

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 79-1785
	)	
FIRST NATIONAL STATE	)	Filed: June 6, 1979
BANCORPORATION;	)	
FIRST NATIONAL STATE BANK	)	
OF CENTRAL JERSEY; and	)	
FIRST NATIONAL BANK OF	)	
SOUTH JERSEY,	)	
	)	
Defendants.	)	

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 defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 15 of the Clayton Act (15 U.S.C. § 25), in order to prevent and restrain the violation by the defendants, as hereinafter alleged, of Section 7 of the Clayton Act (15 U.S.C. § 18).

2. Each of the defendants has its principal place of business, transacts business, and is found within the District of New Jersey.

II

DEFINITIONS

3. As used herein, the "Atlantic City market" means the geographic area, as designated by the Philadelphia and

New York Federal Reserve Banks, which includes all of Atlantic County except the municipalities of Hammonton, Buena Vista Township, Buena Borough, Mullica Township, Folsom Borough, and the western section of Hamilton Township; and includes the northeastern section of Cape May County.

4. As used herein, the "Hammonton Market" means the geographic area, as designated by the New York and Philadelphia Federal Reserve Banks, which includes the following municipalities: Hammonton, Mullica, Folsom, the northwestern portion of Hamilton Township, the southeastern portion of Monroe, the northeastern portion of Franklin, the southern portion of Waterford, and the southern portion of Winslow.

### III

#### DEFENDANTS

5. First National State Bancorporation (hereinafter referred to as "Bancorporation") is made a defendant herein. Bancorporation is a registered bank holding company organized under the laws of New Jersey and controlling the following banks: First National State Bank of New Jersey; First National State Bank-County; First National State Bank of West Jersey; First National State Bank-Edison; First National State Bank of Central Jersey; and First National State Bank of Northwest Jersey. Bancorporation's principal place of business is in Newark, Essex County, New Jersey.

6. First National State Bank of Central Jersey (hereinafter referred to as "FNSB-Central") is made a defendant herein. FNSB-Central is a national banking association, organized and existing under the laws of the United States of America, with its principal place of business in Trenton, Mercer County, New Jersey.

7. First National Bank of South Jersey (hereinafter referred to as "South Jersey") is made a defendant herein.

South Jersey is a national banking association, organized under the laws of the United States of America, with its principal place of business in Atlantic County, New Jersey.

#### IV

##### TRADE AND COMMERCE

8. Commercial banks provide a combination of financial services unduplicated by other institutions. Among these services are the acceptance of deposits for safekeeping and convenience in making payments by check, the granting of loans to individuals and businesses, the renting of safety deposit boxes, the collection of drafts, bills, and other commercial instruments, the sale of cashier's checks, the purchase or sale of securities for customers, trust services, and computer and account services.

9. Bancorporation is the largest commercial banking organization in the State of New Jersey. It controls six banks which held, as of June 30, 1978, aggregate domestic deposits of \$1.987 billion, which constituted 7.6 percent of total domestic deposits held by New Jersey commercial banks. Bancorporation's subsidiary banks operated 112 offices as of June 30, 1978.

10. South Jersey is the sixteenth largest commercial banking organization as measured by total deposits in the State of New Jersey. As of June 30, 1978, it held total deposits of \$520.9 million, or 2.1 percent of total deposits held by New Jersey commercial banks. South Jersey operates 47 offices located in Atlantic, Cape May, Salem, Gloucester, Camden, and Burlington Counties, New Jersey.

11. New Jersey banking law permits statewide de novo branching into any city or town in the state except those which are the site of the head office of another bank and have a population of less than 10,000 persons. In Atlantic

County, of 26 municipalities, only Absecon and Linwood are closed to de novo branching.

12. Concentration of total deposits in the four leading banks in Atlantic County is higher than in any other county in the state. As of June 30, 1978, the ten commercial banks with offices in the county had total combined deposits of \$708 million therein. The two largest banks as measured by deposits in offices in Atlantic County held 70.4 percent of such deposits. The three largest banks held 81.3 percent and the four largest held 85.7 percent of such deposits. South Jersey is the largest commercial bank in Atlantic County as measured by total deposits in offices in Atlantic County. It operates 23 offices in Atlantic County, or approximately 40 percent of all offices operated by commercial banks in that county. As of June 30, 1978, those offices held total deposits of \$322 million, approximately 46 percent of total deposits held by commercial banks with offices in that county. Bancorporation's subsidiary, First National State Bank-West Jersey (hereinafter "FNSB-West Jersey"), operates three offices in Atlantic County. On June 30, 1978, those offices held total deposits of \$20 million, approximately 3 percent of total deposits held by commercial banks in that county. FNSB-West Jersey and South Jersey are substantial competitors in commercial banking in Atlantic County. They compete directly with each other and with other commercial banks located in Atlantic County in offering and performing commercial banking services.

13. Commercial banking in the Atlantic City market is highly concentrated. As of December 31, 1976, the eight commercial banks with offices in the market had total combined deposits of \$645 million therein. The two largest banks as

measured by deposits in offices in the Atlantic City market held 69.8 percent of such deposits. The three largest banks held 78.9 percent and the four largest banks held 85.4 percent of such deposits. South Jersey is the largest commercial bank in the Atlantic City market as measured by total deposits in offices in that market. As of December 31, 1976, its offices there held deposits of \$327 million, approximately 50.7 percent of total deposits held by commercial banks in that market. FNSB-West Jersey operates two offices in the Atlantic City market. On December 31, 1976, those offices held total deposits of \$17 million, approximately 2.7 percent of total deposits held by commercial banks in that market. FNSB-West Jersey and South Jersey are substantial competitors in commercial banking in the Atlantic City market. They compete directly with each other and with other commercial banks located in the Atlantic City market in offering and performing commercial banking services.

14. Commercial banking in the Hammonton market is highly concentrated. As of December 31, 1976, the eight commercial banks with offices in the market had total combined deposits of \$57 million therein. The two largest banks as measured by deposits in offices in the Hammonton market held 62.2 percent of such deposits. The three largest banks held 71.9 percent and the four largest banks held 80.4 percent of such deposits. South Jersey is the largest commercial bank in the Hammonton market as measured by total deposits in offices in that market. As of December 31, 1976, South Jersey's offices held total deposits of \$27.5 million, approximately 48.4 percent of total deposits held by commercial banks in that market. FNSB-West Jersey operates one office in the Hammonton market. On December 31, 1976, that office held total deposits of \$1.6 million, approximately 2.8 percent of total deposits held by commercial banks in

that market. FNSB-West Jersey and South Jersey are substantial competitors in commercial banking in the Hammonton market. They compete directly with each other and with other commercial banks located in the Hammonton market in offering and performing commercial banking services.

15. As a result of legalized casino gambling and recent expansion in other local industries, Atlantic County, the Atlantic City market, and the Hammonton market have experienced and will continue to experience significant growth in population and economic development. This growing population and commercial development is creating an expanding market for commercial banking services in each area.

16. Bancorporation has the capability and incentive to expand further within Atlantic County, the Atlantic City market, and the Hammonton market in various ways, including de novo branching or chartering a de novo bank. Bancorporation could enter towns closed to branching by chartering a de novo bank.

17. Customers of South Jersey, FNSB-Central, Bancorporation, and its other subsidiaries regularly utilize interstate communications, including the mails, telephone, and telegraph, to carry on their business with, apply for, and obtain the services provided by the defendants. Bancorporation, South Jersey and FNSB-Central have regularly utilized interstate communications, including the mails, telephone, and telegraph, to conduct business with customers and with other banks located in states other than New Jersey. Bancorporation, FNSB-Central and South Jersey clear checks through the Federal Reserve System's national check collection. These checks represent transactions which must pass through interstate commerce. A substantial number of these transactions represent payments for goods and services passing

through interstate commerce and a substantial number of payments were made in interstate commerce. Bancorporation, FNSB-Central, and South Jersey are engaged in interstate commerce.

V

VIOLATION ALLEGED

18. On or about January 6, 1978, defendants South Jersey and FNSB-Central entered into an agreement providing for the merger of South Jersey and FNSB-Central under the charter of FNSB-Central and with the title of First National State Bank of South Jersey. The agreement of merger was approved by the Comptroller of the Currency on May 8, 1979. The Comptroller's ruling requires the execution by defendants of good faith binding contracts for the divestiture of seven of their offices, five of which are located in Atlantic County, to non-affiliated banking institutions or organizations not previously represented or operating in the market areas.

19. The effect of the merger alleged in paragraph 18 may be substantially to lessen competition or to tend to create a monopoly in the aforesaid interstate trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) existing competition and the potential for increased competition in commercial banking between South Jersey and Bancorporation in Atlantic County, the Atlantic City market, and the Hammonton market will be eliminated;
- (b) potential competition between Bancorporation and South Jersey in Atlantic County, the

Atlantic City market, and the Hammonton market will be eliminated;

- (c) Bancorporation will be eliminated as a potential substantial competitive factor in commercial banking in Atlantic County, the Atlantic City market, and the Hammonton market;
- (d) concentration in commercial banking in Atlantic County, the Atlantic City market, and the Hammonton market will be significantly increased;
- (e) mergers and consolidations between other leading banks in New Jersey and banks in Atlantic County, the Atlantic City market, and the Hammonton market may be fostered, resulting in the continued or increased concentration of banking in these markets; and
- (f) actual and potential competition generally in commercial banking in Atlantic County, the Atlantic City market, and the Hammonton market may be substantially lessened.

PRAYER


WHEREFORE, plaintiff prays:

1. That the merger of South Jersey and FNSB-Central pursuant to the agreement described in paragraph 18 of this complaint be adjudged to be in violation of Section 7 of the Clayton Act.
2. That defendants and all persons acting on their behalf be enjoined from carrying out the aforesaid agreement of merger, or any similar plan or agreement, the effect of which would be to merge, consolidate, or in any other way combine the businesses of said defendants.



3. That the plaintiff have such other and further relief as the Court may deem just and proper.

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

  
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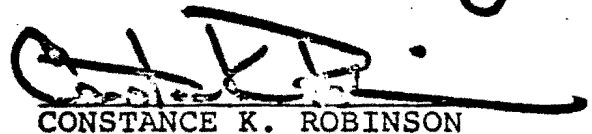
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