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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil Action No.
)	S-76-360-TJM
v.)	Relief Sought:
)	
GUILD SAVINGS & LOAN)	Filed: June 30, 1976
ASSOCIATION,)	
)	
Defendant.)	

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 this action is 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 the Sherman Act, 15 U.S.C. §1.

2. Defendant Guild Savings & Loan Association maintains offices, transacts business and is found within the Eastern District of California.

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II.

DEFINITIONS

3. As used herein:

(a) "Mortgages" means long-term loans for the purchase of a single-family residences, the loans to be secured by the properties purchased;

(b) "GNMA" means the Government National Mortgage Association, an agency of the federal government, created to subsidize mortgages for residential buildings;

(c) "GNMA mortgages" means low-interest mortgages, subsidized by GNMA, for the purchase of single-family homes;

(d) "lender" means commercial banks, mortgage brokers, savings and loan associations, and others authorized by GNMA to originate loans under its subsidized mortgage program;

(e) "take-out commitment" means a promise by a lending institution to a builder to set aside a specified amount of funds which can be used at a later date by the builder's customers in financing their homes. Take-out commitments are made for both GNMA mortgages and conventional mortgages;

(f) "commitment fee" means a fee charged for the take-out commitment to the builder by the lender;

(g) "construction loans" means those monies borrowed at interest by a contractor to build homes;

(h) "FNMA" means the Federal National Mortgage Association, a publicly-held corporation, that offers a secondary market for the purchase and sale of mortgages; and

(i) "FHLMC" means the Federal Home Loan Mortgage Corporation, a government corporation, that offers a secondary market for the purchase and sale of mortgages.

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III.

THE DEFENDANT

4. Guild Savings and Loan Association is hereby made the defendant herein. Guild is a state chartered savings and loan association with its principal office and four branch offices in Sacramento, California. Guild is, among other things, a lender.

IV.

TRADE AND COMMERCE

5. During the early 1970's mortgages for single-family residences were either not available or were available only at a high interest rates ranging between 9 and 10 1/2 percent. The housing industry was in a depressed state. The Congress responded by passing the Emergency Home Purchase Act of 1974 (12 U.S.C. 1723e) a central purpose of which was to authorize the Secretary of Housing and Urban Development to make available low interest home mortgage money whenever the Secretary deemed the economic circumstances to warrant such action. A 1975 amendment (12 U.S.C. 1723e §206) authorized the Secretary to make available a maximum of \$10 billion in mortgage money at any given time. Mortgages under this program have a maximum interest rate of 7 1/2 percent.

6. The Act provides that the Secretary of Housing and Urban Development shall delegate the overall administration and policy direction of the emergency mortgage program to GNMA. GNMA distributes the mortgage funds to lenders through FNMA and FHLMC.

7. Each participating lender receives an allocation of GNMA mortgage money. A builder will then request that the lender commit a portion of its allocation of this money to his proposed project. The builder, in turn, will be able to

1 guarantee that qualifying purchasers will be able to finance
2 the purchase of the builder's homes at an interest rate
3 considerably below the prevailing market rate for conventional
4 mortgages. Thus, this take-out commitment of GNMA mortgage
5 money is valuable to the builder as it makes his homes more
6 attractive to home buyers.

7 8. For this take-out commitment, the lender can charge
8 the builder a commitment fee of a maximum of 1 percent of
9 the amount of the commitment. This commitment fee is then
10 remitted by the lender to GNMA.

11 9. In July, 1975, \$2 billion of GNMA mortgage funds
12 were released for distribution to lenders. The defendant
13 received an allocation of \$2,374,000. The defendant committed
14 its entire allocation of these funds to builders in Eastern
15 California and it used various instrumentalities of inter-
16 state communications systems in doing so. Documentation
17 concerning the mortgages and the commitment fees received
18 from the builders by the defendant were forwarded in inter-
19 state commerce to FHLMC or FNMA in Washington, D. C. Mortgages
20 held by the defendant under this program were sold and
21 forwarded from California in interstate commerce to FHLMC
22 or FNMA. Thus, the allocation and commitment of GNMA mortgage
23 funds, the fees for such commitments, and the GNMA mortgages
24 themselves are in interstate commerce.

25 10. Building materials used by builders are shipped in
26 interstate commerce in substantial quantities. The avail-
27 ability of low interest GNMA mortgage funds has a direct
28 influence on the decision of a builder to build houses,
29 since it increases the saleability of these houses. Thus,
30 allocation and commitment of GNMA mortgage funds and the
31 terms under which such allocations and commitments are made
32 have a direct and substantial effect on homebuilding and

1 the interstate flow of building materials.

2 V.

3 VIOLATION ALLEGED

4 11. Beginning in 1975, the exact date being unknown
5 to the plaintiff, and continuing thereafter up to the date
6 of the filing of this Complaint, the defendant has entered
7 into contracts with builders for the commitment of GNMA
8 mortgage funds which have been and are in unreasonable
9 restraint of the above-described interstate trade and
10 commerce in violation of Section 1 of the Sherman Act
11 (15 U.S.C. §1). Said violation is continuing and will
12 continue unless the relief hereinafter prayed for is granted.

13 12. Under the terms of these contracts, the defendant
14 would commit GNMA mortgage funds to the builders on the
15 condition that the builders obtain from the defendant
16 the construction loans for the houses to be financed by
17 GNMA mortgages, or that the builders purchase a take-out
18 commitment for conventional mortgages from the defendant.

19 VI.

20 EFFECTS

21 13. The aforesaid violation has had, among other, the
22 following effects:

23 (a) builders who enter such contracts are
24 restrained from obtaining construction loans on the
25 properties submitted under the GNMA commitments or conven-
26 tional take-out commitments from other lenders; and

27 (b) lenders which compete with defendant are
28 deprived of the opportunity to issue construction loans
29 or conventional take-out commitments to such builders.

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DOJ

PRAYER


WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant has entered into contracts, agreements, or understandings in interstate trade and commerce, as hereinabove alleged, in violation of Section 1 of the Sherman Act.

2. That the corporate defendant, its successors, assignees, transferees, directors, officers, agents, employees, representatives, and all other persons or corporations acting or claiming to act on its behalf, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the aforesaid violations, and from engaging in any other contracts, agreements, understandings, or practices which condition the availability of GNMA mortgage commitments upon the agreement of the builder to obtain its construction loans or conventional take-out commitments from the defendant.

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

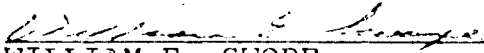
4. That the plaintiff recover the cost of this suit.


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