

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE ATLANTA REAL ESTATE BOARD,

Defendant.

Civil Action No. 14744

Filed: February 17, 1971

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 above-named defendant, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. § 4, commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 1 of said Act, 15 U.S.C. § 1.

2. The defendant maintains offices, transacts business, and is found within the Northern District of Georgia.

II

THE DEFENDANT

3. The Atlanta Real Estate Board (hereinafter referred to as "AREB"), an association organized and existing under the laws of the State of Georgia and having its principal place of business in Atlanta, Georgia, is named as defendant herein. AREB is an association of real estate brokers engaged in the business of selling, leasing and managing real estate in Fulton County and portions of DeKalb County in the State of Georgia (hereinafter referred to as the "Atlanta area"), and others affiliated with the real estate business in the Atlanta area.

III

THE CO-CONSPIRATORS

4. The members of AREB are not named as defendants, but are named as co-conspirators. There are approximately 950 real estate brokers, and others affiliated with the real estate business, who are members of AREB. All of these members participated as co-conspirators in the offense alleged herein and many of them performed acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

5. For a commission or fee, members of AREB render the service of bringing together buyers and sellers of real estate and of negotiating and arranging the prices and terms of real estate sales in the Atlanta area. Thousands of parcels of real estate are sold in the Atlanta area each year. In 1969, members of AREB negotiated and

arranged the sale of residential property alone with a value of \$257,472,001. For a commission or fee, members of AREB also render services in connection with the management of real estate and the lease of real estate.

6. Many of the parties to real estate transactions in the Atlanta area are located in places other than the State of Georgia. In performing their services, members of AREB often contact persons located in places other than the State of Georgia and cause various instruments to move between Georgia and places outside Georgia. A substantial number of persons using the services of members of AREB in connection with real estate transactions are persons moving into the Atlanta area from places outside Georgia and persons moving from the Atlanta area to places outside Georgia. Members of AREB attempt to attract persons from other states and, in fact, many completed real estate transactions result in persons moving into the Atlanta area from places outside Georgia.

7. As an additional part of their services, members of AREB often assist in securing financing, insurance and other commodities and services necessary to real estate transactions in the Atlanta area. By virtue of the activities of the members of AREB, substantial amounts of such financing, insurance, commodities and services move into the Atlanta area from outside the State of Georgia from businesses operating in interstate commerce. Also, the commissions and fees

charged by members of AREB for their services have a direct and substantial effect upon such financing, insurance, commodities and services, and the businesses which provide them.

8. A substantial portion of the materials, supplies and machinery used in residential and commercial construction in the Atlanta area are produced outside the State of Georgia and transported to the Atlanta area. Obtaining financing is frequently necessary to such construction, and if such financing is not available, such construction is restricted and the interstate movement of the materials, supplies and machinery necessary for such construction is adversely affected. The commissions and fees charged by members of AREB have a direct and substantial effect on the availability of financing.

V

OFFENSE

9. For many years up to and including the date of the filing of this complaint, the defendant and co-conspirators have been continuously engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act. Said unlawful combination and conspiracy is continuing and will continue unless the relief hereinafter prayed for is granted.

10. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action between the defendant and co-conspirators to raise, fix and maintain the commissions and fees for services provided in connection with the sale, lease and management of real estate in the Atlanta area.

11. In effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators have done the things which, as hereinbefore alleged, they agreed and conspired to do, including, among other things, the following:

- (a) agreed to uniform rates of commissions and fees;
- (b) published, circulated and adhered to the agreed upon uniform rates of commissions and fees;
- (c) agreed to standard contracts which incorporate the agreed upon uniform rates of commissions and fees; and
- (d) adhered to the use of such standard contracts.

VI

EFFECTS

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

- (a) commissions and fees charged for services in connection with the sale, lease and management of real estate in the Atlanta area have been raised, fixed and maintained at an artificial and non-competitive level;
- (b) price competition among members of AREB for providing services in connection with real estate

transactions has been eliminated and persons using the services of AREB members have been denied the right to use such services at competitively determined prices; and

- (c) the interstate commerce in financing, insurance and other commodities and services necessary to real estate transactions and in materials, supplies and machinery used in residential and commercial construction in the Atlanta area has been adversely affected.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act.

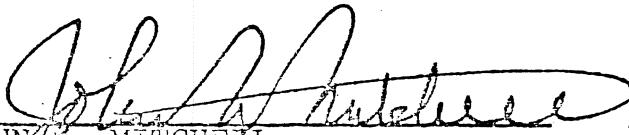
2. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program or device having a similar purpose or effect.


3. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from publishing, adopting, distributing or otherwise suggesting, and from adhering or agreeing to adhere to, any schedule of or other recommendation concerning amounts of commission or other fees for the sale, lease or management of real estate.

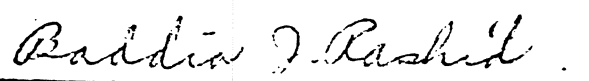
4. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from convincing or attempting to convince any person to adhere to any schedule of or other recommendation concerning amounts of commissions or other fees for the sale, lease or management of real estate.

5. That the plaintiff have such other, further, general and different relief as the case may require and the Court may deem just and proper under the circumstances.

6. That the plaintiff recover its taxable costs.


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