

File

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil No. MO-81-CA-20
v.)	
)	<u>EQUITABLE RELIEF REQUESTED</u>
BUSINESS INVESTMENT AND)	
DEVELOPMENT CORP.,)	Filed: February 27, 1981
)	
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 defendant and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Sherman Act (15 U.S.C. § 4) in order to prevent and restrain the continuing or recurring violation by the defendant of Section 1 of the Act (15 U.S.C. § 1).

2. The defendant, Business Investment and Development Corp. ("BIDCO"), maintains an office, transacts business and is found within the Western District of Texas.

II

THE DEFENDANT

3. BIDCO is made a defendant. It is an investment corporation organized and existing under the laws of the State of Texas, with its headquarters and principal place of business in Odessa, Texas. Of the thirty-four persons who own BIDCO stock, thirty own or operate repossession agencies. All

BIDCO officers and directors own or operate repossession agencies. Among other businesses, BIDCO owns and operates a subsidiary national repossession service organization, called American Lenders Service Company ("ALSCO"). ALSCO has entered into licensing agreements with approximately sixty individuals or entities ("licensees") who own or operate independent repossession agencies. These include the thirty BIDCO shareholders who were, prior to the establishment of ALSCO, operating independent repossession agencies.

III

CO-CONSPIRATORS

4. Various individuals and business entities, not made defendants, have participated as co-conspirators with the defendant and have performed acts and made statements in furtherance of the violation alleged.

IV

TRADE AND COMMERCE

5. "Repossessors," or adjusters as they are sometimes called, provide services for banks, credit unions and other lenders that seek to recover merchandise sold under security agreement where the debtor has forfeited possessory rights by defaulting on loan terms. Repossessors act as agents for lenders and furnish a variety of services to them, including tracing of property, collection and adjustment of loans, as well as repossession, sale or return of collateral.

6. Automobiles and other automotive vehicles are the property most often reclaimed by repossessors. Subject to transportation costs, repossessors can and do travel considerable distances and cross state lines to repossess property in other states where they meet appropriate licensing

standards. Repossessors are in actual or potential competition with all other repossessors who have the ability to serve all or any part of their service area.

7. BIDCO presently has approximately sixty licensees located in various cities and states throughout the United States. These entities are licensed by BIDCO through its subsidiary, ALSCO, to provide repossession services under the name of ALSCO for its clients.

8. From at least 1979 to the present, ALSCO licensees have furnished repossession services to clients across state lines, and referred business to, and otherwise done business with, licensees in other states. BIDCO and ALSCO are engaged in, and their activities affect, interstate commerce.

V

VIOLATION ALLEGED

9. Beginning at least as early as 1979, the exact date being unknown to the plaintiff, and continuing to the date of this complaint, BIDCO and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). This violation may continue or recur unless the relief prayed for is granted.

10. The combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among BIDCO and co-conspirators to eliminate price and other forms of competition in the trade and commerce of repossession services.

11. In formulating and effectuating the combination and conspiracy BIDCO and co-conspirators did those things which they combined and conspired to do including, among other things, the following:

- (a) Agreed to, prepared, and published a fee schedule for repossession services;

- (b) Agreed to observe the fee schedule;
- (c) Restricted the area for which each ALSCO licensee can advertise and provide reposessor services;
- (d) Restricted the number of persons who can obtain an ALSCO license to operate in each license area; and
- (e) Required that each licensee not engage in any competitive enterprise not approved of by ALSCO.

VI

EFFECTS OF THE CONSPIRACY

12. This combination and conspiracy has had the following effects, among others:

- (a) Competition between and among ALSCO licensees in the furnishing of repossession services has been restrained;
- (b) Competition in the provision of repossession services has been restrained;
- (c) Prices for the furnishing of repossession services¹ by ALSCO licensees have been artificially fixed, maintained and stabilized;
- (d) Access by ALSCO licensees to certain geographic markets has been restrained; and
- (e) Purchasers of reposessor services have been deprived of the opportunity to purchase reposessor services in an open and competitive market.

PRAYER

WHEREFORE, plaintiff prays:

1. That the combination and conspiracy be decreed to be unlawful and in violation of Section 1 of the Sherman Act.

2. That the defendant be enjoined from continuing, reviving, or renewing the combination and conspiracy, and from entering into, maintaining or participating in any contract, agreement, understanding, plan, program or other arrangement having a similar purpose or effect.

3. That the defendant, BIDCO, and all those acting in concert with it, be enjoined from:

- (a) Agreeing to, preparing, publishing, or encouraging ALSCO licensees or any other persons to adhere to any price schedule or suggested fee for repossession services; and
- (b) Taking any action to restrict any or all ALSCO licensees as to any fee they may charge, the geographic area they may service, or the advertising of the geographic area they may service.

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