

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

THE REAL ESTATE BOARD OF  
NEW YORK, INC.; and  
TENANT-OWNED APARTMENT  
ASSOCIATION, INC.,

Defendants.

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Civil Action No. 73-Civ-2719

Filed: June 19, 1973

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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 defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed 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 defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).

2. Each of the defendants is found and transacts business within the Southern District of New York.

II

THE DEFENDANTS

3. The Real Estate Board of New York, Inc. (REBNY) is named a defendant herein. Said defendant is a corporation

organized and existing under the laws of the State of New York and has its principal place of business in New York, New York. REBNY is comprised primarily of individuals and corporations engaged in the business of selling, leasing, and managing real property in New York County. Some members of REBNY also engage in the sale or resale of cooperative apartments and the management of cooperative buildings in New York County.

4. The Tenant-Owned Apartment Association, Inc. (TOAA) is named a defendant herein. Said defendant is an association organized and existing under the laws of the State of New York and has its principal place of business in New York, New York. TOAA is comprised in part of business enterprises actively engaged in the sale or resale of cooperative apartments and the management of cooperative buildings in New York County. Such business enterprises are hereinafter referred to as "Management-Brokers." Management-Brokers also engage in the business of selling, leasing, and managing real property in New York County and are members of REBNY.

### III

#### CO-CONSPIRATORS

5. Various other corporations and individuals not made defendants herein participated as co-conspirators in the violation alleged herein and performed acts and made statements in furtherance thereof. These include, but are not limited to, the members of REBNY and the Management-Brokers.

### IV

#### TRADE AND COMMERCE

6. Most occupants of multiple family dwellings in New York County maintain their residences through a leasehold

agreement with the owner of the building. Residents in cooperative buildings, in addition to a proprietary leasehold, own the shares of stock in the corporation which owns the apartment building. When cooperative apartments are sold, the stock interest is transferred from the seller to the buyer. Management-Brokers and other real estate brokers actively engage in the sale or resale of such cooperative apartments. They enter into several types of commission arrangements with the seller of a cooperative apartment, the amount of the commission depending upon whether the seller has listed the apartment with a broker individually or has entered into an exclusive resale agency.

7. Management-Brokers and other real estate brokers actively engage in the management of cooperative buildings, acting as agent for all tenant-owners in handling the maintenance of the building. Maintenance includes such functions as payment and supervision of labor, provision for purchase of supplies and services, advice with respect to insurance and mortgages, processing of applications from prospective tenants and collection of maintenance charges from the tenant-owners.

8. Management-Brokers and other real estate brokers engage in activities that are related to their selling and management functions. They service applications for the transfer of stock covering an apartment and for the cooperative corporation's consent to a sublease.

9. The TOAA and its Management-Brokers are a significant force in the sale or resale of cooperative apartment units in New York County. During a 16-month period between January 1, 1966 and April 20, 1967, the Management-Brokers participated in the sale or resale of 1206 cooperative units with a total

asking price of approximately \$67 million. During the month of May 1971 alone, Management-Brokers participated in the sale of stock in cooperative corporations having a value of approximately \$6.6 million in connection with the transfer of 73 cooperative apartments.

10. The 349 cooperative buildings managed by the Management-Brokers in New York County have a combined approximate assessed valuation of \$1 billion. These buildings contain nearly 20,000 cooperative apartment units. Estimated annual gross collections of the Management-Brokers are approximately \$120 million.

11. Many of the largest corporations in the United States find it desirable to maintain corporate headquarters or sales offices in New York County because of its position as an important commercial and financial center. With the proliferation of these offices there is a constant interstate flow of executives and other corporate personnel to and from New York County. Management-Brokers and other real estate brokers attempt to attract these persons from without New York State and, in fact, many completed sales or resales of cooperative apartments result in persons moving to New York County from places outside New York State.

12. Management-Brokers and other real estate brokers advertise the availability of cooperative apartments in New York County in newspapers whose circulations regularly extend to other states, and in newspapers of general circulation published outside the State of New York.

13. The sale or resale of cooperative apartments in New York County results in the movement of significant numbers of persons in interstate commerce. Concomitant with such transactions significant flows of monies, mortgages, contracts, and other legal documents representing financial claims and obligations move in interstate commerce.

V

VIOLATION ALLEGED

14. From at least 1953, up to and including the date of the filing of this complaint, the defendants and co-conspirators have been continuously engaged in an unlawful combination and conspiracy in 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.

15. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

- (a) to raise, fix, and maintain the commissions and fees for services provided in connection with the sale or resale of cooperative apartments in New York County; and
- (b) to raise, fix, and maintain the commissions and fees for services provided in connection with the management of cooperative buildings in New York County.

16. In effectuating the aforesaid combination and conspiracy, the defendants have done the things which, as hereinbefore alleged, they agreed and conspired to do.

VI

EFFECTS

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

- (a) commissions and fees charged for services in connection with the sale or resale and management of cooperative apartments in New York County have been raised, fixed, and maintained at artificial and noncompetitive levels;
- (b) price competition among members of REBNY and Management-Brokers for providing services in connection with the sale or resale and management of cooperative apartments has been eliminated; and
- (c) persons using the services of members of REBNY and Management-Brokers have been denied the right to use such services at competitively determined prices.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendants 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 each of the defendants, its officers, directors, agents, and members, and all other persons acting or claiming to act on its behalf, be enjoined and restrained from:

- (a) 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;

- (b) publishing, adopting, distributing or otherwise suggesting, and adhering or agreeing to adhere to, any schedule of or other recommendation concerning amounts of commissions or other fees to be charged for the sale or resale and management of cooperative apartments; and
- (c) inducing or attempting to induce any person to adhere to any schedule of or other recommendation concerning amounts of commissions or other fees to be charged for the sale or resale and management of cooperative apartments.

3. That the REBNY, its officers, directors, agents and members, and all other persons acting or claiming to act on its behalf, be enjoined from publishing, adopting, distributing or otherwise suggesting any schedule of or other recommendation concerning amounts of commissions or other fees to be charged for the lease or sale of other real property.

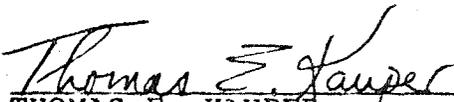
4. That the plaintiff have such other, further, general and different relief as the case may require and the Court may deem just and proper under the circumstances.

5. That the plaintiff recover its taxable costs.



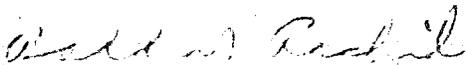
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