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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
15 Plaintiff,

16 v.

17 CROCKER NATIONAL CORP.;
18 CROCKER NATIONAL BANK;
19 METROPOLITAN LIFE INSURANCE
20 COMPANY;
21 THE EQUITABLE LIFE ASSURANCE
22 SOCIETY OF THE UNITED
23 STATES;
24 THE MUTUAL LIFE INSURANCE
25 COMPANY OF NEW YORK;
26 OTTO H. MILLER;
27 EMMETT G. SOLOMON; and
28 THOMAS R. WILCOX,
29 Defendants.

Civil Action No. 75-2108 REF

Filed: October. 6, 1975

30 COMPLAINT

31 The United States of America, plaintiff, by its attorneys,
32 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

1 known as the Clayton Act, in order to prevent and restrain the
2 continuing violation by the defendants, as hereinafter alleged,
3 of Section 8 of the Clayton Act (15 U.S.C. §19). Crocker National
4 Corp.; Crocker National Bank; Metropolitan Life Insurance Company;
5 The Mutual Life Insurance Company of New York; and The
6 Equitable Life Assurance Society of the United States conduct
7 business and are found within this district.

8 II

9 THE DEFENDANTS

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

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

25 4. Metropolitan Life Insurance Company (hereinafter
26 referred to as "Metropolitan") is made a defendant herein.
27 Metropolitan is a corporation organized and existing under the laws
28 of the State of New York and maintains its principal place of
29 business in New York, New York. Metropolitan has capital, surplus,
30 and undivided profits aggregating more than \$1,000,000 and is not
31 a bank, banking association, trust company or common carrier subject
32 to the Act to regulate commerce approved February 4, 1887.

1 5. The Equitable Life Assurance Society of the United States
2 (hereinafter referred to as "Equitable") is made a defendant herein
3 Equitable is a corporation organized and existing under the laws
4 of the State of New York and maintains its principal place of
5 business in New York, New York. Equitable has capital, surplus,
6 and undivided profits aggregating more than \$1,000,000 and is not
7 a bank, banking association, trust company or common carrier subject
8 to the Act to regulate commerce approved February 4, 1887.

9 6. The Mutual Life Insurance Company of New York (herein-
10 after referred to as "MONY") is made a defendant herein. MONY is
11 a corporation organized and existing under the laws of the State
12 of New York and maintains its principal place of business in
13 New York, New York. MONY has capital, surplus, and undivided
14 profits aggregating more than \$1,000,000 and is not a bank, banking
15 association, trust company or common carrier subject to the Act
16 to regulate commerce approved February 4, 1887.

17 7. Otto N. Miller, is made a defendant herein. Mr. Miller
18 maintains offices at 555 Market Street, San Francisco, California.
19 Mr. Miller has been and is now a director of defendants Crocker,
20 Crocker Bank and Equitable.

21 8. Emmett G. Solomon, is made a defendant herein. Mr.
22 Solomon maintains offices at One Montgomery Street, San Francisco,
23 California. Mr. Solomon has been and is now a director of
24 defendants Crocker, Crocker Bank, and Metropolitan.

25 9. Thomas R. Wilcox, is made a defendant herein. Mr. Wilcox
26 maintains offices at One Chase Manhattan Plaza, New York, New York.
27 Mr. Wilcox has been and is now a director of defendants Crocker,
28 Crocker Bank and MONY.
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III

DEFINITION

10. The "corporate defendants" herein are Crocker, Crocker Bank, Metropolitan, Equitable, and MONY. 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

11. 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 businesses. 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.

12. Life insurance companies also extend loans to policyholders 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.

13. As of December 31, 1974, Crocker Bank had total deposits of approximately \$8.6 billion and total assets of \$10.3 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 of approximately \$6.3 billion, including real estate mortgage loans of more than \$1.5 billion and commercial loans exceeding \$3.9 billion. On the same date, the bank's installment credit totaled \$890 million, which included a variety of installment loans to consumers.

1 14. Defendant Metropolitan has been and is now engaged in
2 the life insurance business. It is licensed to operate in all 50
3 states and does a substantial volume of business in the State of
4 California. As of December 31, 1974, it had total assets in
5 excess of \$32 billion, including outstanding mortgage loans of
6 approximately \$12 billion. Of this amount, \$1.6 billion consisted
7 of mortgage loans on real estate located in the State of California.

8 15. Defendant Equitable has been and is now engaged in the
9 life insurance business. It is licensed to operate in all 50
10 states and does a substantial volume of business in the State of
11 California. As of December 31, 1974, it had total assets in excess
12 of \$17.5 billion, including outstanding mortgage loans of \$6.8
13 billion. Of this amount, \$785 million consisted of mortgage loans
14 on real estate located in the State of California.

15 16. Defendant MONY has been and is now engaged in the life
16 insurance business. It is licensed to operate in all 50 states
17 and does a substantial volume of business in the State of
18 California. As of December 31, 1974, it had total assets in excess
19 of \$4.3 billion, including outstanding mortgage loans of more than
20 \$1.2 billion. Of this amount, \$107 million consisted of mortgage
21 loans on real estate located in the State of California.

22 17. Each of the corporate defendants has regularly used
23 interstate communication, including the mails, telephone and
24 telegraph, to conduct business with customers located throughout
25 the United States. Customers located throughout the United States
26 have regularly used interstate communication, including the mails,
27 telephone and telegraph, to make deposits, to pay loans, to pay
28 premiums, or pay accounts, to apply for and obtain credit, and
29 obtain various goods and services made available by each of said
30 corporate defendants. Credit advanced by the corporate defendants
31 has been used regularly to finance interstate transactions. The
32 corporate defendants are all engaged in interstate commerce.

1 18. By virtue of its business and location of operations,
2 the defendants Crocker and Crocker Bank have been and are now
3 in competition with each of the other corporate defendants in the
4 extension of various types of credit, including mortgage and real
5 estate loans, and varied forms of consumer credit, so that the
6 elimination of competition by agreement between Crocker and Crocker
7 Bank and any one or more of the other corporate defendants would
8 constitute a violation of a provision of the antitrust laws.

9 V

10 VIOLATIONS ALLEGED

11 19. The defendant Otto N. Miller has been and is now a
12 director at the same time of the defendants Crocker, Crocker
13 Bank and Equitable in violation of Section 8 of the Clayton Act.

14 20. The defendants Crocker, Crocker Bank and Equitable
15 have each permitted the defendant Otto N. Miller to be elected
16 and to serve at the same time as a director of both the defendants
17 Crocker, Crocker Bank and the defendant Equitable in violation of
18 Section 8 of the Clayton Act.

19 21. The defendant Emmett G. Solomon has been and is now a
20 director at the same time of the defendants Crocker, Crocker Bank
21 and Metropolitan, in violation of Section 8 of the Clayton Act.

22 22. The defendants Crocker, Crocker Bank and Metropolitan
23 have each permitted the defendant Emmett G. Solomon to be elected
24 and to serve at the same time as a director of both the defendants
25 Crocker, Crocker Bank and the defendant Metropolitan, in violation
26 of Section 8 of the Clayton Act.

27 23. The defendant Thomas R. Wilcox has been and is now a
28 director at the same time of the defendants Crocker, Crocker Bank
29 and MONY, in violation of Section 8 of the Clayton Act.

30 24. The defendants Crocker, Crocker Bank and MONY have
31 each permitted the defendant Thomas R. Wilcox to be elected and to
32 serve at the same time as director of both the defendants, Crocker,

1 Crocker Bank and the defendant MONY, in violation of Section 8
2 of the Clayton Act.

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

5 PRAYER

6 WHEREFORE, plaintiff prays:

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

9 2. That the defendant Otto N. Miller be ordered and directed
10 immediately to resign his directorship either in the defendants
11 Crocker and Crocker Bank or the defendant Equitable, as the Court
12 shall direct, and immediately to withdraw from participation in
13 the direction, control, conduct of the business of the defendant
14 or defendants from which he has been directed to resign.

15 3. That the defendant Otto N. Miller be perpetually enjoined
16 from becoming a director, or serving as a director in any two
17 or more competing corporations, any one of which has capital,
18 surplus, and undivided profits aggregating more than \$1,000,000,
19 engaged in interstate commerce.

20 4. That the defendant Emmett G. Solomon be ordered and
21 directed immediately to resign his directorship either in the
22 defendants Crocker and Crocker Bank or the defendant Metropolitan,
23 as the Court shall direct, and immediately to withdraw from
24 participation in the direction, control, or conduct of the business
25 of the defendant or defendants from which he has been directed to
26 resign.

27 5. That the defendant Emmett G. Solomon be perpetually
28 enjoined from becoming a director, or serving as a director in any
29 two or more competing corporations, any one of which has capital,
30 surplus, and undivided profits aggregating more than \$1,000,000,
31 engaged in interstate commerce.

1 6. That the defendant Thomas R. Wilcox be ordered and directed
2 immediately to resign his directorship either in the defendants
3 Crocker and Crocker Bank or the defendant MONY, as the Court shall
4 direct, and immediately to withdraw from participation in the
5 direction, control or conduct of the business of the defendant or
6 defendants from which he has been directed to resign.

7 7. That the defendant Thomas R. Wilcox be perpetually
8 enjoined from becoming a director, or serving as a director in any
9 two or more competing corporations, any one of which has capital,
10 surplus, and undivided profits aggregating more than \$1,000,000,
11 engaged in interstate commerce.

12 8. That the defendant corporation or corporations from
13 which the defendant Otto N. Miller is directed to resign be
14 compelled to accept his resignation and be enjoined, so long as he
15 continues to be a director of a competing corporation, from allowing
16 him or anyone acting in his stead, to serve as a director, or
17 to participate in the direction, control or conduct of the
18 business of such corporation or corporations.

19 9. That the defendant corporation or corporations from
20 which the defendant Emmett G. Solomon is directed to resign be
21 compelled to accept his resignation and be enjoined, so long
22 as he continues to be a director of a competing corporation, from
23 allowing him or anyone acting in his stead, to serve as a director,
24 or to participate in the direction, control or conduct of the
25 business of such corporation or corporations.

26 10. That the defendant corporation or corporations from
27 which the defendant Thomas R. Wilcox is directed to resign be
28 compelled to accept his resignation and be enjoined, so long as
29 he continues to be a director of a competing corporation, from
30 allowing him, or anyone acting in his stead, to serve as a director,
31 or to participate in the direction, control or conduct of the
32 business of such corporation or corporations.

1 11. That the defendants Crocker, Crocker Bank, Metropolitan,
2 Equitable, and MONY each be perpetually enjoined from permitting
3 any person who is director of a competing corporation to serve as
4 a director, officer, or employee of said defendant corporation
5 or to participate in the direction, control or conduct of the
6 business of said defendant corporation.

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

10 13. That the plaintiff recover its taxable costs.

11 DATED:

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13
14 Thomas E. Kauper
15 THOMAS E. KAUPER
16 Assistant Attorney General

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