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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF WYOMING

UNITED STATES OF AMERICA, Plaintiff, vs. NAGEL MOTORS, INC., GREINER MOTOR COMPANY, INC. and BENSON CHEVROLET, INC., Defendants.	)))))))))))	Civil No. 94CV146-J Filed: 6/2/94

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the defendants named herein, and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed under Section 4 of the Sherman Act, 15 U.S.C. § 4, as amended, in order to prevent and restrain the continuing violations by the defendants of Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. Each of the defendants maintains an office, transacts business, and is found within the District of Wyoming, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II.

DEFENDANTS

3. Nagel Motors, Inc. ("Nagel") is made a defendant herein. Nagel operates a General Motors Corporation dealership with its principal place of business in Casper, Wyoming. Nagel sells both new and used automobiles and offers a full range of automobile repair services, including automobile body repair services. Nagel is engaged in interstate commerce and in activities substantially affecting interstate commerce.

4. Greiner Motor Company, Inc., d/b/a Greiner Motor & Marine ("Greiner"), is made a defendant herein. Greiner operates a Ford Motor Company dealership with its principal place of business in Casper, Wyoming. Greiner sells both new and used automobiles and

offers a full range of automobile repair services, including automobile body repair services. Greiner is engaged in interstate commerce and in activities substantially affecting interstate commerce.

5. Benson Chevrolet, Inc. ("Benson") is made a defendant herein. Benson operates a General Motors Corporation dealership with its principal place of business in Casper, Wyoming. Benson sells both new and used automobiles and offers a full range of automobile repair services, including automobile body repair services. Benson is engaged in interstate commerce and in activities substantially affecting interstate commerce.

6. Whenever this Complaint refers to any corporation's act, deed, or transaction, it means that such corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they actively were engaged in the management, direction, control, or transaction of its business or affairs.

III.

CO-CONSPIRATORS

7. Various firms and individuals, not named as defendants in this Complaint, have participated as co-conspirators with defendants in the violations alleged in this Complaint, and have performed acts and made statements in furtherance thereof.

IV.

TRADE AND COMMERCE

8. During the period covered by this Complaint, each of the defendants has engaged in the business of providing automobile repair services, including automobile body repair services, in Casper, Wyoming.

9. Between January 1, 1991 and June 30, 1993 the defendants' total revenue from automobile body repair services was approximately $3,250,000.

10. During the period covered by this Complaint, the activities of each of the defendants that are the subject of this Complaint, and the activities of their co-conspirators, have been within the flow of, and have substantially affected, interstate trade and commerce.

11. Each of the defendants and their co-conspirators perform automobile body repair services for out-of-state customers as well as Wyoming customers.

12. Each of the defendants and their co-conspirators purchase substantial quantities of parts, paints and materials for use in automobile body repair from various sources located outside the State of Wyoming.

13. Each of the defendants and their co-conspirators do business with insurance carriers with headquarters located outside the State of Wyoming and receive payments from such insurance

carriers which are issued from offices located outside the State of Wyoming.

V.

VIOLATION ALLEGED

14. During the period beginning at least as early as December 1990 and continuing through at least July 1993, the defendants and their co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. This offense is likely to recur unless the relief hereinafter sought is granted.

15. This combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to participate in discussions and information exchanges to facilitate an increase in the rates charged for automobile body repair services in the Casper, Wyoming area.

16. For the purpose of forming and effectuating this combination and conspiracy, the defendants and their co-conspirators did the following things, among others:

(a) discussed insurance company requirements that an automobile body repair rate increase would not be accepted unless a requisite number of area automobile body repair shops had adopted such a rate increase;

(b) disseminated information relating to possible changes in automobile body repair rates; and

(c) discussed plans of various area automobile body repair shops concerning possible rate increases.

17. This combination and conspiracy had the following effects, among others:

(a) coordinated interaction among the defendants and co-conspirators was made more successful and more complete;

(b) price competition among the defendants and their co-conspirators for providing automobile body repair services in the Casper, Wyoming area has been unreasonably restrained and eliminated; and

(c) consumers have been deprived of the benefits of free and open competition in the purchase of automobile body repair services.

VI.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants and their co-conspirators engaged in unlawful agreements, combinations and conspiracies in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. That each defendant, its officers, directors, agents, employees, and successors and all other persons acting or claiming to act on its behalf be enjoined, restrained and prohibited for a period of ten years from:

(a) agreeing with any other automobile body repair shop to fix, establish, raise, stabilize or maintain any hourly rate or part price or discount;

(b) participating in any discussion with or communicating with any other automobile body repair shop concerning adherence to or changes to, or the need or desireability of adhering to or changing, any hourly rate or part price or discount; and

(c) disseminating any information to any automobile body repair shop concerning any planned or contemplated change in an hourly rate or part price or discount.

3. That each defendant shall establish and maintain an antitrust compliance program.

4. That for ten years after the entry of the Final Judgment, on or before its anniversary date, each defendant shall file with plaintiff an annual Declaration reporting that such defendant has complied with the terms of the Final Judgment and has engaged in no activities of the type prohibited by the Final Judgment.

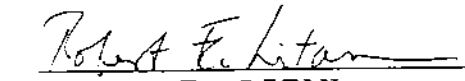
5. That plaintiff have such other relief as the nature of the case may require and the Court may deem just and proper.

6. That plaintiff recover the costs of this suit.

DATED:

ANNE K. BINGAMAN
ASSISTANT ATTORNEY GENERAL

DAVID D. FREUDENTHAL
United States Attorney
District of Wyoming



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