

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
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 Plaintiff, :
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 v. :
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LONG ISLAND BOARD OF REALTORS, :
INC., :
:
 Defendant. :
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Civil Action No. 70 C 1418

Filed: 11/17/70

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 these proceedings are 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 said Act, 15 U.S.C. § 1.

2. The defendant maintains offices, transacts business, and is found within the Eastern District of New York.

II

THE DEFENDANT

3. The Long Island Board of Realtors, Inc. (hereinafter referred to as the "Board"), a corporation organized and existing under the laws of the State of New York and having its principal place of business at Farmingdale, New York, is named as defendant herein. The Board is an association of real estate brokers, salesmen and others engaged in the business of selling, leasing, managing or financing real estate and operating in Queens, Nassau and Suffolk Counties in the State of New York.

4. One of the functions of the Board is the operation of a Multiple Listing Service (hereinafter referred to as "MLS"). Many members of the Board who sell residential property in Queens, Nassau and Suffolk Counties are members of MLS and as such submit to the MLS listings of residential property located in these counties. The MLS prepares copies of all such listings and distributes them to MLS members.

III

THE CO-CONSPIRATORS

5. Members of the Board are not named as defendants, but are named as co-conspirators. There are approximately 1,300 real estate brokers, salesmen and others affiliated with the real estate business who are members of the Board. Many of these members participated as co-conspirators in the offense alleged herein and many of them performed acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

6. The activities of the Board and its members, as

described herein, are within the flow of interstate commerce and have an effect upon that commerce.

7. For a commission or fee, members of the Board render the service of bringing together buyers and sellers of real estate and of negotiating and arranging the prices and terms of real estate sales in Queens, Nassau and Suffolk Counties. Thousands of parcels of real estate are sold in these counties each year. MLS sales alone were over \$100,000,000 in 1969.

8. MLS provides potential home sellers with maximum coverage. If a home is offered for sale through multiple listing, all the broker members of the MLS and their sales people may join in its offering. The seller having his home multiple listed will sign a form contract distributed by the MLS binding him for a set time period at a set commission. Should the broker selling the house be different from the broker listing the house, those two brokers will split the selling commission according to the MLS rules.

9. Sellers desiring multiple listing are required by the Board to sign a multiple listing agreement giving the Board member broker the exclusive right to sell the house for a two to six month period. The Board requires that the sales commission charged in connection with the sale of a house be divided either 25 percent or 30 percent for the listing broker and 70 percent or 75 percent for the selling broker depending on the location of the house. Breach of Board requirements are punishable by either fines or suspension from the MLS.

10. Because of the transient nature of a significant portion of the population of the Metropolitan New York City

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area, of which Queens, Nassau and Suffolk Counties form a part, a substantial number of persons using the services of members of the Board in connection with real estate sales are persons moving into these counties from places outside the State of New York and persons moving from these counties to places outside the State of New York. Members of the Board attempt to attract buyers from other states and, in fact, many completed sales of real estate in Queens, Nassau and Suffolk Counties involve persons from outside the State of New York.

11. Members of the Board advertise their real estate listings located in Queens, Nassau and Suffolk Counties in newspapers whose circulations cover other states. Such advertising is intended to and does affect the aforesaid interstate movement of persons.

12. As an additional part of their service, members of the Board often assist their clients in securing financing necessary to the purchase of real estate in Queens, Nassau and Suffolk Counties and in obtaining property and title insurance for it. Such financing and insurance is sometimes obtained from sources outside the State of New York and moves in interstate commerce into the State of New York through the activities of the members of the Board.

V

OFFENSE

13. For many years up to and including the date of the filing of this complaint the defendant and co-conspirators have been continuously engaged in an unlawful combination and conspiracy to restrain the aforesaid trade and commerce in

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the sale of real estate in Queens, Nassau and Suffolk Counties in violation of Section 1 of the Sherman Act. Said unlawful combination and conspiracy is continuing and will continue unless the relief hereinafter prayed for is granted.

14. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action between the defendant and co-conspirators to raise, fix and maintain the commission rates for the sale of real estate in Queens, Nassau and Suffolk Counties.

15. In effecting the aforesaid combination and conspiracy, the defendant and co-conspirators have done the things which, as hereinbefore alleged, they agreed and conspired to do, including, among other things, the following:

- (a) circulated and adhered to published commissions to be charged for the sale of real estate in Queens, Nassau and Suffolk Counties;
- (b) enforced member broker commission rates by either fines or suspension from the MLS; and
- (c) refused to accept a listing for the MLS containing a rate of commission less than that recommended by the Board.

VI

EFFECTS

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

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(a) commission rates for the sale of real estate in Queens, Nassau and Suffolk Counties have been raised, fixed and maintained at an artificial and noncompetitive level;

(b) price competition in the sale of services among the co-conspirator real estate brokers and salesmen has been eliminated; and

(c) sellers of real estate in Queens, Nassau and Suffolk Counties have been denied the right to use the services of real estate brokers and salesmen at competitively determined rates of commission.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid trade and commerce in the sale of real estate in Queens, Nassau and Suffolk Counties in violation of Section 1 of the Sherman Act.

2. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program or device having a similar purpose or effect.

3. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from publishing.

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adopting, distributing or otherwise suggesting and from adhering or agreeing to adhere to any schedule of or other recommendation concerning amounts of commission or other fees for the sale of real estate in Queens, Nassau and Suffolk Counties.

4. That the defendant, its officers, directors and agents and all other persons acting or claiming to act on its behalf, and each of its members, be enjoined and restrained from convincing or attempting to convince members of the Board to adhere to any schedule of or other recommendation concerning amounts of commission or other fees for the sale of real estate in Queens, Nassau and Suffolk Counties.

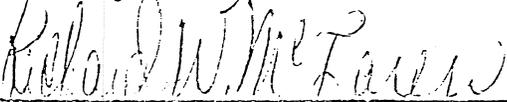
5. That the plaintiff have such other, further, general and different relief as the case may require and the Court may deem just and proper under the circumstances.

6. That the plaintiff recover its taxable costs.



JOHN N. MITCHELL
Attorney General

PHILIP F. CODY



RICHARD W. McLAREN
Assistant Attorney General

BERNARD KOBROFF

Attorneys, Department of Justice



BADDIA J. RASHID

NORMAN H. SEIDLER

Attorneys, Department of Justice

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