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Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 30132
)	
GENERAL MOTORS CORPORATION; LOSOR)	(15 U.S.C. §1; 15 U.S.C. §24)
CHEVROLET DEALERS ASSOCIATION;)	
DEALERS' SERVICE, INC.; Foothill)	Sherman and Clayton
CHEVROLET DEALERS ASSOCIATION;)	Antitrust Acts
KENNETH E. STALEY; LEE N. MAYS;)	
ROY M. CASH; and ROBERT M. O'CONNOR.)	10/12/61

I N D I C T M E N T

The grand jury charges:

COUNT ONE

I

DEFINITIONS

1. As used herein:

(a) "Chevrolet automobiles" means all of the various series and models of new passenger cars, station wagons, and trucks sold by the Chevrolet Motor Division of General Motors Corporation under trade names including "Chevrolet," "Corvair," and "Corvette";

(b) "Chevrolet dealer" means any person, firm, or corporation engaged in purchasing Chevrolet automobiles from General Motors Corporation for resale to the public pursuant to a Dealer Selling Agreement with the Chevrolet Motor Division of General Motors Corporation;

(c) "Southern California area" means the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, San Diego, Imperial, San Luis Obispo, and Santa Barbara, State of California.

II

DEFENDANTS

2. General Motors Corporation (hereinafter General Motors) is hereby indicted and made a defendant in Count One of this indictment. General Motors is a corporation organized and existing under the laws of the State of Delaware, with principal offices in New York, New York, and Detroit, Michigan. General Motors is the largest automobile manufacturer in the United States.

3. Losor Chevrolet Dealers Association (hereinafter Losor), a California corporation, is hereby indicted and made a defendant in Count One of this indictment. Losor is a trade association whose membership consists of Chevrolet dealers in Orange County and in the southern and western portions of Los Angeles County, State of California.

4. Dealers' Service, Inc. (Hereinafter DSI), a California corporation, is hereby indicted and made a defendant in Count One of this indictment. DSI is a trade association whose membership consists of Chevrolet dealers in the city of Los Angeles and adjacent communities in Los Angeles County, State of California.

5. Foothill Chevrolet Dealers Association (hereinafter Foothill), a California corporation, is hereby indicted and made a defendant in Count One of this indictment. Foothill is a trade association whose membership consists of Chevrolet dealers in the northern and eastern portions of Los Angeles County, and in Riverside and San Bernardino Counties, State of California.

6. Kenneth E. Staley is hereby indicted and made a defendant in Count One of this indictment. During all or part of the time covered herein, defendant Kenneth E. Staley has been general sales manager of the Chevrolet Motor Division of General Motors.

7. Lee N. Mays is hereby indicted and made a defendant in Count One of this indictment. During all or part of the time covered herein, defendant Lee N. Mays has been assistant general sales manager of the Chevrolet Motor Division of General Motors.

8. Roy M. Cash is hereby indicted and made a defendant in Count One of this indictment. During all or part of the time covered herein, defendant Roy M. Cash has been regional manager, Pacific Coast Region, of the Chevrolet Motor Division of General Motors.

9. Robert M. O'Connor is hereby indicted and made a defendant in Count One of this indictment. During all or part of the time covered herein defendant Robert M. O'Connor has been zone manager, Los Angeles Zone, of the Chevrolet Motor Division of General Motors.

10. Whenever in Count One of this indictment reference is made to any act, deed, or transaction of any corporate defendant, such allegations shall be deemed to mean that the officers, directors, agents, employees, or representatives of said corporate defendant, while engaged in the management, direction, or control of its affairs, authorized, ordered, or did such act, deed, or transaction for and on behalf of said corporate defendant.

III

CO-CONSPIRATORS

11. The officers, directors, and members of Losor, DSI, and Foothill, certain officers and employees of such members, certain officers and employees of General Motors, other Chevrolet dealers in the Southern California area, and others to the grand jurors unknown, have participated as co-conspirators in the offense alleged in Count One of this indictment and have done acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

12. Component parts of Chevrolet automobiles are produced by or for the Chevrolet Motor Division of General Motors in plants located

in various States of the United States. These parts are shipped to various assembly plants throughout the United States, including an assembly plant in the Southern California area, at Van Nuys, California, and an assembly plant at Oakland, California. While most of the Chevrolet automobiles shipped to Chevrolet dealers in the Southern California area are assembled in the aforesaid plants in California, a substantial number of Chevrolet automobiles are shipped to such dealers from assembly plants located outside of California. All such shipments of Chevrolet automobiles are made pursuant to orders placed by such dealers (a) after they have received and accepted orders from customers or (b) in anticipation of orders to be received and sales to be made.

13. Thus, Chevrolet automobiles assembled at plants located outside of California move in interstate commerce from such plants through Chevrolet dealers in the Southern California area to their purchasers, and component parts and accessories produced in plants outside of California move in interstate commerce from such plants through the assembly plants at Van Nuys and Oakland to Chevrolet dealers in the Southern California area and thence to their purchasers.

14. During the calendar year 1960, Chevrolet dealers in the Southern California area sold Chevrolet automobiles having a retail value of about \$250,000,000.

15. For many years Chevrolet dealers in the Southern California area customarily performed all of the functions incident to the retail merchandising of Chevrolet automobiles. However, beginning in or about 1953 and continuing to early 1961, certain Chevrolet dealers in the Southern California area, including members of Losor, DSI, and Foothill, entered into agreements or understandings with certain persons, firms, and corporations, some commonly known as discount houses and others as referral services, pursuant to which such discount houses and referral services, acting as independent businessmen, performed many of the merchandising functions theretofore performed by such Chevrolet dealers.

16. In accordance with such agreements or understandings said discount houses and referral services performed one or more of the following merchandising functions:

(a) referred potential customers to Chevrolet dealers who had agreed in advance to quote such customers prices based on specified markups over the invoice costs of such dealers;

(b) negotiated with prospective purchasers the terms and conditions of sale of Chevrolet automobiles;

(c) appraised the trade-in value of and in some instances purchased the used automobiles of purchasers of Chevrolet automobiles;

(d) prepared purchase orders for and made deliveries of Chevrolet automobiles to purchasers;

(e) secured financing for purchasers of Chevrolet automobiles, in many instances at interest rates below those offered by Chevrolet dealers in the Southern California area.

17. During the aforesaid period, about 1953 to early 1961, the number of discount houses and referral services in the Southern California area increased rapidly. Correspondingly, the number of Chevrolet automobiles sold by Chevrolet dealers in said area pursuant to agreements or understandings with discount houses and referral services increased substantially. While in 1953 only a few hundred Chevrolet automobiles were sold in the Southern California area pursuant to agreements or understandings between Chevrolet dealers and discount houses and referral services, in 1960 the number had increased to over 2,000, having a retail value of approximately \$5,000,000. This increase in sales of Chevrolet automobiles threatened to lower retail prices of Chevrolet automobiles in the Southern California area.

OFFENSE CHARGED

18. Beginning in or about the summer of 1960, and continuing to the date of the return of this indictment, the defendants and the co-conspirators have engaged in an unlawful combination and conspiracy to suppress and eliminate competition in the sale and distribution of Chevrolet automobiles in the Southern California area, in unreasonable restraint of the hereinbefore described trade and commerce in Chevrolet automobiles in violation of Section 1 of the Act of Congress of July 2, 1890 (15 U.S.C. §1), commonly known as the Sherman Act.

19. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and the co-conspirators, the substantial terms of which have been:

(a) To suppress and restrain sales of Chevrolet automobiles by Chevrolet dealers pursuant to agreements or understandings with discount houses and referral services;

(b) To induce and persuade Chevrolet dealers to refrain from selling Chevrolet automobiles pursuant to agreements or understandings with discount houses and referral services;

(c) To utilize "shoppers" for purpose of identifying Chevrolet dealers selling Chevrolet automobiles pursuant to agreements or understandings with discount houses or referral services;

(d) To induce and persuade Chevrolet dealers to repurchase Chevrolet automobiles purchased by "shoppers" from such dealers.

20. During the period of time covered by Count One of this indictment and for the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and the co-conspirators have done those things which, as hereinbefore alleged, they combined and

conspired to do.

VI

EFFECTS OF THE COMBINATION AND CONSPIRACY

21. The aforesaid combination and conspiracy has had, among other things, the following effects:

(a) The right of Chevrolet dealers in the Southern California area to sell Chevrolet automobiles pursuant to agreements or understandings with discount houses and referral services has been restricted and eliminated;

(b) Competition in the sale and distribution of Chevrolet automobiles among Chevrolet dealers in the Southern California area has been suppressed;

(c) Purchasers of Chevrolet automobiles in the Southern California area have been deprived of the benefit of purchasing Chevrolet automobiles in a free and unrestricted competitive market;

(d) The right of discount houses and referral services to participate in the sale and distribution of Chevrolet automobiles in the Southern California area has been restricted and eliminated.

VII

JURISDICTION AND VENUE

22. The combination and conspiracy alleged in Count One of this indictment was entered into and carried out in part within the Southern District of California, Central Division, and within the jurisdiction of this Court. During the period of time covered by Count One of this indictment, and within five years preceding the return thereof, the defendants and the co-conspirators have performed within the Southern District of California, Central Division, many of the acts and things which as herein alleged they combined and conspired to do.

COUNT TWO

I

DEFENDANTS

23. Kenneth E. Staley, Lee N. Mays, Roy M. Cash and Robert M. O'Connor are hereby indicted and made defendants in Count Two of this indictment. During all or part of the time covered herein: defendant Kenneth E. Staley has been general sales manager of the Chevrolet Motor Division of General Motors; defendant Lee N. Mays has been assistant general sales manager of the Chevrolet Motor Division of General Motors; defendant Roy M. Cash has been regional manager, Pacific Coast Region, of the Chevrolet Motor Division of General Motors; and defendant Robert M. O'Connor has been zone manager, Los Angeles Zone, of the Chevrolet Motor Division of General Motors.

II

OFFENSES CHARGED

24. The allegations contained in each and every paragraph of Count One of this indictment are here realleged with the same force and effect as though set forth in full.

25. Beginning in or about the summer of 1960 and continuing to the date of this indictment, each of the defendants Kenneth E. Staley, Lee N. Mays, Roy M. Cash and Robert M. O'Connor, while acting as an agent of General Motors, authorized and did acts constituting in part the violation by General Motors of Section 1 of the Sherman Act alleged in Paragraph 24 hereof, in violation of Section 14 of the Act of Congress of October 15, 1914 (15 U.S.C. §24), commonly known as the Clayton Act, in that each of said defendants, among other things:

(a) Induced and persuaded Chevrolet dealers to refrain from selling Chevrolet automobiles pursuant to agreements or understandings with discount houses and referral services;

(b) Authorized subordinates to induce and persuade Chevrolet dealers to refrain from selling Chevrolet automobiles pursuant to agreements or understandings with discount houses and referral services;

(c) Authorized subordinates to utilize and utilized "shoppers" for the purpose of identifying Chevrolet dealers selling Chevrolet automobiles pursuant to agreements or understandings with discount houses or referral services.

III

JURISDICTION AND VENUE

26. Each offense alleged in Count Two of this indictment was committed in part in the Southern District of California, Central Division, and within the jurisdiction of this Court, within five years preceding the date of this indictment.

Dated: October 12, 1961.

A TRUE BILL

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Foreman

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