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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 SEATTLE-FIRST NATIONAL BANK
15 and FIRST NATIONAL BANK
OF FERNDALE,

16 Defendants.

Civil Action No. 313-71C2

Filed: November 24, 1971

17
18 COMPLAINT

19 The United States of America, plaintiff, by its attorneys,
20 acting under the direction of the Attorney General of the
21 United States, brings this civil action to obtain equitable
22 relief against the above named defendants, and complains and
23 alleges as follows:

24 I

25 JURISDICTION AND VENUE

26 1. This complaint is filed and this action is instituted
27 under Section 15 of the Act of Congress of October 15, 1914, c. 323,
28 38 Stat. 736, as amended (15 U.S.C. § 25), commonly known as the
29 Clayton Act, in order to prevent and restrain violation by the
30 defendants, as hereinafter alleged, of Section 7 of the Clayton
31 Act, 38 Stat. 731, as amended (15 U.S.C. § 18).
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1 2. Each of the defendants has its principal place of
2 business, transacts business, and is found within the Western
3 District of Washington.

4 II

5 THE DEFENDANTS

6 3. Seattle-First National Bank (hereinafter referred to as
7 "Seattle-First") is made a defendant herein. Seattle-First is
8 a commercial banking association organized and existing under the
9 laws of the United States of America, and has its principal place
10 of business in Seattle, King County, Washington.

11 4. First National Bank of Ferndale (hereinafter referred
12 to as "FNB Ferndale") is made a defendant herein. FNB Ferndale
13 is a commercial banking association organized and existing under
14 the laws of the United States of America, and has its principal
15 place of business in Ferndale, Whatcom County, Washington.

16 III

17 DEFINITION

18 5. As used in this complaint, the term "Ferndale-Bellingham
19 area" means an area within approximately a fifteen mile radius
20 about the city of Ferndale, including the city of Bellingham,
21 except to the north where it extends to the Canadian border.

22 IV

23 TRADE AND COMMERCE

24 6. Commercial banks fill an essential and unique role in the
25 nation's economy. Their principal functions are the acceptance of
26 deposits for safekeeping and convenience in making payments by
27 checks, the granting of loans or advances of funds to individuals
28 and business firms, and the creation through demand deposits of
29 net additions to the supply of money. Most money payments in the
30 United States are made through checks drawn against demand deposits,
31 and the creation and holding of such deposits is a function
32 peculiar to commercial banks and one which makes them to a great

1 extent the administrators of the nation's check payment system.
2 Through the making of loans to individuals and businesses,
3 commercial banks supply a significant part of the credit require-
4 ments of the nation's economy. Commercial banks also accept
5 time deposits from various types of depositors and provide a wide
6 variety of other financial services, including personal and
7 corporate trust accounts, the collection of drafts, bills, and
8 other commercial instruments, the acceptance of bills of exchange,
9 the issuance of letters of credit, the sale of cashier's checks
10 and drafts on correspondent banks, the purchase or sale of
11 securities for customers, the sale of foreign exchange, and the
12 renting of safety deposit boxes. This combination of services is
13 unduplicated by other financial institutions.

14 7. Commercial banks, because of the importance of bank credit
15 to business and other borrowers and the close relationship of
16 banks with many such borrowers, and because of their holdings of
17 stock in trust accounts, have an important influence on competition
18 in all branches of industry and commerce served by the banking
19 system.

20 8. Customers of Seattle-First and FNB Ferndale regularly
21 utilize interstate communications, including the mails, telephone
22 and telegraph, to carry on their business with, apply for, and
23 obtain the services provided by these banks. Each of the defendant
24 banks regularly utilizes interstate communications, including the
25 mails, telephone and telegraph, to conduct business with customers,
26 and with other banks located in states other than Washington. Each
27 of the defendant banks is engaged in interstate commerce.

28 9. Seattle-First is the largest bank in the State of Washington
29 holding approximately 32.2 percent of all commercial bank deposits
30 in the state. Its head office is in Seattle, King County,
31 Washington, and it maintains 143 offices throughout 29 of
32 Washington's 39 counties. As of June 30, 1971, it had assets of

1 about \$2.4 billion, total deposits of approximately \$1.9 billion
2 and net loans and discounts of about \$1.4 billion.

3 10. FNB Ferndale operates its one office in Ferndale, Whatcom
4 County, Washington. As of June 30, 1971, it had assets of about
5 \$11.1 million, total deposits of approximately \$10.1 million and
6 net loans and discounts of about \$5.8 million.

7 11. Seattle-First and FNB Ferndale compete with each other
8 in the most populous and economically significant area of Whatcom
9 County, the Ferndale-Bellingham area. Seattle-First operates the
10 largest banking office in Bellingham, the major city in the county.
11 Bellingham is about ten miles southeast of Ferndale. A substantial
12 number of people commute to work in both directions between
13 Bellingham and Ferndale, which are connected by a high speed
14 arterial highway, and each defendant named herein draws business
15 from the city in which the other is located.

16 12. The most significant economic development in the Ferndale-
17 Bellingham area is occurring five miles west of Ferndale on the
18 shore of Puget Sound where a large aluminum plant was recently
19 opened and major oil refineries and an industrial park are being
20 located. Employees of these facilities residing in Bellingham go
21 near or through Ferndale to reach this industrial area.

22 13. Because FNB Ferndale is headquartered in Whatcom County,
23 it can open new branch offices in unincorporated areas of the
24 county within the Bellingham-Ferndale area and thus increase its
25 competition with the banks operating in Bellingham, including
26 Seattle-First.

27 14. Seattle-First holds about 20.2 percent of the total
28 deposits in the Ferndale-Bellingham area and FNB Ferndale holds
29 approximately 7.9 percent. If the proposed acquisition of FNB
30 Ferndale by Seattle-First described in paragraph 16 of this complaint
31 is consummated, the resulting bank, together with National Bank of
32 Commerce, the bank with the largest share of deposits in the

1 Ferndale-Bellingham area, would hold about 58.3 percent of the
2 area's total deposits and the three largest banks in the Ferndale-
3 Bellingham area would hold approximately 82.8 percent of all
4 area deposits.

5 15. Foothold acquisition of FNB Ferndale or one other larger
6 bank provides the only means by which any bank in the state not
7 currently serving the Ferndale-Bellingham area could enter that
8 area under the existing state branch banking laws. FNB Ferndale
9 is also one of the few vehicles through which major banks not now
10 in the Ferndale-Bellingham area can market their services in that
11 area.

12 V

13 OFFENSE

14 16. Defendants Seattle-First and FNB Ferndale have entered
15 into an agreement, approved by their respective Boards of Directors,
16 dated February 11, 1971, which if carried out, will result in
17 Seattle-First acquiring the assets and assuming the liabilities of
18 FNB Ferndale. On October 29, 1971 the Comptroller of the Currency
19 granted approval of the proposed acquisition.

20 17. The effect of the acquisition of FNB Ferndale by Seattle-
21 First, pursuant to the agreement described in paragraph 16 above,
22 may be substantially to lessen competition or to tend to create a
23 monopoly in violation of Section 7 of the Clayton Act in the
24 following ways, among others:

- 25 (a) actual and potential competition between the
26 defendants will be permanently eliminated;
- 27 (b) competition generally in commercial banking in
28 the Ferndale-Bellingham area will be substantially
29 lessened;
- 30 (c) the potential for entry of new commercial banking
31 competitors into the Ferndale-Bellingham area will
32 be foreclosed; and

1 (d) concentration in commercial banking in the
2 Ferndale-Bellingham area will be substantially
3 increased.

4 PRAYER

5 WHEREFORE, plaintiff prays:

6 1. That the aforesaid acquisition of FNB Ferndale by Seattle-
7 First, pursuant to the agreement described in paragraph 16 of this
8 complaint, be adjudged to be unlawful and in violation of Section 7
9 of the Clayton Act.


10 2. That the defendants FNB Ferndale and Seattle-First and all
11 persons acting on their behalf be perpetually enjoined from carrying
12 out the aforesaid agreement of merger, or any similar plan or agree-
13 ment, the effect of which would be to merge, consolidate or in any
14 other way combine the businesses of said defendants.

15 3. That the plaintiff have such other and further relief as
16 the Court may deem just and proper.

17 4. That the plaintiff recover the costs of this action.

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