

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3472-47
)	
NATIONAL ASSOCIATION OF REAL)	Filed: October 4, 1950
ESTATE BOARDS, ET AL.,)	
)	
Defendants.)	

FINAL JUDGMENT

This cause having come on for hearing before this Court upon the complaint filed August 27, 1947, the several answers thereto, the record of the trial herein, and the opinion, findings of fact and conclusions of law of this Court, and final judgment having thereupon been entered by this Court on July 29, 1949, and

Appeal having been taken by the plaintiff to the Supreme Court of the United States and said Court having entered its opinion on May 8, 1950, and issued its mandate on June 13, 1950, reversing the judgment of this Court except as to the defendants National Association of Real Estate Boards and Herbert U. Nelson, and remanding this cause for proceedings in conformity with its opinion,

NOW, THEREFORE, upon the mandate of the Supreme Court, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The judgment entered herein on July 29, 1949, is vacated except as to the defendants National Association of Real Estate Boards and Herbert U. Nelson.

2. This Court has jurisdiction of the subject matter herein and of all the parties hereto under Section 3 of the Act of Congress

July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

3. By adopting, agreeing to observe and observing schedules of commissions and fees for services in the sale, exchange, lease and management of real property in the District of Columbia, the Washington Real Estate Board and each of its members have contracted, combined and conspired in restraint of trade and commerce of the District of Columbia in violation of Section 3 of the Sherman Act.

4. (A) (1) The schedule of commissions adopted by the Washington Real Estate Board is declared and adjudged illegal and is hereby cancelled.

(2) Paragraph 1 of Section 3 of the Code of Ethics of the Washington Real Estate Board is declared and adjudged illegal and is hereby cancelled.

(3) So much of paragraphs 3 and 6 of Section 3 of said Code of Ethics as refers to a schedule of commissions or Board rates of commission is declared and adjudged illegal and is hereby cancelled.

(4) So much of Subdivision Fourth, Article 2, of the Constitution and By-Laws of the Washington Real Estate Board as refers to "definite and uniform standards of contracts and charges" is declared and adjudged illegal and is hereby cancelled.

(B) The Washington Real Estate Board, and each of its members, are perpetually enjoined and restrained from publishing, adopting, agreeing to adhere, or adhering to the schedule of commissions or to any of the above provisions of the Code of Ethics or the Constitution and By-Laws of the said Board, as above set forth, and from publishing, adopting, agreeing to adhere, or adhering to any new or amended schedule of commissions or provisions of the Code of Ethics or Constitution and By-Laws having a like purpose or effect.

5. Each of the members of the Washington Real Estate Board is perpetually enjoined and restrained from entering into, carrying out, acting under or enforcing any contract, agreement or understanding with one or more other real estate agents or brokers to fix, maintain or stabilize any rate of commission or other charge for acting as agent or broker in the sale, exchange, lease or management of real property in the District of Columbia. But this shall not be construed to prohibit any such contract, agreement, or understanding when a party to such contract, agreement or understanding is acting as a principal rather than as agent or broker in a real estate transaction, or is acting jointly with the other party or parties as a broker or agent in selling, exchanging, leasing or managing real property.

6. The Washington Real Estate Board is perpetually enjoined and restrained from entering into any contract, agreement, or understanding or making any recommendation or suggestion or giving any advice by means of standard forms of contracts of sale, lease, or management, or by any other means whatsoever, regarding rates of commissions for services of brokers or agents in selling, exchanging, leasing, or managing real property in the District of Columbia. But this provision shall not be construed to prevent the Washington Real Estate Board or any officer, agent, employee or member thereof from arbitrating by means of a committee or otherwise, bona fide disputes between real estate brokers or agents as to divisions of commissions with respect to particular transactions.

7. For the purpose of securing compliance with this judgment, duly authorized representatives of the Department of Justice shall, on written request by the Attorney General, or an assistant attorney general, be permitted, subject to any legally recognized privilege, (1) upon reasonable notice to defendant Washington Real Estate Board, reasonable access, during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records

and documents in the possession or under the control of said defendant relating to any matters contained in this judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from them, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters; provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this judgment in which the United States is a party or as is otherwise required by law.

8. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification of any of the provisions thereof or the enforcement of compliance therewith and for the punishment of violations thereof.

9. This judgment shall be binding not only upon the Washington Real Estate Board and its members, but also upon the successors and assigns of and any person acting or claiming to act under, through or for said Board or members.

10. The plaintiff shall recover from the Washington Real Estate Board taxable costs of this suit, in the amount of \$100.60.

/s/ Alexander Holtzoff
United States District Judge

Dated: October 4, 1950