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8 UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF OREGON
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11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 v.

14 MULTIPLE LISTING SERVICE;
15 REALTORS OF PORTLAND;
16 WASHINGTON COUNTY BOARD OF
REALTORS; and CLACKAMAS
COUNTY BOARD OF REALTORS,

17 Defendants.
18

Civil No. 72-68

FINAL JUDGMENT AGAINST
DEFENDANTS REALTORS OF
PORTLAND, WASHINGTON
COUNTY BOARD OF REALTORS,
and CLACKAMAS COUNTY
BOARD OF REALTORS

Filed: May 25, 1973
Entered: June 29, 1973

19 Plaintiff, United States of America, having filed
20 its complaint herein on January 26, 1972, the defendants
21 having filed their answers to said complaint, the defendant
22 Multiple Listing Service having heretofore consented to a
23 Partial Final Judgment which has been duly entered, and the
24 remaining parties by their respective attorneys having
25 consented to the making and entry of this Final Judgment
26 without admission by any party in respect to any issue;

27 NOW, THEREFORE, before any testimony has been taken
28 herein, without trial or adjudication of any issue of
29 fact or law herein, and upon consent of the parties hereto,
30 it is hereby
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1 ORDERED, ADJUDGED AND DECREED, as follows:

2 I

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

9 II

10 As used in this Final Judgment:

11 (A) "Consenting defendants" means defendants Realtors
12 of Portland (named in the complaint herein as Portland Board
13 of Realtors), Washington County Board of Realtors, and
14 Clackamas County Board of Realtors, or any one or more
15 of them acting singly or in concert;

16 (B) "Real estate broker" means any person holding
17 a real estate broker's license from the State of Oregon;

18 (C) "Cooperative transaction" means a sale, lease,
19 or management contract respecting real estate that has been
20 listed with one real estate broker and the transaction
21 consummated by another;

22 (D) "Rates or amount of commissions or other fees"
23 means the total of any rates, commissions, or other fees
24 for the purchase, sale, lease, or management of real estate,
25 and in addition means any rates, commissions, or other fees
26 payable to either the selling or the listing real estate
27 broker on a cooperative transaction, or any percentage
28 split or division of the total commission between the
29 listing and selling broker;

30 (E) "Person" shall mean any individual, partnership,
31 firm, association, corporation, or other business or legal
32 entity.

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III

The provisions of this Final Judgment applicable to each of the consenting defendants shall also apply to each of their respective subsidiaries, successors, and assigns; to each of their directors, officers, agents, and employees, when acting in such respective capacities; and, in addition, to all persons, including members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each of the consenting defendants, whether acting unilaterally or in concert or agreement with any person, is enjoined and restrained from:

(A) Fixing, establishing, or maintaining any rates or amount of commissions or other fees;

(B) Urging, recommending, or suggesting that any of its members adhere to any schedule or other recommendation concerning the rates or amount of commissions or other fees;

(C) Adopting, suggesting, publishing, or distributing any schedule or other recommendation concerning the rates or amount of commissions or other fees;

(D) Including in any instructional course or other educational material any recommended or suggested rates or amount of commissions or other fees;

(E) Adopting, adhering to, maintaining, enforcing, or claiming any rights under any bylaw, rule, regulation, plan, or program which restricts or limits the right of any of its members or any other real estate broker to seek any rate or amount of commission or other fee in accordance with his own business judgment;

(F) Taking any action against any person where such action is based upon the person's failure or refusal to

1 charge any particular rate or amount of commission or other
2 fee;

3 (G) Adopting, adhering to, maintaining, enforcing,
4 or claiming any rights under any bylaw, rule, regulation,
5 plan, or program which restricts or limits the right of
6 any of its members to disclose said member's own listings
7 to whomsoever he wishes and to engage in cooperative
8 transactions with whomsoever he wishes;

9 (H) Adopting, adhering to, maintaining, or enforcing
10 any bylaw, rule, regulation, plan, or program which would
11 prohibit any member from doing business with any person;

12 (I) Adopting, adhering to, maintaining, or enforcing
13 any bylaw, rule, regulation, plan, or program which would
14 prohibit any member from joining or belonging to any
15 multiple listing service or which would require any of its
16 members to withdraw from any multiple listing service.

17 V

18 (A) Each of the consenting defendants is ordered and
19 directed within ninety (90) days from the date of entry of
20 this Final Judgment to amend its bylaws, rules, regulations,
21 contracts, and all forms requiring a client's signature
22 or which previously contained a set commission rate for the
23 sale, lease, or management of real estate by eliminating
24 therefrom any provision which is contrary to or inconsistent
25 with any provision of this Final Judgment and to send
26 amended copies of each such bylaw, rule, regulation,
27 contract, and form to each of its members.

28 (B) Each of the consenting defendants is ordered and
29 directed within ninety-five (95) days from the date of entry
30 of this Final Judgment to file with the plaintiff a true
31 copy of its bylaws, rules, regulations, contracts, and forms,
32 as aforesaid amended and distributed.

1 (C) Upon amendment of its bylaws, rules, regulations,
2 contracts, and forms as aforesaid, each of the consenting
3 defendants is thereafter enjoined and restrained from
4 adopting, adhering to, enforcing or claiming any rights
5 under any bylaw, rule, regulation, plan or program which is
6 contrary to or inconsistent with any of the provisions of
7 this Final Judgment.

8 VI

9 Each of the consenting defendants is ordered and
10 directed to mail within sixty (60) days after the date of
11 entry of this Final Judgment, a copy thereof to each of its
12 members and within one hundred and twenty (120) days from
13 the aforesaid date of entry to file with the Clerk of this
14 Court and with the plaintiff, an affidavit setting forth
15 the fact and manner of compliance with Section V above and
16 with this Section VI.

17 VII

18 For a period of ten (10) years from the date of
19 entry of this Final Judgment, each of the consenting
20 defendants is ordered to file with the plaintiff, on each
21 anniversary date of such entry, a report setting forth the
22 steps which it has taken during the prior year to advise
23 said consenting defendant's appropriate officers, director,
24 employees, and members of its and their obligations under
25 this Final Judgment.

26 VIII

27 For the purpose of determining or securing compliance
28 with this Final Judgment, and for no other purpose, duly
29 authorized representatives of the Department of Justice
30 shall, upon written request of the Attorney General or the
31 Assistant Attorney General in charge of the Antitrust
32 Division, and on reasonable notice to any consenting

1 defendant, made to its principal office, be permitted,
2 subject to any legally recognized privilege, (A) access
3 during the office hours of any consenting defendant to all
4 books, ledgers, accounts, correspondence, memoranda, and
5 other records and documents in the possession of or under
6 the control of said consenting defendant relating to any
7 matters contained in this Final Judgment, and (B) subject
8 to the reasonable convenience of said consenting defendant,
9 and without restraint or interference from it to interview
10 governors, directors, officers, members or employees of said
11 consenting defendant, who may have counsel present, regarding
12 any such matters; and upon such request, said consenting
13 defendant shall submit such reports in writing, under oath
14 if so requested, to the Department of Justice with
15 respect to any of the matters contained in this Final
16 Judgment as may from time to time be requested. No
17 information obtained by the means provided in this Section
18 VIII shall be divulged by any representative of the
19 Department of Justice to any person, other than a duly
20 authorized representative of the Executive Branch of
21 plaintiff, except in the course of legal proceedings to
22 which the United States of America is a party for the
23 purpose of securing compliance with this Final Judgment
24 or as otherwise required by law.

25 IX

26 Jurisdiction is retained by this Court for the purpose
27 of enabling any of the parties to this Final Judgment to
28 apply to this Court at any time for such further orders and
29 directions as may be necessary or appropriate for the
30 construction or carrying out of this Final Judgment, for
31 the modification of any of the provisions hereof, for the
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1 enforcement of compliance therewith, and for the punishment
2 of violations thereof.

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4 Dated: June 29, 1973

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8 /s/ OTTO R. SKOPIL, JR.
9 United States District Judge
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