

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITIZENS AND SOUTHERN NATIONAL
BANK, CITIZENS AND SOUTHERN
HOLDING COMPANY, CITIZENS AND
SOUTHERN EMORY BANK, CITIZENS AND
SOUTHERN BANK OF EAST POINT,
CITIZENS AND SOUTHERN BANK OF
CHAMBLEE, CITIZENS AND SOUTHERN
PARK NATIONAL BANK, CITIZENS AND
SOUTHERN SOUTH DEKALB BANK,
CITIZENS AND SOUTHERN BANK OF
TUCKER, CITIZENS AND SOUTHERN BANK
OF NORTH FULTON, AND CITIZENS AND
SOUTHERN BANK OF SANDY SPRINGS,

Defendants.

Civil Action No. 15823

Filed: November 2, 1971

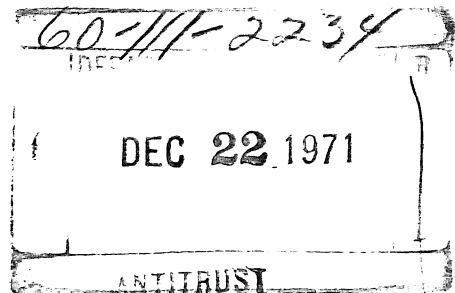
COMPLAINT

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 defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. Section 25), commonly known as the Clayton Act, and under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. Section 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 7 of the Clayton Act, as amended (15 U.S.C. Section 18) and of Section 1 of the Sherman Act (15 U.S.C. Section 1).



2. Each of the defendants transacts business and is found within the Northern District of Georgia.

II

THE DEFENDANTS

3. Citizens and Southern National Bank (hereinafter referred to as "C&S National") is made a defendant herein. C&S National is a banking association organized and existing under the laws of the United States of America. C&S National has its home office in Savannah, Georgia and its principal executive office in Atlanta, Georgia.

4. Citizens and Southern Holding Company (hereinafter referred to as "C&S Holding") is made a defendant herein. C&S Holding is a registered bank holding company organized and existing under the laws of the State of Georgia. C&S Holding has its home office in Atlanta, Georgia. C&S Holding is a wholly-owned subsidiary of C&S National.

5. Citizens and Southern Emory Bank (hereinafter referred to as "C&S Emory") is made a defendant herein. C&S Emory is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in DeKalb County, Georgia. C&S Holding owns approximately 95 percent of the stock of C&S Emory.

6. Citizens and Southern Bank of East Point (hereinafter referred to as "C&S East Point") is made a defendant herein. C&S East Point is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in Fulton County, Georgia. C&S Holding owns approximately 90 percent of the stock of C&S East Point.

7. Citizens and Southern Bank of Chamblee (hereinafter referred to as "C&S Chamblee") is made a defendant herein. C&S Chamblee is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in DeKalb County, Georgia. C&S Holding owns 5 percent of the stock of C&S Chamblee.

8. Citizens and Southern Park National Bank (hereinafter referred to as "C&S Park National") is made a defendant herein. C&S Park National is a banking association organized and existing under the laws of the United States of America, and has its principal place of business in DeKalb County, Georgia. C&S Holding owns 5 percent of the stock of C&S Park National.

9. Citizens and Southern South DeKalb Bank (hereinafter referred to as "C&S South DeKalb") is made a defendant herein. C&S South DeKalb is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in DeKalb County, Georgia. C&S Holding owns 5 percent of the stock of C&S South DeKalb.

10. Citizens and Southern Bank of Tucker (hereinafter referred to as "C&S Tucker") is made a defendant herein. C&S Tucker is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in DeKalb County, Georgia. C&S Holding owns 5 percent of the stock of C&S Tucker.

11. Citizens and Southern Bank of North Fulton (hereinafter referred to as "C&S North Fulton") is made a defendant herein. C&S North Fulton is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in Fulton County, Georgia. C&S Holding owns 5 percent of the stock of C&S North Fulton.

12. Citizens and Southern Bank of Sandy Springs (hereinafter referred to as "C&S Sandy Springs") is a banking association organized and existing under the laws of the State of Georgia, and has its principal place of business in Fulton County, Georgia. C&S Holding owns 5 percent of the stock of C&S Sandy Springs.

13. Various persons not made defendants herein have combined with the defendants in violations hereinafter alleged, and have performed acts and otherwise contributed to the furtherance thereof.

III

DEFINITIONS

14. As used in this complaint, the term "Atlanta Area" means the area comprising DeKalb and Fulton Counties, Georgia.

15. As used in this complaint, the term "North Fulton County" means that part of Fulton County situated north of the Atlanta city limits.

16. As used in this complaint, the term "C&S System" means the combination of C&S National, C&S Holding, C&S Emory, Citizens and Southern DeKalb Bank and C&S East Point.

IV

TRADE AND COMMERCE

17. Commercial banks fill an essential and unique role in the Nation's economy. Their principal functions are the acceptance of deposits for safekeeping and convenience in making payments by checks, the granting of loans or advances of funds to individuals and business firms, and the creation through demand deposits of net additions to the supply of money. Most money payments in the United States are made through checks drawn against demand deposits, and the creation and

holding of such deposits is a function peculiar to commercial banks and one which makes them to a great extent the administrator of the Nation's check payment system. Through the making of loans to individuals and business firms, commercial banks supply a significant part of the credit requirements of the Nation's economy. Commercial banks also accept time deposits from various types of depositors and provide a wide variety of other financial services, including personal and corporate trust accounts, the collection of drafts, bills, and other commercial instruments, the acceptance of bills of exchange, the issuance of letters of credit, the sale of cashier's checks and drafts on correspondent banks, the purchase or sale of securities for customers, the sale of foreign exchange, and the renting of safety deposit boxes. This combination of services is unduplicated by other financial institutions.

18. C&S National is the largest banking organization providing commercial banking services in the Atlanta Area. It operates at least thirty banking offices in Fulton County and one banking office in DeKalb County. As of December 31, 1970, it had total assets of \$1.7 billion, total deposits of \$1.4 billion, and net loans and discounts of \$1.1 billion. As of June 30, 1970, its offices in Fulton County had total deposits of about \$706 million, accounting for approximately 27 percent of total county deposits. Also, as of the same date, its office in DeKalb County had total deposits of about \$13 million, accounting for approximately 4.4 percent of total county deposits. C&S National, through its wholly-owned subsidiary C&S Holding, controls about 94 percent of the stock of Citizens and Southern DeKalb Bank (hereinafter referred to as "C&S DeKalb") which operates two offices in DeKalb County. As of June 30, 1970, C&S DeKalb had total deposits

of about \$23 million, accounting for approximately 8 percent of total county deposits.

19. C&S Emory operates three banking offices in DeKalb County. As of December 31, 1970, it had total assets of \$42.3 million, total deposits of \$35.4 million, and net loans and discounts of \$28.5 million. As of June 30, 1970, its total deposits accounted for approximately 13 percent of total DeKalb County deposits.

20. Combined, C&S National, C&S DeKalb, and C&S Emory represent the largest banking organization in DeKalb County. As of June 30, 1970, their combined deposits of about \$73 million accounted for approximately 25 percent of total DeKalb County deposits.

21. C&S Chamblee operates two banking offices in DeKalb County. As of December 31, 1970, it had total assets of \$21.1 million, total deposits of \$18.7 million, and net loans and discounts of \$10.7 million. As of June 30, 1970, its deposits accounted for approximately 6 percent of total DeKalb County deposits.

22. C&S Park National operates a single banking office in DeKalb County. As of December 31, 1970, it had total assets of \$11.1 million, total deposits of \$9.8 million, and net loans and discounts of \$3.5 million. As of June 30, 1970, its deposits accounted for approximately 3 percent of total DeKalb County deposits.

23. C&S South DeKalb operates a single banking office in DeKalb County. As of December 31, 1970, it had total assets of \$5.1 million, total deposits of \$4.3 million, and net loans and discounts of \$2.1 million. As of June 30, 1970, its deposits accounted for about 1 percent of total DeKalb County deposits.

24. C&S Tucker operates two banking offices in DeKalb County. As of December 31, 1970, it had total assets of \$26.5 million, total deposits of \$23 million, and net loans and discounts of \$14.8 million. As of June 30, 1971, its deposits accounted for about 7 percent of total DeKalb County deposits.

25. The predominant share of the business banking offices in DeKalb County receive is derived from DeKalb County. DeKalb County is a concentrated banking market. As of June 30, 1970, the four largest banking organizations in DeKalb County held over 65 percent of total county deposits. If C&S Chamblee, C&S Park National, and C&S South DeKalb were merged into the C&S System, it would account for 35 percent of total county deposits, and the four largest banking organizations would account for about 75 percent of total county deposits.

26. C&S East Point operates three banking offices in Fulton County. As of December 31, 1970, it had total assets of \$28.4 million, total deposits of \$23.3 million, and net loans and discounts of \$22.9 million. As of June 30, 1970, C&S National and C&S East Point combined had total deposits of about \$732 million and represented the largest banking organization in Fulton County, accounting for approximately 28 percent of total Fulton County deposits.

27. C&S North Fulton operates a single banking office in North Fulton County. As of December 31, 1970, it had total assets of \$7.7 million, total deposits of \$6.3 million, and net loans and discounts of \$5.6 million.

28. C&S Sandy Springs operates a single banking office in North Fulton County. As of December 31, 1970, it had total assets of \$22 million, total deposits of \$19 million, and net loans and discounts of \$11.7 million.

29. The predominant share of the business banking offices in North Fulton County receive is derived from that area. North Fulton County is a concentrated banking market. As of June 30, 1970, five commercial banks operated banking offices there. As of that date, C&S North Fulton and C&S Sandy Springs accounted for about 46 percent of the total deposits held by all banking offices located in North Fulton County. C&S East Point has recently opened a single banking office in North Fulton County.

30. Fulton County is also a concentrated banking market. As of June 30, 1970, the four largest banking organizations accounted for about 85 percent of total Fulton County deposits. C&S National presently holds about 27 percent; its subsidiary, C&S East Point, holds about 1 percent. Thus, the C&S System holds over 28 percent, the largest share held by any banking organization. Combined, C&S Sandy Springs and C&S North Fulton hold about 1 percent.

31. The Atlanta Area is also a concentrated banking market. As of June 30, 1970, the four largest banking organizations accounted for about 85 percent of total Atlanta Area deposits. The C&S System holds over 29 percent, the largest share held by any organization. Combined, C&S Chamblee, C&S Park National, C&S South DeKalb, C&S North Fulton, and C&S Sandy Springs hold about 2 percent of Atlanta Area deposits.

32. Customers of C&S National, C&S Emory, C&S East Point, C&S Chamblee, C&S Park National, C&S South DeKalb, C&S Tucker, C&S North Fulton, and C&S Sandy Springs regularly utilize interstate communications including the mails, telephone and telegraph, to carry on their business with, and apply for and obtain the services provided by these banks.

Each of the defendant banks regularly utilizes interstate communications including the mails, telephone, and telegraph, and conducts business with, and provides services to, customers institutions, and other banks located in States other than Georgia. Each of the defendant banks is engaged in interstate commerce.

33. Prior to 1971, Georgia law prohibited banks from branching outside the cities in which they were located. This restricted the ability of the major Atlanta banks to open branches in Fulton and DeKalb Counties. Since 1960, Georgia law has prohibited bank holding companies from owning more than 5 percent of the outstanding shares of two or more banks. In response to these prohibitions against geographic expansion, the major Atlanta banks, C&S National among them, developed various relationships with suburban banks in the Atlanta Area.

34. The C&S System and each of C&S Chamblee, C&S Park National, C&S South DeKalb, C&S North Fulton, and C&S Sandy Springs have had, among others, the following relationships: (1) C&S National and various persons associated with it contributed to the initial organization of each bank; (2) C&S Holding acquired 5 percent of the outstanding shares of each bank; (3) C&S National and various persons associated with it assisted in the sale of the remainder of the stock; (4) C&S National provided mutually beneficial correspondent services to each bank; (5) C&S National allowed each bank to use the C&S logogram, which resulted in joint identification; (6) the C&S System provided each bank, in varying degrees, with personnel, management and operational assistance; and (7) C&S National and each bank have, in many instances, jointly determined the competitive strategy to be followed in conducting the business of each bank. Consequently, a

close working relationship between each bank and the C&S system was established at the time of each bank's formation and has continued to the present time.

35. C&S Tucker was organized in 1919 and was operated as an independent bank until 1965. In February 1965, C&S National acquired 80 percent of the outstanding shares of C&S Tucker. Subsequently, C&S Holding acquired 5 percent of the outstanding shares, and the remaining 75 percent was acquired by other persons. Following these acquisitions, the C&S System and C&S Tucker had, among others, the relationships described in subsections (4), (5), (6), and (7) of paragraph 34, which have continued to the present time.

36. C&S Sandy Springs, C&S Chamblee, C&S North Fulton, C&S Park National, and C&S South DeKalb were organized in 1959, 1960, 1967, 1967, and 1969, respectively. These banks were organized at a time when the areas of DeKalb County and North Fulton County were experiencing a period of significant growth and development. DeKalb County's 1970 population of 414,000 represents a 62 percent increase since 1960. This population increase has been accompanied by an even larger growth in the number and size of commercial and industrial firms located in the area. Although the population center of Fulton County remains the City of Atlanta, that portion of the county's population located in North Fulton County has increased from 3.3 percent in 1950 to 9.2 percent in 1970. North Fulton County has also experienced significant growth and development since 1960.

37. As of January 1, 1971, Georgia law was changed to permit banks to branch throughout the counties in which they maintained banking offices. Because the C&S System maintained banking offices in DeKalb and Fulton Counties as of January 1, 1971, it could then legally branch and maintain banking offices

throughout both counties. In 1970, C&S Emory applied to the Federal Deposit Insurance Corporation to merge C&S Chamblee, C&S Park National, C&S South DeKalb and C&S Tucker into it. Excepting the application to merge C&S Tucker, which was denied, these merger proposals received approval on October 4, 1971. Also in 1970, C&S East Point applied to the Federal Deposit Insurance Corporation to merge C&S Sandy Springs and C&S North Fulton. These merger proposals were also approved on October 4, 1971.

V

OFFENSES ALLEGED

38. Beginning in 1959, the exact date being unknown to plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S Sandy Springs and various other persons to do those things described in paragraph 34.

39. Beginning in 1960, the exact date being unknown to plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S Chamblee and various other persons to do those things described in paragraph 34.

40. Beginning in 1965, the exact date being unknown to plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S Tucker and various other persons to do those things described in paragraph 35.

41. Beginning in 1967, the exact date being unknown to plaintiff, and continuing thereafter up to and including

the date of filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S North Fulton and various other persons to do those things described in paragraph 34.

42. Beginning in 1967, the exact date being unknown to plaintiff, and continuing thereafter up to and including the date of filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S Park National and various other persons to do those things described in paragraph 34.

43. Beginning in 1969, the exact date being unknown to plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, defendants C&S National, C&S Holding, and various other persons entered into a combination with C&S South DeKalb and various other persons to do those things described in paragraph 34.

44. The aforesaid combinations described in paragraphs 38, 39, 40, 41, 42, and 43 have been and are jointly and severally, in unreasonable restraint of the above described interstate trade and commerce in violation of Section 1 of the Sherman Act.

45. Pursuant to the aforesaid unlawful combinations the defendants have done, among others, those things described in paragraphs 34 and 35 above.

46. Each of the defendants C&S Chamblee, C&S Park National, and C&S South DeKalb have entered into agreements with C&S Emory which, if carried out, will result in the merger of C&S Chamblee, C&S Park National and C&S South DeKalb into C&S Emory. Each of the defendants C&S Sandy Springs and C&S North Fulton have entered into agreements with C&S East Point, which if carried out, will result in

the merger of C&S Sandy Springs and C&S North Fulton into C&S East Point. The Board of Directors of the Federal Deposit Insurance Corporation approved these proposed mergers on October 4, 1971.

47. The joint and several effects of the aforesaid agreements to merge may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act.

VI

EFFECTS

48. The effects of the offenses alleged in paragraphs 38 through 47 of this complaint are, among others, the following:

(a) Actual competition and the potential for increased competition between and among the defendant commercial banks have been and will be eliminated and unreasonably restrained;

(b) Competition generally in commercial banking in DeKalb County, Fulton County, North Fulton County, and the Atlanta Area has been and will be substantially lessened; and

(c) Concentration in commercial banking in DeKalb County, Fulton County, North Fulton County, and the Atlanta Area will be substantially increased.

PRAYER

WHEREFORE plaintiff prays

1. That the aforesaid combinations described in paragraphs 38 through 43 of this

complaint be adjudged to be unlawful and in violation of Section 1 of the Sherman Act.

2. That the defendants, their successors, assignees, and transferees, and their officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the aforesaid offenses, and from engaging in other combinations, conspiracies, contracts, agreements, understandings or concerts of action having similar purposes or effects, and from adopting or following any practices, plans, or programs having similar purposes or effects.


3. That the aforesaid mergers described in paragraph 46 of this complaint, pursuant to the agreements described therein, be adjudged to be unlawful and in violation of Section 7 of the Clayton Act.

4. That the defendants and all persons acting on their behalf be enjoined from carrying out the aforesaid mergers, or any similar plans or agreements, the effect of which would be in any way to merge, consolidate, or in any other way combine the businesses of the defendants.


5. That defendants C&S National, C&S Holding, C&S Emory, C&S East Point, and all persons controlled either directly or indirectly by C&S National be enjoined for a period of ten years from the date of judgment in this action from acquiring control over or merging, consolidating, or combining with any other commercial banking organizations operating in the Atlanta Area.

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

7. That the plaintiff recover the costs of this suit.


JOHN N. MITCHELL
Attorney General

DONALD A. KIRKALD


RICHARD W. MCCLARIN
Assistant Attorney General

JOE SEIS


BADDIA J. RASHID

TIMOTHY BURKE

ROBERT B. HUMMEL

KENNETH D. STEPH

WILLIAM E. SWOPE

CURTIS L. FRISBIE, JR.

Attorneys, Department of
Justice

Attorneys, Department of
Justice
Antitrust Division
1776 Peachtree Street, N.W.
Suite 420
Atlanta, Georgia 30309
Telephone: 526-3828

JOHN W. STOKES, JR.
United States Attorney