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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. **94 CV 146** Entered: December 1, 1994

FINAL JUDGMENT

Plaintiff, United States of America, filed its Complaint on , 1994. Plaintiff and defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party with respect to any issue of fact or law. Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

ORDERED, ADJUDGED, AND DECREED, as follows:

I.

JURISDICTION

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The

Complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II.

DEFINITIONS

As used herein, the term:

(A) "automobile body repair services" means work performed by automobile body repair shops applying new or used parts and labor to the damaged bodies and frames of automobiles and trucks for the purpose of repairing them;

(B) "automobile body repair shop" means any person engaged in the performance and sale of automobile body repair services;

(C) "hourly rate" means the dollar charge per hour in connection with time spent on automobile body repair services; and

(D) "person" means any individual, partnership, corporation, association, firm, or any other business or legal entity.

III.

APPLICABILITY

(A) This Final Judgment applies to the defendants and to each of their successors, assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise.

(B) Nothing herein contained shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

IV.

PROHIBITED CONDUCT

Each of the defendants is enjoined and restrained 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 desirability 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.

V.

COMPLIANCE PROGRAM

(A) Each defendant is ordered to establish and maintain an antitrust compliance program which shall include designating,

within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for accomplishing the antitrust compliance program and achieving compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, supervise the review of the current and proposed activities of his or her defendant company to ensure that the company complies with this Final Judgment. The Antitrust Compliance Officer shall be responsible for accomplishing the following requirements:

(1) Distributing, within 60 days of the entry of this Final Judgment, a copy of this Final Judgment to all officers and to employees who have any responsibility for approving, disapproving, monitoring, recommending, or implementing any hourly rate or part price or discount;

(2) Distributing in a timely manner a copy of this Final Judgment to any officer or employee who succeeds to a position described in Section V(A)(1);

(3) Briefing annually those persons designated in Section V(A)(1) on the meaning and requirements of this Final Judgment and the antitrust laws and advising them that the defendant's legal advisors are available to confer with them regarding compliance with the Final Judgment and the antitrust laws;

(4) Obtaining from each officer or employee designated in Section V(A)(1) an annual written certification that he or she: (a) has read, understands, and agrees to abide by the terms of this Final Judgment; (b) has been advised and understands that his or her failure to comply with this Final Judgment may result in conviction for criminal contempt of court; and (c) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer;

(5) Maintaining a record of persons to whom the Final Judgment has been distributed and from whom the certification in Section V(A)(4) has been obtained; and

(6) Reporting to the Department of Justice any violation of the Final Judgment.

(B) Each defendant is ordered to distribute, within 60 days of entry of this Final Judgment, a copy of this Final Judgment to an owner or manager of each automobile body repair shop located within 50 miles of Casper, Wyoming, which is presently in business and which has purchased parts or automobile body repair services from the defendant in the last five years.

VI.

CERTIFICATION

(A) Within 75 days of the entry of this Final Judgment, each defendant shall certify to the plaintiff whether it has designated

an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section V(A)(1) and (B) above.

(B) For ten years after the entry of this Final Judgment, on or before its anniversary date, each defendant shall file with the plaintiff an annual Declaration as to the fact and manner of its compliance with the provisions of Sections IV and V(A).

VII.

PLAINTIFF ACCESS

(A) To determine or secure compliance with this Final Judgment and for no other purpose, duly authorized representatives of the plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) access during such defendant's office hours to inspect and copy all documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees or agents of such defendant, who may have such defendant's counsel and/or their own counsel

present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, relating to any matters contained in this Final Judgment as may be reasonably requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff

to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

(E) Nothing set forth in this Final Judgment shall prevent the Antitrust Division from utilizing other investigative alternatives, such as the Civil Investigative Demand process provided by 15 U.S.C. §§ 1311-1314 or a Federal grand jury, to determine if the defendant has complied with this Final Judgment.

VIII.

FURTHER ELEMENTS OF THE FINAL JUDGMENT

(A) This Final Judgment shall expire ten years from the date of its entry.

(B) Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

(C) Entry of this Final Judgment is in the public interest.

DATED: December 1, 1994

UNITED STATES DISTRICT JUDGE