

File

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. 81-7005
)	Filed: January 5, 1981
v.)	
)	
NATIONAL FINANCE)	
ADJUSTERS, INC.)	<u>FOR INJUNCTIVE RELIEF</u>
)	
Defendant.)	

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 defendant, 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) in order to prevent and restrain the continuing violation or recurrence by the defendant of Section 1 of the Act (15 U.S.C. § 1).

2. The defendant, National Finance Adjusters, Inc., maintains an office, transacts business, and is found within the Eastern District of Michigan.

II

DEFENDANT

3. National Finance Adjusters, Inc. ("NFA") is made defendant. NFA is an incorporated trade association organized and existing under the laws of the State of Illinois with its principal office located in Detroit, Michigan. NFA's membership consists

of approximately 180 individuals engaged in the business of providing independent repossession services in various cities in most states in the United States.

III

CO-CONSPIRATORS

4. Various individuals and business entities not made defendants herein, have participated as co-conspirators with the defendant in the violations alleged herein and have performed acts and have made statements in furtherance thereof.

IV

TRADE AND COMMERCE

5. "Repossessors," or adjusters as they are sometimes called, provide services for banks, credit unions and other lenders that seek to recover merchandise sold under security agreement where the debtor has forfeited possessory rights by defaulting on loan terms. Repossessors act as agents for lenders and furnish a variety of services to them, including tracing of property, collection and adjustment of loans, as well as repossession, sale or return of collateral.

6. Automobiles and other automotive vehicles are the property most often reclaimed by repossessioners. Subject to transportation costs, repossessioners can and do travel considerable distances and cross state lines to repossess property in other states where they meet appropriate licensing standards. Repossessioners are in actual or potential competition with all other repossessioners who have the ability to serve all or any part of their service area.

7. NFA has members throughout the United States. It publishes and distributes to lenders a directory of its members and the areas which they offer to serve. Only NFA members are permitted to be listed in its directory. NFA bonds its members and offers to mediate problems between them and clients who use the directory. Membership in NFA confers an economic benefit because of the substantial advertising value of its directory which facilitates referrals to NFA members from potential out-of-area clients.

8. A substantial flow of payments across state lines from lenders to NFA members is generated by NFA's activities. Thousands of copies of NFA's directories are circulated annually across state lines. The above-described activities of NFA and its members are in, and affect, interstate commerce.

V

VIOLATION ALLEGED

9. Beginning at least as early as 1975, the exact date being unknown to the plaintiff, and continuing to the date of the filing of this complaint, the defendant and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1). This violation may continue or recur unless the relief prayed for is granted.

10. The combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators to eliminate price and other forms of competition in the trade and commerce in repossession services.

11. In formulating and effectuating the combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things, the following:

- (a) Agreed to, prepared, published in the NFA directory, disseminated and encouraged members to adhere to fee schedules for repossession services;
- (b) Restricted membership in NFA to one or few members in certain geographic areas;
- (c) Restricted the area in which each NFA member could advertise its services; and
- (d) Established arbitrary and unreasonable membership restrictions.

VI

EFFECTS

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

- (a) Competition in the provision of independent repossession services has been restrained;
- (b) Prices for the provision of independent repossession services of NFA members have been artificially fixed, raised, maintained and stabilized;
- (c) Access by members of NFA to certain geographic markets has been restrained;
- (d) Customers of NFA members have been deprived of the opportunity to purchase independent repossession services in an open and competitive market; and

- (e) Competition between NFA members in the provision of independent repossession services has been restrained.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court decree that the defendant NFA has engaged in an unlawful combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act.

2. That the defendant NFA be enjoined from, in any manner, continuing, maintaining or renewing the illegal combination and conspiracy, and from adopting or following any policy or practice having similar purpose or effect.

3. That the defendant NFA, and all those acting in concert with it, be enjoined from:


- (a) Agreeing to, preparing, publishing, disseminating or encouraging members or any other persons to adhere to any fee schedule or suggested fee for repossession services;
- (b) Restricting any member of NFA as to the advertising of the geographic area they service;
- (c) Establishing any limit to the number of persons who may be NFA members in any geographic area; and

(d) Maintaining, enacting and enforcing any rules or engaging in any practices which have the actual or potential effect of unreasonably restricting membership and membership admission in NFA.

4. That plaintiff have such other relief as the Court may deem just and proper.

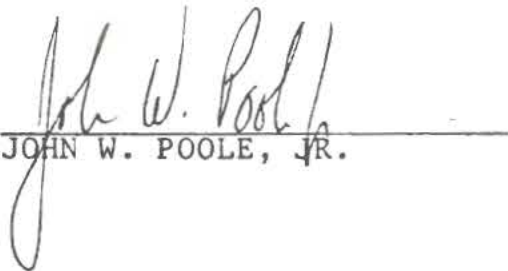
5. That the plaintiff recover the costs of this suit.

Dated:

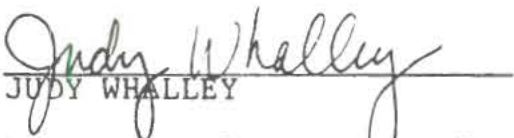

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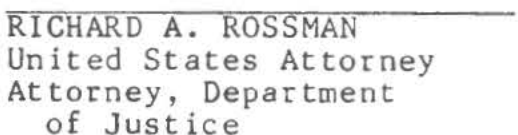

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