

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE CLEVELAND REAL ESTATE BOARD,

Defendant.

Civil Action No. C 70-731

Filed: July 29, 1970

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 Ohio.

II

THE DEFENDANT

3. The Cleveland Real Estate Board (hereinafter referred to as "CREB"), a corporation organized and existing under the laws of the State of Ohio and having its principal place of business in Cleveland, Ohio, is named as defendant herein.

CREB is an association of real estate brokers and others engaged in the business of selling, leasing, managing or financing real estate in Cuyahoga County, in the State of Ohio.

III

THE CO-CONSPIRATORS

4. The members of CREB are not named as defendants, but are named as co-conspirators. There are approximately 560 real estate brokers, and others affiliated with the real estate business, who are members of CREB. 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. The activities of CREB and its members, as described herein, are within the flow of interstate commerce and have an effect upon that commerce.

6. For a commission or fee, members of CREB 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 Cuyahoga County. Thousands of parcels of real estate are sold in this county each year. Members of CREB in 1969 sold properties the mortgage value of which was more than \$581,000,000.

7. A substantial number of the persons using the services of members of CREB in connection with real estate sales are persons moving into Cuyahoga County from places outside Ohio and persons moving from Cuyahoga County to places outside Ohio. Members of CREB attempt to attract buyers from other states and, in fact, many completed sales of real estate in Cuyahoga County involve persons from outside Ohio.

8. As an additional part of their services, members of CREB often assist in securing financing and title insurance necessary to the purchase of real estate in Cuyahoga County. By virtue of the activities of the members of CREB, substantial amounts of such financing and title insurance move into Cuyahoga County from outside the State of Ohio from companies operating in interstate commerce.

9. Substantial amounts of money flow into Cuyahoga County from outside the State of Ohio as secondary mortgage money, based upon completed transactions in the sale of real estate by members of CREB, said transactions being secured by Conventional, FHA Insured and VA Guaranteed mortgages.

V

OFFENSE

10. 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 to restrain the aforesaid trade and commerce in the sale of real estate in Cuyahoga County, Ohio 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.

11. 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 commission rates for the sale, lease, and management of real estate in Cuyahoga County.

12. 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 commission;
- (b) Circulated, and adhered to published schedules of rates of commission; and
- (c) Agreed upon and adhered to exclusive listings in order to, among other things, discourage sales which by-pass the commission of the defendants and co-conspirators.

VI

EFFECTS

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

- (a) Commission rates for the sale of real estate in Cuyahoga County have been raised, fixed and maintained at an artificial and non-competitive level;
- (b) Price competition in the sale of their services between the co-conspirator real estate brokers and salesmen has been eliminated; and

- (c) Sellers of real estate have been denied the right to use the services of real estate brokers and salesmen at competitively determined rates of commission and at competitive terms.

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 the sale of real estate in Cuyahoga County 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 of real estate in Cuyahoga County.

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 members of the Board

to adhere to any schedule of or other recommendation concerning amounts of commissions or other fees for the sale of real estate in Cuyahoga County.

5. 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 from and restrained from publishing, adopting, distributing or otherwise suggesting and from adhering or agreeing to adhere to any agreement to take exclusive listings only.

6. 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.

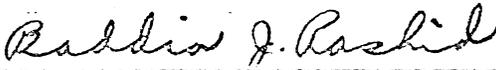
7. That the plaintiff recover its taxable costs.



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