

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff

v.

WACHOVIA BANK AND TRUST COMPANY, N.A.,

Defendant

Civil Action

No. C-135-WS-71

Filed: 6/22/71

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 against the defendant named herein 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 as hereinafter alleged, of Section 1 of said act (15 U.S.C. § 1).

2. The defendant transacts business and is found within the Middle District of North Carolina.

II

DEFENDANT

3. Wachovia Bank and Trust Company, N.A. ("Wachovia") is made the defendant herein. It is a banking association

organized and existing under the laws of the United States of America, with its principal place of business in Winston-Salem, North Carolina. Wachovia is the largest commercial bank in the State of North Carolina and the thirty-eighth largest bank in the nation.

III

DEFINITION OF TERMS

4. The term "Holly Hill" refers to Holly Hill Mall Shopping Center, the only regional shopping center with an air-conditioned enclosed mall in the Burlington, North Carolina area. Holly Hill has more than fifty tenants, and has become the leading retail trade center in the area.

5. The term "night depository" refers to an assemblage consisting of a metal dropbox, a vault, and various alarm and detection apparatus employed by commercial banks for the purpose of collecting customers' deposits.

IV

TRADE AND COMMERCE

6. Commercial banks fill an essential and unique role in the economy. Their principal functions are the acceptance of deposits for safekeeping and convenience in making payments by check, the granting of loans or advances of funds to individuals and business firms, and the creation through deposits of net additions to the supply of money. The deposits a commercial bank is able to attract have a direct effect upon its ability to make loans and investments. Consequently, any increase

or decrease in a commercial bank's deposits has a corresponding effect on its ability to make loans and investments in competition with other commercial banks. Investments take many forms, including the purchase of United States Government and municipal bonds, and the purchase of marketable securities issued by such government agencies as the Federal Home Loan Bank and the Federal National Mortgage Association. The commercial banks located in the Burlington, North Carolina area, including Wachovia, make substantial loans and investments in states other than North Carolina.

7. Customers of Wachovia and other banks located in the Burlington, North Carolina area regularly utilize interstate communications, including the mails, telephone, and telegraph, to carry on their business with, and apply for and obtain the services provided by these banks. Wachovia and other banks located in the Burlington, North Carolina area regularly utilize interstate communications and conduct business with and provide services to, customers, other banks, and institutions located in states other than North Carolina.

V

OFFENSE ALLEGED

8. On or about July 11, 1969, the exact date to the plaintiff unknown, the defendant Wachovia entered into a contract with the lessor of space in Holly Hill, Holly Hill Realty, in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act. Said contract will

remain in effect and said offense will continue unless the relief hereinafter prayed for is granted.

9. The aforesaid contract between the defendant Wachovia and Holly Hill Realty consists of a continuing lease agreement the terms of which, among other things:

- (a) granted Wachovia the right to install and maintain a night depository within Holly Hill's enclosed mall; and
- (b) prohibited the lessor from allowing certain other commercial banks to install and maintain night depository facilities within Holly Hill's enclosed mall.

10. Pursuant to the aforesaid contract, Wachovia installed and has maintained a night depository facility within Holly Hill's enclosed mall, and the lessor has complied with the terms of the contract described in paragraph 9(b).

VI

EFFECTS

11. The aforesaid contract has had, among others, the following effects:

- (a) the ability of commercial banks, other than Wachovia, to attract the deposits of the tenants of Holly Hill has been suppressed and restrained; and
- (b) competition generally between Wachovia and other commercial banks in the Burlington, North Carolina area has been suppressed and restrained.

PRAYER

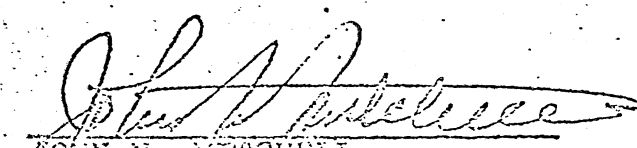
WHEREFORE, the plaintiff prays:

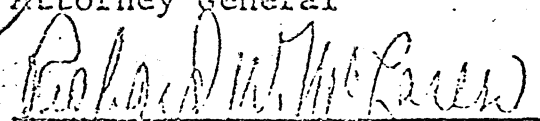
1. That the Court adjudge and decree that the aforesaid contract entered into between the defendant Wachovia and Holly Hill Realty is an unlawful contract in restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act.

2. That the defendant Wachovia be perpetually enjoined and restrained from continuing, enforcing or renewing the aforesaid contract, and that the defendant Wachovia, its officers, directors, and all other persons acting or claiming to act on its behalf be enjoined and restrained from entering into any similar contract, agreement, or understanding.

3. That the plaintiff have such other, further, general and different relief as the case may require.

4. That the plaintiff recover the costs of this action.


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