

FTC Orders 20-Year Non-Compete Ban for Anchor Glass

Law and the Workplace on June 30, 2023

On June 2, 2023, the Federal Trade Commission (“FTC” or “the Commission”) finalized a [Consent Order](#) settling charges against Anchor Glass Container Corp. (“Anchor Glass”) for engaging in conduct which, according to the FTC’s [administrative complaint](#), “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” The complaint further alleges that over 300 Anchor Glass employees (those working with the plants’ furnaces and forming equipment, glass production, engineering, and quality assurance roles) were subject to non-compete agreements that barred them from working for any other employer in the United States that provides “rigid packaging sales and services which are the same or substantially similar to those in which Anchor deals.” The restriction lasted for one year following the conclusion of their employment with the company. Former employees were also barred from selling products or services to “any customers or prospective customers of Anchor with whom the worker had any interaction.”

The Consent Order provides that Anchor Glass must “cease and desist from, directly or indirectly, entering or attempting to enter into, maintaining or attempting to maintain, enforcing or attempting to enforce, or threatening to enforce a Noncompete Agreement or communicating to an Employee or any prospective or current employer of the Employee that the Employee is subject to, a Noncompete Agreement.” The Order will terminate on May 18, 2043, twenty years from its date. Although lengthy, the Commission has issued similar-duration Orders for other companies accused of similar violations, including [Prudential Security, Inc.](#), [Ardagh Group S.A.](#), and [O-I Glass, Inc.](#)

The FTC further ordered Anchor Glass to, *inter alia*, deliver a copy of the Order to each employee that was a party to a non-compete agreement. And for the next ten years, the company must post a “clear and conspicuous notice” that states that employees are not subject to a non-compete provision. Anchor Glass must also submit Compliance Reports to the FTC, which “shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with the Order.”

As [previously reported](#), earlier this year, the FTC proposed an expansive [new rule](#) that would impose a near-complete ban on the use of non-competes by employers. A day prior, the FTC also announced [enforcement actions against several companies](#) for the alleged use of “harmful” non-compete agreements. Employers should be mindful of these developments and ensure they are complying with existing state laws and best practices for the use of non-competes.

We will keep you apprised of future developments.

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