

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS:

**Lina M. Khan, Chair
Rebecca Kelly Slaughter
Christine S. Wilson
Alvaro M. Bedoya**

In the Matter of

Anchor Glass Container Corporation,
a corporation,

Lynx Finance GP, LLC,
a limited liability company, and

Lynx Finance, L.P.,
a limited partnership

Docket No. C-_____

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41, et seq., and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Anchor Glass Container Corporation (“Anchor”), has violated the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges in that respect as follows:

NATURE OF THE CASE

1. This action addresses the unfair use by Anchor of post-employment covenants not to compete. The term post-employment covenants not to compete (or “Non-Compete Agreements”), as used in this complaint, refers to contract terms that, following the conclusion of a worker’s employment with one employer, restrict the worker’s freedom to accept employment with competing businesses or otherwise to compete with the employer.

RESPONDENTS

2. Respondent Lynx Finance GP, LLC (“Lynx GP”) is a limited liability company organized, existing, and doing business under and by virtue of the laws of Delaware with its executive offices and principal place of business located at 712 Fifth Avenue, 44th Floor, New York, NY 10019. Lynx GP is the general partner of Lynx Finance, L.P.

3. Respondent Lynx Finance, L.P. (“Lynx LP,” and together with Lynx GP, “Lynx”) is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware with its executive offices and principal place of business located at 712 Fifth Avenue, 44th Floor, New York, NY 10019. Lynx LP is the indirect owner of 100% of the outstanding shares of Anchor.
4. Respondent Anchor is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its principal place of business located at 3001 North Rocky Point Drive East; Suite 300; Tampa, Florida 33607.

JURISDICTION

5. At all times relevant herein, Anchor and Lynx GP have been, and are now, corporations, as “corporation” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
6. Each Respondent has engaged in and continues to engage in commerce and activities affecting commerce in the United States, as the term “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

GLASS CONTAINER INDUSTRY

7. Anchor manufactures and sells glass containers used for food and beverage packaging. The primary customers of such glass containers are companies that sell food, beer, non-alcoholic beverages, and wine and spirits.
8. The glass container industry in the United States is highly concentrated. There are substantial barriers to entry and expansion, including the ability to identify and employ personnel with skills and experience in glass container manufacturing.

ANCHOR’S NON-COMPETE AGREEMENTS

9. In recent years, Anchor has required employees across a variety of positions to enter into Non-Compete Agreements with Anchor. These agreements typically required that, for one year following the conclusion of the worker’s employment with Anchor, the worker may not “be employed by or work for” an individual or entity in the United States providing “rigid packaging sales and services which are the same or substantially similar to those in which Anchor deals” and may not directly or indirectly compete or sell such products or services to any customers or prospective customers of Anchor with whom the worker had any interaction. At the outset of the Commission’s investigation, over 300 employees of Anchor were subject to such Non-Compete Agreements, including salaried employees who work with the plants’ furnaces and forming equipment and in other glass production, engineering, and quality assurance roles.

10. Anchor's use of Non-Compete Agreements as described herein is unfair and has the tendency or likely effect of harming competition, consumers, and workers, including by: (i) impeding the entry and expansion of rivals in the glass container industry, (ii) reducing employee mobility, and (iii) causing lower wages and salaries, reduced benefits, less favorable working conditions, and personal hardship to employees.
11. Any legitimate objectives of Anchor's conduct as alleged herein could have been achieved through significantly less restrictive means, including, for example, by entering confidentiality agreements that prohibit employees and former employees from disclosing company trade secrets and other confidential information.

VIOLATION CHARGED

12. The allegations in all of the paragraphs above are re-alleged and incorporated by reference as though fully set forth herein.
13. Anchor's conduct constitutes an unfair method of competition with a tendency or likelihood to harm competition, consumers, and employees in the glass container industry, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such conduct, or the effects thereof, will continue or recur in the absence of appropriate relief.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this [insert] day of [insert month], 2023, issues its complaint against Respondents.

By the Commission.

April Tabor
Secretary

SEAL