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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BANKAMERICA CORPORATION;  
BANK OF AMERICA NATIONAL TRUST  
& SAVINGS ASSOCIATION  
BANKERS TRUST NEW YORK CORPORATION;  
BANKERS TRUST COMPANY;  
THE PRUDENTIAL INSURANCE COMPANY  
OF AMERICA;  
E. HORNSBY WASSON;  
PAUL A. GORMAN,

Defendants.

Civil Action No.

75-2109 RFP

Filed:

October. 6, 1975

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted against the defendants under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 25), commonly known as the Clayton Act in order to prevent and restrain the continuing violation by the defendants, as

1 hereinafter alleged, of Section 8 of the Clayton Act (15 U.S.C.  
2 § 19). BankAmerica Corporation; Bank of America National Trust  
3 & Savings Association; Bankers Trust New York Corporation;  
4 Bankers Trust Company; and The Prudential Insurance Company  
5 of America conduct business and are found within this district.

6 II

7 THE DEFENDANTS

8 2. BankAmerica Corporation (hereinafter referred to as  
9 "BankAmerica") is made a defendant herein. BankAmerica is a  
10 bank holding company organized and existing under the laws of  
11 the State of Delaware and maintains its principal place of  
12 business in San Francisco, California. BankAmerica has  
13 capital, surplus, and undivided profits aggregating more than  
14 \$1,000,000 and is not a bank, banking association, trust  
15 company or common carrier subject to the Act to regulate  
16 commerce approved February 4, 1887.

17 3. Bank of America National Trust and Savings  
18 Association (hereinafter referred to as "Bank of America")  
19 is made a defendant herein. Bank of America is a banking  
20 association organized under the laws of the United States  
21 of America, and is a wholly owned subsidiary of BankAmerica.  
22 Bank of America maintains its principal place of business in  
23 San Francisco, California and has capital, surplus, and  
24 undivided profits aggregating more than \$1,000,000.

25 4. Bankers Trust New York Corporation (hereinafter  
26 referred to as "Bankers") is made a defendant herein. Bankers  
27 is a bank holding company organized and existing under the  
28 laws of the State of New York and maintains its principal  
29 place of business in New York, New York. Bankers has capital,  
30 surplus, and undivided profits aggregating more than  
31 \$1,000,000 and is not a bank, banking association, trust  
32 company or common carrier subject to the Act to regulate

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commerce approved February 4, 1887.

5. Bankers Trust Company (hereinafter referred to as "Bankers Trust") is made a defendant herein. Bankers Trust is a banking association organized under the laws of the United States of America, and is a wholly owned subsidiary of Bankers. Bankers Trust maintains its principal place of business in New York, New York and has capital, surplus, and undivided profits aggregating more than \$1,000,000.

6. The Prudential Insurance Company of America (hereinafter referred to as "Prudential") is made a defendant herein. Prudential is a corporation organized and existing under the laws of the State of New Jersey and maintains its principal place of business in Newark, New Jersey. Prudential has capital, surplus, and undivided profits aggregating more than \$1,000,000 and is not a bank, banking association, trust company or common carrier subject to the Act to regulate commerce approved February 4, 1887.

7. E. Hornsby Wasson is made a defendant herein. Mr. Wasson maintains offices at Bank of America Center, San Francisco, California. During the period February 21, 1967 to June 5, 1975, Mr. Wasson served at the same time as a director of defendants BankAmerica, Bank of America and Prudential. On May 28, 1975, plaintiff, through its counsel, notified Mr. Wasson that it intended to file this complaint. On June 5, 1975, Mr. Wasson resigned as a director of BankAmerica and Bank of America.

8. Paul A. Gorman is made a defendant herein. Mr. Gorman maintains offices at Prudential Plaza, Newark, New Jersey. Mr. Gorman has been and is now a director of defendants Bankers, Bankers Trust, and Prudential.

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III

DEFINITION

9. The "corporate defendants" herein are BankAmerica; Bank of America, Bankers, Bankers Trust and Prudential. Each reference herein to any one of the corporate defendants includes all subsidiaries and divisions of said corporate defendant which are not named as defendants.

IV

TRADE AND COMMERCE

10. A supply of credit is a necessary part of the trade and commerce of the United States. It is essential to the operations of state and local governments, the expansion of large industries and the establishment of small business. Credit in the form of mortgages and real estate loans finances the construction and purchase of commercial and industrial buildings, multiple and single family housing. Business entities that compete in the extension of credit for these purposes include commercial banks and insurance companies.

11. Life insurance companies also extend loans to policy-holders which are secured by the cash value of the life insurance policy. Such loans, known as "policy loans," compete directly with the varied loans offered by commercial banks to consumers.

12. As of December 31, 1974, Bank of America had total deposits of \$50.7 billion and total resources of \$60.4 billion. The bank's lending services include the entire range of real estate, commercial and consumer loans, and are utilized by customers throughout the nation and around the world. As of December 31, 1974, it had total loans in excess of \$30 billion, including commercial loans exceeding \$10 billion. On the same date, the bank's installment credit totaled approximately \$4.4 billion, which included a variety of installment loans

1 to consumers under the widely known trademark "Timeplan." In  
2 1974, Bank of America was the nation's largest real estate  
3 lender holding over \$5 billion in real estate mortgage loans.

4 13. As of December 31, 1974, Bankers and its subsidiaries  
5 had total deposits of \$16.9 billion and total resources of  
6 \$20.4 billion. On the same date, Bankers' total loans  
7 exceeded \$12.3 billion. Of this amount, approximately  
8 \$3.5 billion consisted of commercial and industrial loans,  
9 over \$700 million consisted of installment credit, and  
10 approximately \$1.2 billion consisted of real estate loans.  
11 Bankers provides lending services which include the entire  
12 range of real estate, commercial and consumer loans, and are  
13 utilized by customers throughout the nation and around the  
14 world. In 1974, Bankers Trust accounted for approximately  
15 94 percent of the assets and revenues of Bankers.

16 14. Defendant Prudential has been and is now engaged in  
17 the life insurance business. It is the largest insurance  
18 company in the United States and does a substantial volume  
19 of business in the State of California. As of December 31,  
20 1974, it had total assets in excess of \$35 billion, including  
21 outstanding mortgage loans of more than \$12 billion. Of this  
22 amount, \$1.6 billion consisted of mortgage loans on real  
23 estate located in the State of California.

24 15. Each of the corporate defendants has regularly used  
25 interstate communication, including the mails, telephone and  
26 telegraph, to conduct business with customers located through-  
27 out the United States. Customers located throughout the United  
28 States have regularly used interstate communication, including  
29 the mails, telephone and telegraph, to make deposits, to pay  
30 loans, to pay premiums or accounts, to apply for and obtain  
31 credit, and obtain various goods and services made available  
32 by each of said corporate defendants. Credit advanced by

1 the corporate defendants has been used regularly to finance  
2 interstate transactions. The corporate defendants are all  
3 engaged in interstate commerce.

4 16. By virtue of their businesses and locations of opera-  
5 tions, the defendants BankAmerica and Bank of America have been  
6 and are now in competition with defendant Prudential in the  
7 extension of various types of credit, including mortgage and  
8 real estate loans, installment purchase plans, and other forms  
9 of consumer credit, so that the elimination of competition by  
10 agreement between BankAmerica and/or Bank of America and  
11 Prudential would constitute a violation of the antitrust laws.

12 17. By virtue of their businesses and locations of opera-  
13 tions, the defendants Bankers and Bankers Trust have been and  
14 are now in competition with defendant Prudential in the exten-  
15 sion of various types of credit, including mortgage and real  
16 estate loans, installment purchase plans, and other forms of  
17 consumer credit, so that the elimination of competition by  
18 agreement between Bankers and/or Bankers Trust and Prudential  
19 would constitute a violation of the antitrust laws.

20 V

21 VIOLATIONS ALLEGED

22 18. The defendant E. Hornsby Wasson served at the same  
23 time as a director of the defendants BankAmerica, Bank of  
24 America and Prudential in violation of Section 8 of the  
25 Clayton Act from February 21, 1967 to June 5, 1975, at which  
26 time he resigned as a director of BankAmerica and Bank of  
27 America in anticipation of the filing of this complaint.

28 19. The defendants BankAmerica, Bank of America and  
29 Prudential have each permitted the defendant E. Hornsby Wasson  
30 to be elected and to serve at the same time as a director of  
31 both the defendants BankAmerica, Bank of America and the defen-  
32 dant Prudential, in violation of Section 8 of the Clayton Act.

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20. Paul A. Gorman has been and is now a director at the same time of defendants Bankers, Bankers Trust, and Prudential, in violation of Section 8 of the Clayton Act.

21. The defendants Bankers, Bankers Trust, and Prudential have each permitted the defendant Paul A. Gorman to be elected and to serve at the same time as director of both the defendants Bankers, Bankers Trust, and the defendant Prudential in violation of Section 8 of the Clayton Act.

22. The defendants will continue to violate Section 8 of the Clayton Act unless the relief prayed for herein is granted.

PRAYER

WHEREFORE, plaintiff prays:

1. That it be adjudged and decreed that the defendants have violated Section 8 of the Clayton Act.

2. That the defendant E. Hornsby Wasson be perpetually enjoined from becoming a director, or serving as a director in any two or more competing corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in interstate commerce.

3. That the defendant Paul A. Gorman be ordered and directed immediately to resign his directorship in either the defendants Bankers and Bankers Trust, or the defendant Prudential, as the Court shall direct, and immediately to withdraw from participation in the direction, control, or conduct of the business of the defendant from which he has been directed to resign.

4. That the defendant Paul A. Gorman be perpetually enjoined from becoming a director, or serving as a director in any two or more competing corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in interstate commerce.

5. That the defendant BankAmerica and Bank of America be enjoined, so long as E. Hornsby Wasson continues to be a director of a competing corporation, from allowing him, or anyone acting in his stead, to serve as a director, or to participate in the direction, control or conduct of the business of such corporation or corporations.

6. That the defendant corporation or corporations from which the defendant Paul A. Gorman is directed to resign be compelled to accept his resignation and be enjoined, so long as he continues to be a director of a competing corporation, from allowing him, or anyone acting in his stead, to serve as a director, or to participate in the direction, control, or conduct of the business of such corporation.

7. That the defendants BankAmerica, Bank of America, Bankers, Bankers Trust, and Prudential each be perpetually enjoined from permitting any person who is a director of a competing corporation to serve as a director, officer, or employee of said defendant corporation or to participate in the direction, control or conduct of the business of said defendant corporation.

8. That the plaintiff have such other, further and different relief as the case may require and the Court may deem just and proper.

9. That the plaintiff recover its taxable costs.

DATED:

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THOMAS E. KAUPER  
Assistant Attorney General

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