

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
ATLANTA REAL ESTATE BOARD,
Defendant.

Civil Action No. 14744

Entered: February 4, 1972

FINAL JUDGMENT

PLAINTIFF, United States of America, having filed its complaint herein on February 17, 1971, and defendant having filed its answer to said complaint and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by either party in respect to any issue;

NOW, THEREFORE, before any testimony has been taken herein, and upon consent of the parties hereto, it is hereby, ORDERED, ADJUDGED and DECREED; as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. §1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Board" shall mean the defendant Atlanta Real Estate Board; and,

(B) "Person" shall mean any individual, partnership, firm, association, corporation, member of the Board or other business or legal entity.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its directors, officers, agents, employees, subsidiaries, successors and assigns, and, in addition, to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The Board, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Fixing, establishing, or maintaining any rate or amount of commissions or other fees to be charged by any of the members of the Board in connection with the sale, lease or management of real estate;

(B) Urging, recommending, or suggesting that any of the members of the Board adhere to any schedule or other recommendation concerning the rate or amount of commissions or other fees to be charged in connection with the sale, lease, or management of real estate;

(C) Adopting, suggesting, publishing, or distributing any schedule or other recommendation concerning the rate or amount of commissions or other fees to be charged by any of the members of the Board in connection with the sale, lease or management of real estate; or

(D) Taking any punitive action against any person where such action is based upon the person's failure or refusal to adhere to any schedule or other recommendation concerning the rate or amount of commissions or other fees to be charged in connection with the sale, lease, or management of real estate.

V

The defendant is ordered to eliminate from all by-laws, rules, regulations, contracts, and other forms any schedule of rates or amounts of commissions or other fees to be charged by any members of the Board, and insert a provision that rates or amounts of commissions or other fees to be charged in connection with the sale, lease or management of real estate shall be negotiable with the client.

VI

(A) The defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to amend its by-laws, rules, and regulations by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this Final Judgment.

(B) Upon amendment of its by-laws, rules and regulations as aforesaid, defendant is thereafter enjoined and restrained from adopting, adhering to, enforcing or claiming any rights under any by-law, rule or regulation which is contrary to or inconsistent with any of the provisions of this Final Judgment.

VII

Defendant is ordered and directed to mail within sixty (60) days after the date of entry of this Final Judgment, a copy thereof to each of its members and within one hundred and twenty (120) days from the aforesaid date of entry to file with the Clerk of this Court, an affidavit setting forth the fact and manner of compliance with this Section VII, Section V and Section VI (A) above.

VIII.

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege, and subject to the presence of counsel if so desired, (A) access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment, and (B) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers or employees of the defendant regarding any such matters; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

Jurisdiction is retained by this Court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction of or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

/s/ RICHARD C. FREEMAN
United States District Judge

Dated: February 4, 1972