

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3
4

5 UNITED STATES OF AMERICA,

6 Plaintiff,

7 v.

8 LOS ANGELES REALTY BOARD,
9 LOS ANGELES REALTY BOARD,
10 SOUTHWEST BRANCH, HOLLYWOOD-
11 WILSHIRE DIVISION, PACIFIC
12 PALISADES DIVISION and
13 WESTWOOD DIVISION,

14 Defendants.

Civil Action No. 70-2855-CC

Entered: March 19, 1973

F I N A L

J U D G M E N T

15 Plaintiff, United States of America, having filed its
16 Complaint herein on December 18, 1970, and defendants having filed
17 their answers to said Complaint and plaintiff and defendants by
18 their respective attorneys having consented to the making and
19 entry of this Final Judgment without admission by either party in
20 respect to any issue:

21 NOW, THEREFORE, before any testimony has been taken
22 herein, without trial or adjudication of any issue of fact or law
23 herein and without this Final Judgment constituting evidence of an
24 admission by any party hereto with respect to any such issue, and
25 upon consent of the parties hereto, it is hereby:

26 ORDERED, ADJUDGED AND DECREED, as follows:
27

28 I

29 This Court has jurisdiction over the subject matter of
30 this action and of the parties hereto. The Complaint states claims
31 upon which relief may be granted against the defendants under
32 Section 1 of the Act of Congress of July 2, 1890, as amended (15

1 U.S.C. §1), commonly known as the Sherman Act.

2 3 II

4 As used in this Final Judgment:

5 (A) "Multiple Listing Service" shall mean any plan or
6 program controlled, operated or sponsored by a defendant for the
7 circulation of real property listings among multiple listing
8 service members;

9 (B) "Person" shall mean any individual, partnership,
10 firm, association, corporation, or other business or legal entity.

11 12 III

13 The provisions of this Final Judgment applicable to any
14 defendant shall also apply to each of its subsidiaries, successors,
15 and assigns, to its directors, officers, agents, employees, when
16 acting in such capacity, and, in addition, to all persons, includ-
17 ing members, in active concert or participation with any of them
18 who receive actual notice of this Final Judgment by personal
19 service or otherwise.

20 21 IV

22 Each defendant, whether acting unilaterally or in con-
23 cert or agreement with any other person, is enjoined and restrained
24 from:

25 (A) Fixing, establishing, or maintaining any rate or
26 amount of commissions or fees for the sale, lease or management of
27 real estate, or for obtaining financing in real estate trans-
28 actions;

29 (B) Urging, recommending, or suggesting that any person
30 including the members of said defendant adhere to any schedule or
31 other recommendation concerning the rate or the amount of commis-
32 sions or fees for the sale, lease, or management of real estate,

1 or for obtaining financing in real estate transactions;

2 (C) Adopting, suggesting, publishing or distributing
3 any schedule or other recommendation concerning the rate or amount
4 of commissions or other fees for the sale, lease or management of
5 real estate or for obtaining financing in real estate transactions;

6 (D) Adopting, adhering to, maintaining, enforcing or
7 claiming any rights under any by-law, rule, regulation, plan or
8 program which restricts or limits the right of any of its members
9 or any other real estate broker to seek any commission or fee in
10 accordance with his own business judgment;

11 (E) Taking any punitive action against any person
12 where such action is based upon the person's failure or refusal to
13 adhere to any schedule or other recommendation concerning the rate
14 or amount of commissions or other fees to be charged in connection
15 with the sale, lease or management of real estate, or for
16 obtaining financing in real estate transactions;

17 (F) Fixing, maintaining, suggesting, or enforcing any
18 percentage division of commissions between the selling and listing
19 broker;

20 (G) Adopting, adhering to, maintaining or enforcing any
21 by-law, rule, regulation, plan or program which would prohibit
22 any member from doing business with any person;

23 (H) Establishing, maintaining, or enforcing any fees
24 for membership in the Board or Multiple Listing Service which are
25 not related to the approximate cost, including reasonable reserves,
26 of maintaining the organization as a going concern.

27 V

28 Each defendant is ordered to insert in all its rules,
29 by-laws, regulations, contracts, and other forms which contain
30 a set commission rate, or division thereof, a provision that com-
31 mission rates for the sale, lease or management of property or for
32 obtaining financing in real estate transactions shall be negotiable

1 between the broker and his client, and that commission divisions
2 shall not be influenced by the defendant.

3
4 VI

5 (A) Each defendant is ordered and directed to admit to
6 membership any person duly licensed as a broker or salesman to sell
7 real estate by the appropriate governmental authority, and to allow
8 participation in its Multiple Listing Service by any member duly
9 licensed as a real estate broker by the appropriate governmental
10 authority, provided such person or member meets and satisfies reason-
11 able and non-discriminatory written requirements for such membership
12 or participation adopted and maintained by the defendant or its
13 Multiple Listing Service, which are not otherwise inconsistent with
14 this Final Judgment;

15 (B) Each defendant is ordered and directed within
16 ninety (90) days from the date of entry of this Final Judgment to
17 amend its by-laws, rules, regulations, contracts, and all forms
18 requiring a client's signature or which contain a set commission
19 rate for the sale, lease or management of real estate or for
20 obtaining financing in real estate transactions by eliminating
21 therefrom any provision which is contrary to or inconsistent
22 with any provision of this Final Judgment and to send amended
23 copies of each such by-law, rule, regulation, contract, and form
24 to each of its members;

25 (C) Each defendant is ordered and directed within
26 ninety-five (95) days from the date of entry of this Final
27 Judgment to file with the plaintiff a true copy of its by-laws,
28 rules, regulations, contracts, and forms, as aforesaid amended
29 and distributed;

30 (D) Upon amendment of their respective by-laws, rules,
31 regulations, contracts, and forms as aforesaid, each defendant is
32 thereafter enjoined and restrained from adopting, adhering to,
enforcing or claiming any rights under any by-law, rule, regulation,

1 plan or program which is contrary to or inconsistent with any of
2 the provisions of this Final Judgment.

3 4 VII

5 (A) Each defendant is ordered and directed to mail with-
6 in sixty (60) days after the date of entry of this Final Judgment,
7 a copy thereof to each of its members and within one hundred and
8 twenty (120) days from the ~~aforesaid~~ date of entry to file with the
9 Clerk of this Court, an affidavit setting forth the fact and manner
10 of compliance with this Section VII and Section VI(B) above;

11 (B) For ten years each defendant herein is ordered to
12 file with the plaintiff, on each anniversary date of this Final
13 Judgment, a report setting forth the steps which it has taken during
14 the prior year to advise said defendant's appropriate officers,
15 directors, and employees of its and their obligations under this
16 Final Judgment.

17 18 VIII

19 Nothing in this Final Judgment shall be deemed to pro-
20 hibit (A) the publication or circulation through a Multiple Listing
21 Service of information concerning any commission set in accordance
22 with this Final Judgment, or any division thereof which a listing
23 broker is willing to pay to a selling broker or (B) the adoption
24 and enforcement, directly or through a Multiple Listing Service, of
25 rules requiring (i) that neither the commission nor the percentage
26 division thereof, arrived at in accordance with this Final Judgment
27 and specified for a listing not to exceed a reasonable period, may
28 be altered without the consent of both the listing and the selling
29 broker, and (ii) that the said percentage division of the commis-
30 sion must upon receipt be promptly paid over to the selling or list-
31 ing broker, as the case may be.

IX

For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted:

(A) Access during its office hours, and in the presence of counsel if defendant chooses, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of such defendant relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of such defendant, and without restraint or interference from it to interview offices or employees of the defendant, who may have counsel present, regarding any such matters; and upon such request, each defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as

1 may be necessary or appropriate for the construction or carrying
2 out of this Final Judgment, for the modification of any of the
3 provisions hereof, for the enforcement of compliance therewith,
4 and for the punishment of violations thereof.

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6
7 /s/ CHARLES H. CARR
8 United States District Judge
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10 DATED: March 19, 1973.
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