EXHIBIT A

FINAL JUDGMENT AND MODIFICATION

UNITED STATES OF AMERICA v.
AUTO GLASS DEALERS ASSOCIATION, INC., *et al*.

Civil Action No.: 147-53

Year Judgment Entered: 1960

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Auto Glass Dealers Association, Inc.; Irving Schpiro; Morris S. Gorman; and Lester J. Schindel., U.S. District Court, S.D. New York, 1960 Trade Cases ¶69,621, (Feb. 23, 1960)

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United States v. Auto Glass Dealers Association, Inc.; Irving Schpiro; Morris S. Gorman; and Lester J. Schindel.

1960 Trade Cases ¶69,621. U.S. District Court, S.D. New York. Civil Action No. 147-53. Dated February 23, 1960. Case No. 1453 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Boycotts— Automobile Replacement Glass.—A trade association of automobile replacement glass dealers and three individuals were prohibited by a consent decree from boycotting or otherwise attempting to restrict the business of any person in the sale of replacement glass.
Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Investigation—Coercion—Automobile Replacement Glass.—A trade association of automobile replacement glass dealers and three individuals were prohibited by a consent decree from fixing prices, investigating or policing prices, and hindering sales of replacement glass.
Combinations and Conspiracies—Consent Decree—Trade Association—Practices Enjoined Incorporated in By-Laws.—A trade association of automobile glass dealers was ordered by a consent decree to incorporate the sections of the decree prohibiting various practices in the association's charter and by-laws.
Combinations and Conspiracies—Consent Decree—Trade Association—Membership Requirements.—A trade association of automobile glass dealers was ordered by a consent decree to grant membership to any technically qualified applicant dealer within the area it serves.

For the plaintiff: Robert A. Bicks, Acting Assistant Attorney General, and W. D. Kilgore, Jr., Paul A. Owens, Richard B. O'Donnell, Harry N. Burgess, John D. Swartz, Walter K. Bennett, Francis E. Dugan, and Donald S. Engel, Attorneys, Department of Justice.

For the defendants: Stanley Lehrer for Auto Glass Dealers Assn., Inc., Nathaniel Greenbaum for Morris S. Gorman and Lester J. Schindel, and Theodore M. Rogers for Irving Schpiro.

Final Judgment

JOHN F. X. MCGOHEY, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on June 9, 1959, and the defendants having appeared herein, and filed their answers to such complaint denying the substantive allegations thereof, and the plaintiff and said defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment's constituting evidence or admission by plaintiff or defendants in respect to any such issue,

Now, Therefore, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

The Court has jurisdiction of the subject matter herein and all parties hereto. The complaint sets forth claims upon which relief may be granted against the defendants under § 1 of the Act of Congress of July 2, 1890,

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entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, corporation or any other business or legal entity;

(B) "AGDA" shall mean the defendant Auto Glass Dealers Association, Inc.;

(C) "Defendants" shall mean the defendants AGDA, Irving Schpiro, Morris S. Gorman, Lester J. Schindel and those members of AGDA who have received notice of this Final Judgment pursuant to Section IV(A) hereof;

(D) "New York Metropolitan Area" shall mean the geographic area of the State of New York consisting of the five boroughs of the City of New York, and the Counties of Westchester, Nassau, Suffolk, Orange, Rockland, Ulster and Sullivan;

(E) "Replacement glass" shall mean laminated, tempered, and other types of glass suitable for installation in automobiles, trucks, or other vehicles as windshields, back lites (*i.e.,* rear vision windows), or side windows. The term shall include molded or bent glass, flat, and uncut, as well as precut, or preformed glass;

(F) "Installation of replacement glass" shall mean the necessary fitting, glazing, cutting or grinding, as well as the actual installing of glass in an automobile, truck or other vehicle;

(G) "Automobile glass dealer" shall mean any person engaged in the business of selling at retail and installing replacement glass.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to each such defendant and to its members, officers, directors, agents, employees, successors and assigns, and to all other persons in active concert or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service, or otherwise.

IV

[*Association Charter and By-Laws*]

(A) Defendant AGDA is ordered and directed to mail a copy of this Final Judgment to each of its members within sixty days after the date of the entry hereof and to file an affidavit of compliance with this subparagraph (A) with this Court and with the Assistant Attorney General;

(B) Defendant AGDA is ordered and directed within ninety days from the date of entry of this Final Judgment to institute and complete such proceedings as may be appropriate and necessary to amend its Charter and By-Laws so as to incorporate therein Sections V, VI and VII of this Final Judgment, and require as a condition of membership that all present and future members be bound by such sections of this Final Judgment;

(C) Defendant AGDA is ordered and directed within ninety days from the date of entry of this Final Judgment to amend its By-Laws so that Article 2, Section 3, subdivision (B) shall be repealed in its entirety.

V

[*Price Fixing*]

The defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining, enforcing, or claiming any rights under any contract, agreement, understanding, plan or program with any other person to:

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(A) Fix, suggest, establish, determine or maintain prices, terms or conditions to be charged or imposed by any other person for the sale or installation of replacement glass;

(B) Prepare, publish, circulate, or suggest prices, price lists, including discounts from prices, or other terms or conditions to be charged or imposed by any other person in connection with the sale or installation of replacement glass;

[*Boycotts*]

(C) Urge, suggest, coerce, require, or attempt to influence such person to boycott, threaten to boycott, or refuse or threaten to refuse to do business with any third person;

(D) Interfere or threaten or attempt to interfere with the business of any person by picketing or other similar activity;

(E) Investigate and report to others, or police, the prices or terms charged or imposed by any person in connection with the sale or installation of replacement glass. This subsection shall not be construed to prohibit an individual automobile glass dealer from independently ascertaining competitive prices;

(F) Hinder, restrict or prevent, or attempt or threaten to hinder, restrict or prevent in any manner, the sale of replacement glass by any manufacturer, distributor or wholesaler, to any person, except pursuant to the exercise of such lawful rights as an automobile glass dealer may have under a distributorship agreement with any manufacturer;

(G) Hinder, restrict or limit or attempt or threaten to hinder, restrict or limit any other person in the free and independent selection of customers or automobile glass dealers;

(H) Hinder, restrict or prevent, or attempt or threaten to hinder, restrict or prevent any person from purchasing replacement glass from, or procuring the installation of replacement glass by, any other person;

(I) Hinder, restrict or prevent, or attempt or threaten to hinder, restrict or prevent any person from advertising prices, terms or other conditions for the sale or installation of replacement glass to be sold or installed by such person.

[*Permissive Provision*]

Subject to the injunctive provisions herein contained, this Section V is not intended to prevent AGDA from engaging in the joint or collective solicitation of business on behalf of the members of AGDA as a whole.

VI

[*Price Lists*]

Each of the defendants is enjoined and restrained from:

(A) Preparing, suggesting, publishing or circulating prices, price lists, price catalogues or discounts therefrom for the sale or installation of replacement glass; provided, however, nothing herein contained shall prevent any automobile glass dealer from preparing, negotiating, publishing or circulating his own prices and price lists or price catalogues containing his own prices for the sale or installation of replacement glass which prices have been individually determined by him in the normal course of his business;

(B) Preparing, publishing or circulating to any insurance company or any other person any list of the membership of AGDA unless such list contains the name of every member and contains a legend in a form, first approved by the Assistant Attorney General in charge of the Antitrust Division, to the effect that AGDA makes no representation as to the price or prices to be charged for replacement glass sold or work performed by any such member and that such prices are determined by each individual member;

(C) Suggesting, or attempting to suggest, to any other automobile glass dealer, the price or prices or terms to be charged or imposed by such other automobile glass dealer for the sale or installation of replacement glass;

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(D) Picketing or threatening to picket any insurance company, purchaser, or user of replacement glass except in connection with a bona fide labor dispute;

(E) Hindering, restricting or preventing, or attempting or threatening to hinder, restrict or prevent, the sale in any manner of replacement glass by any manufacturer, distributor or wholesaler to any person, except pursuant to the exercise of such lawful rights as an automobile glass dealer may have under a distributorship agreement with any manufacturer;

(F) Purchasing or offering to purchase from any other person any materials to be used for automobile glass replacement upon the condition or understanding that such other person will refrain from selling any of such materials to any other person; provided, however, that any automobile glass dealer may, independently, exercise his own determination as to the person or persons from whom he shall purchase such materials, and, individually, exercise such lawful rights as he may have under a distributorship agreement with a manufacturer of replacement glass.

VII

[*Admission to Membership*]

(A) Defendant, AGDA, is ordered and directed to admit to and continue in membership therein, upon application, any automobile glass dealer doing business within the New York metropolitan area, or any other area served by AGDA, who is technically qualified to engage in the business of installation of replacement glass as defined in Section II(F) of this Final Judgment. In the event AGDA rejects any application for membership, AGDA shall (1) advise the applicant, and the Assistant Attorney General, in writing, of the specific reasons for such rejection and (2) on request of the applicant, submit the question of the applicant's qualifications for membership to arbitration under the rules of the American Arbitration Association, whose decision shall be final and binding on the parties thereto, the fee of the American Arbitration Association to be borne by the losing party;

(B) Defendant AGDA is enjoined and restrained from expelling from membership or otherwise taking any punitive action against any member; provided, however, nothing herein shall prevent defendant AGDA from expelling any member for (1) failure to pay dues; (2) failure to comply with this Final Judgment, or (3) for cause unconnected with such member's competitive or pricing activities. In the event of any such expulsion, defendant AGDA shall notify the expelled member in writing of the specific grounds for such expulsion and, if the expulsion is for grounds stated in (3) above, shall, upon request of the expelled member, submit the justification for such expulsion to arbitration under the rules of the American Arbitration Association, whose decision shall be final and binding upon the parties thereto, the fee of the American Arbitration Association to be borne by the losing party;

(C) Defendant AGDA is ordered and directed to send, within sixty days from the date of entry of this Final Judgment, a letter, in a form first approved by the Assistant Attorney General in charge of the Antitrust Division, to the claim supervisors of all insurance companies to whom price lists and price catalogues have heretofore been sent, canceling such price lists, and setting forth the substantive provisions of this Final Judgment.

VIII

[*Enforcement and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to any defendant at its principal office, subject to any legally recognized privilege, be permitted:

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

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

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For the purpose of securing compliance with this Final Judgment, any defendant, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment.

No information obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the plaintiff, except in the course of legal proceedings for the purpose of securing compliance with this Final Judgment in which the United States is a party or as otherwise required by law.

IX

[*Jurisdiction Retained*]

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

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UNITED STATES OF AMERICA v.
AUTO GLASS DEALERS ASSOCIATION, INC., *et al.*

Civil Action No.: 147-53

Year Modification Entered: 1962

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

AUTO GLASS DEALERS ASSOCIATION, INC., IRVING SCHPIKO, MORRIS S. GOLMAN, and LESTER J. SCHINDEL,

Defendants.

----------x

ORDER AMENDING SECTION VII OF THE FINAL JUDGMENT HEREIN DATED FEBRUARY 25, 1960.

CIVIL ACTION [illegible]

FILED:

This matter having come on for a hearing before me this 30th day of October, 1962, for an amendment of Section VII of the Final Judgment herein dated February 25, 1960, and the plaintiff and the defendants having each been served by AUTO GLASS DEALERS ASSOCIATION, INC. with a copy of the ~~[illegible]~~ motion, and accompanying papers, or having consented to the relief requested, and it appearing that none of the parties herein object to the amendment described therein,

IT IS HEREBY ORDERED that Section VII of the Final Judgment herein dated February 25, 1960, is amended as follows:

"VII

(A) Defendant, AGDA, is ordered and directed to admit to and continue in membership therein, upon application, any automobile glass dealer having a fixed place of business within the New York Metropolitan area, and who for a period of one year preceding his application has been regularly engaged in the business of retail selling, fitting, glazing, or grinding, as well as the actual installation of glass in an automobile, truck or other vehicle and who, at the time of his application, furnishes to the association three (3) references certifying to the fact that the applicant does have such a fixed place of business within said area and has been regularly engaged in such business for a period of one year preceding his application.

In the event AGDA rejects any application for mer-

bership, AGDA shall (1) advise the applicant, and the Assistant Attorney General, in writing of the specific reasons for such rejection and (2) on request of the applicant, submit the question of the applicant's qualifications for membership to arbitration under the rules of the American Arbitration Association, whose decision shall be final and binding on the parties thereto, the fee of the American Arbitration Association to be borne by the losing party."

ENTER

Dated: New York, N.Y.
December 13, 1962.

U.S.D.J.