

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

copy

UNITED STATES OF AMERICA,  
Plaintiff,

v.

CASSADY, FULLER & MARSH;  
DOWLING & CARMICHAEL;  
PITTMAN, WHITTAKER & HOOKS;  
ROWE, ROWE & SAWYER;  
and  
S. MARK JORDAN,  
Defendants.

Civ. No.: 80-110-5

Filed: 12/9/80

Complaint for  
Injunctive Relief

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 these proceedings are instituted under Section 4 of the Sherman Act, 15 U.S.C. § 4, to prevent and restrain the violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as hereinafter alleged.

2. The defendants are found and do business within the Middle District of Alabama.

II

DEFENDANTS

3. The partnerships named below are made defendants herein:

Cassady, Fuller & Marsh  
Dowling & Carmichael  
Pittman, Whittaker & Hooks  
Rowe, Rowe & Sawyer

Each of said partnerships is organized and exists under the laws of the State of Alabama, and each has offices in Enterprise, Alabama.

4. S. Mark Jordan is an attorney-at-law admitted to practice in the State of Alabama who offers legal services for hire and has offices in Enterprise, Alabama.

5. Each of the above-named defendants is engaged in the closing of residential real estate transactions for hire.

### III

#### CO-CONSPIRATORS

6. Various persons, not made defendants herein, participated as co-conspirators with the defendants in the violation hereinafter alleged and have performed acts and made statements in furtherance thereof.

### IV

#### DEFINITION

7. As used herein, the term "real estate closing" means a service which includes compiling the necessary papers to conclude a real estate transaction, obtaining the necessary signatures on those papers, arranging and aiding in the transfer of funds from a lender to the seller and others, and recording the transaction.

### V

#### TRADE AND COMMERCE

8. Attorneys provide a wide range of services, including the closing of residential real estate transactions. Such transactions include the original sale of newly built homes and subsequent sales, whether financed by new loans or by an assumption of an existing loan.

9. The defendants provide a substantial percentage of the residential real estate closing services provided by attorneys in the Enterprise, Alabama area.

10. A substantial number of persons using the services of the defendants in connection with the purchase or sale of residential real estate in the Enterprise, Alabama area are

persons who move into the Enterprise, Alabama area from states other than Alabama, or persons who move from the Enterprise, Alabama area to places outside of Alabama.

11. A substantial amount of the funds used in financing residential real estate transactions in the Enterprise, Alabama area move into the State of Alabama in interstate commerce. In addition, more than 80% of such funds are guaranteed or insured under programs of agencies of the United States government headquartered in the District of Columbia.

12. The defendants also assist purchasers of real estate in obtaining title insurance for their property. A substantial amount of funds used to purchase such title insurance moves in interstate commerce from these purchasers in the State of Alabama to title insurance companies located outside of the State of Alabama.

13. The defendants purchase and use office supplies and equipment which move in a continuous and uninterrupted flow of interstate commerce from sources located outside the State of Alabama to the defendants.

14. The aforesaid activities of, and services provided by, defendants are within the flow of interstate commerce or have a substantial effect on interstate commerce.

## VI

### VIOLATION ALLEGED

15. Beginning at least as early as May, 1980, and continuing to the present, the defendants and their co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The unlawful combination and conspiracy may continue unless the relief prayed for is granted.

16. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and their co-conspirators, the substantial terms of which are to raise, fix, maintain and stabilize their fees for residential real estate closings in the Enterprise, Alabama area.

17. For the purpose of formulating and effectuating the aforesaid combination and conspiracy, the defendants and their co-conspirators have done those things which they combined and conspired to do, including increasing the fees for residential real estate closings and maintaining their fees at these agreed upon levels.

## VII

### EFFECTS

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

- (a) fees charged by the defendants for residential real estate closings have been raised, fixed, maintained, and stabilized at artificial and non-competitive levels;
- (b) price competition among the defendants for residential real estate closings has been restrained; and
- (c) persons using the real estate closing services of the defendants have been unable to purchase such services at competitively determined prices.

## VIII

### PRAYER

Wherefore, Plaintiff prays:

- 1. That the Court adjudge and decree that the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

2. That the defendants be perpetually enjoined and restrained from continuing, maintaining, reviving, or renewing the aforesaid illegal combination and conspiracy and from engaging in any other combination, conspiracy, agreement, practice, understanding, or concert of action having a similar purpose or effect.

3. That the defendants be perpetually enjoined and restrained from exchanging with each other, or any other attorney, information relating to fees for legal or related services.

4. That the plaintiff have such other and further relief as the nature of the case may require and the Court deems just and proper.

  
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