick, Annapolis and other smaller towns in the Washington District and elsewhere. A list of towns herein referred to is annexed hereto marked Schedule "A" and by reference made a part hereof.

(b) All tools, trucks, automobiles, supplies, material and equipment of every kind or description presently owned by the Company and used in its business, excepting only office furniture, fixtures, office equipment and One Cadillac, One Moon, One Chandler and One Hup-Mobile (Engine Number 491197; serial Number 48836) which, though carried on the books of the Company, are the individual property of Mrs. Morton, the Seller, Edward Schaub, and Lawrence Morton, respectively.

(c) All leases, licenses, contracts and privileges for locations of the advertising structures and spaces aforesaid, but not including real estate owned by the Company in fee.

(d) All contracts with advertisers for advertising service to be rendered upon and/or in connection with the advertising structures aforesaid or otherwise.

(e) All and singular the above described assets presently owned by the Company and

used in the operation of a poster advertising and painted display advertising plant and business, including the Commercial Sign Department, together with the good will thereof and including the certain contract made between the Company and Michael P. Gillen of Baltimore, Md. under and by which the said Michael P. Gillen has agreed not to engage in the Outdoor Advertising business for a period mentioned in said contract.

II. The transfer of all and singular the foregoing property and assets shall be made free and clear of all liens and encumbrances whatsoever. The instruments of transfer shall contain provisions appropriate to express the following covenants and/or warranties of the Seller—

(a) That the Seller is the owner free and clear of all liens and encumbrances, of all and singular the said property and assets and has good right to convey the same.

(b) That the outdoor advertising structures thereby transferred shall include not less than the numbers hereinbefore set forth of a lineal footage respecting poster panels and painted bulletins and of a square footage respecting painted walls, approximately as specified in a Schedule thereof hereto attached and marked Schedule "B," together with the leases and/or contracts for locations pertinent to the locations upon which such outdoor advertising structures are located and/or maintained, excepting only five (5) of such structures which are located and maintained upon real property owned by the Seller or the Company, with reference to which provision is hereinafter made.



(c) That the structures thereby transferred are in condition equal to the usual standards prevailing in the outdoor advertising industry, commonly known as Double "A" in posting and Gude type and standard in paint.

(d) That all of the said leases and/or contracts for locations are valid and subsisting according to the tenor thereof respectively, and that all rents and/or other payments which shall have accrued thereunder prior to the date as of which the closing hereunder shall be had and in respect of which no adjustment shall have been made at the closing (if any) have been paid.

III. Upon the closing, hereunder, adjustments shall be made as of January 1, 1928, with respect to rents prepaid, accruing and to accrue under all the leases and/or contracts for locations aforesaid, to payments under contracts with advertisers for advertising services to be rendered as aforesaid, after January 1, 1928, to special taxes on said Outdoor Advertising structures (if any), insurance and Outdoor Advertising Association dues. The Seller covenants that neither he nor the Company shall, prior to the date of closing hereunder, solicit payments from advertisers under contracts for Outdoor Advertising service to be rendered by the Company or the Seller, excepting in the regular course of business and in accordance with the terms of such contracts respectively. The Seller further covenants that all payments (if any) otherwise received by the Seller or the Company prior to the date of closing hereunder shall be accounted for by the Seller to the Buyer upon the closing. The Seller further covenants that until the closing hereunder shall be had, the

Company and/or the Seller shall continue to conduct its business and to service and maintain said advertising structures as well as leases and/or contracts hereby agreed to be transferred in the same manner as heretofore serviced and maintained by the Company in the ordinary conduct of its business, it being the intent thereof that from and after January 1, 1928, the properties aforesaid shall be operated by the Seller and/or the Company for account of the Buyer.

IV. The Seller shall cause proceedings duly to be had by the Company and its stockholders and directors to the end that the Seller shall duly acquire title to the property, more particularly described in this agreement, and shall have, at the time of closing, a good title thereto sufficient to grant, convey, sell, and deliver the same to the Buyer hereunder, free and clear of all liens and encumbrances as herein specified, and the Seller shall cause the Company to permit counsel for the Buyer to inspect the record of all such proceedings.

V. The Seller shall, at the request of the Buyer, take and shall cause the Company to take any legal steps, whether under any bulk Sales Act applicable or otherwise to the end that the Buyer as a result of the transfer hereunder shall obtain good and valid title free and clear of all claims, liens, and encumbrances of all and singular the property and assets above described.

VI. Upon the closing hereunder the Seller shall cause leases to be executed and delivered to the Buyer of spaces for the erection and maintenance of Advertising Structures for the locations and for the terms and upon the rents respectively shown upon a schedule hereto annexed marked Schedule "C" and by



reference made a part thereof, such leases to be executed and delivered by the Seller and/or the Company and/or any other parties having title to the locations and having the right to grant such leases.

VII. The Buyer shall not assume and/or become charged with any obligations, liability, and/or commitment whatsoever of the Seller or of the Company as a result of the transfer, save only the following with respect to which the Buyer shall save and hold harmless the Seller and the Company:

(a) The performance of all obligations of the Company under all leases and/or contracts for locations of advertising structures which shall accrue subsequently to January 1, 1928, and/or with respect to which adjustment in favor of the Buyer shall be made upon the date of delivery of such instruments of transfer.

(b) The performance of all of the obligations of the Company under terms of the Company's present contracts with advertisers for outdoor advertising service to be rendered by the Company, which shall accrue subsequently to January 1, 1928.

VIII. For the assurance to the Buyer of the beneficial enjoyment of the good will of the Company hereby agreed to be transferred, the Seller hereby agrees that he will not and will not permit the Company to engage in the Outdoor Advertising business in the State of Maryland, District of Columbia, or Alexandria, Va., following the delivery of instruments of transfer hereunder, excepting only as the Seller may engage in such business in such territory in connection with the business of the Buyer, its successors or assigns.

IX. The Seller covenants that neither he nor the Company have outstanding any purchase employment and/or other contracts other than leases, contracts for locations and contracts with advertisers for advertising service to be rendered by the Company, the term of which expires beyond December 31, 1927, excepting only the above mentioned contract with Michael P. Gillen (which has been exhibited by the Seller to the Buyer and is by reference made a part hereof) under which the Company has agreed to employ the said Michael P. Gillen for a period of four years from April 1, 1926. The said contract shall be duly transferred to and assumed by the Buyer as of the date of closing hereunder.

X. The purchase price is Six Hundred Twenty-Nine Thousand Dollars (\$629,000.00) payable Twenty-Five Thousand Dollars (\$25,000.00) upon execution hereof, receipt whereof is hereby acknowledged, by the Seller; and balance in cash, New York funds, on the closing.

XI. Delivery of instruments of transfer to the Buyer and payment to the Seller, as herein provided, shall be made at the office of the Buyer at Number One Park Avenue, New York City, within sixty (60) days from the date hereof, on a day and at an hour to be specified by the Buyer in a written notice signed by the Buyer and mailed to the Seller not less than ten (10) days before the day and hour specified for the closing and addressed to the Seller at 222 S. Howard Street, Baltimore, Md.

IN WITNESS WHEREOF, the Seller has hereunto set his hand and seal and the Buyer has caused these presents to be signed in its corporate name and its corporate seal to be hereunto affixed by its officers



duly authorized thereto the day and year first above written.

(Signed) HENRY MORTON. [L. S.]

Witness:

(Signed) WM. M. WILLIAMS.

GENERAL OUTDOOR

ADVERTISING CO., INC.,

(Signed) By K. H. FULTON, *President*.

Attest:

(Signed) I. W. DIGGES, *Secretary*.

AMENDMENT TO EXHIBIT "C"

Without prejudice to the rights of either of the undersigned under the purchase and sale contract between the undersigned dated November 22nd, 1927, it is agreed:

(1) That Paragraph Eleven of the said contract shall be amended so as to read as follows:

Delivery of instruments of transfer to the Buyer and payment to the Seller, as herein provided, shall be made at the office of the Buyer at No. One Park Avenue, New York City, within thirty days from January 21, 1928, on a day and hour to be specified by the Buyer in a written notice signed by the Buyer and mailed to the Seller not less than ten days before the day and hour specified for the closing and addressed to the Seller at 222 South Howard Street, Baltimore, Maryland.

(2) That interest upon the purchase price from January 21, 1928, shall be paid by the Buyer.

(3) If, upon the closing under said contract, the footage to be sold by the Seller to the Buyer there-

under shall on a correct check-up be found to be less than the approximate amount specified in said contract, and the shortage so found to exist is or was caused by wind or cyclone subsequent to January 21, 1928, the shortage so determined shall be allowed to the Seller.

(4) Excepting as hereby expressly modified the terms of the said contract of November 22, 1927, remain unchanged.

IN WITNESS WHEREOF the Seller has hereunto set his hand and seal, and the Buyer has caused these Presents to be signed in its corporate name and its corporate seal to be hereunto affixed by its officers duly authorized this Tenth day of January, 1928.

(Signed) HENRY MORTON. [L. S.]

Witness:

(Signed) G. F. HURD.

(Signed) WM. M. WILLIAMS.

GENERAL OUTDOOR

ADVERTISING CO., INC.,

(Signed) K. H. FULTON, *President*.

Attest:

(Signed) I. W. DIGGES, *Secretary*.

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