

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil No. 71-CIV-1109
v.)	
)	Filed: March 11, 1971
GENERAL ADJUSTMENT BUREAU, INC.,)	
)	
Defendant.)	

C O M P L A I N T

The United States of America, 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 these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. §4), as amended, commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendant, as hereinafter alleged, of Sections 1 and 3 of said Act.

2. The defendant, General Adjustment Bureau, Inc., transacts business and is found within the Southern District of New York.

II

DEFINITIONS

3. As used herein:

(a) "Property damage" shall mean damage to an insured's property caused by fire, windstorm, hail, riot, smoke, explosion, vehicles and aircraft or other peril;

(b) "Adjustment" shall mean the process of determining the amount payable by an insurer to an insured under an insurance contract;

(c) "Adjuster" shall mean a person or firm who represents the insurer in the adjustment of claims;

(d) "Settlement" shall mean the discharge of an obligation of an insurer to an insured under an insurance contract;

(e) "Shareholders" shall include all insurance companies owning or holding outstanding stock issued by General Adjustment Bureau, Inc. and all corporations owned or controlled by or closely affiliated with companies owning or holding stock issued by General Adjustment Bureau, Inc.;

(f) "Catastrophe" shall mean any disaster involving property damage estimated in the aggregate at \$1,000,000 or more in any one state;

(g) "Independent adjuster" shall mean a person, firm, corporation or other organization, not connected or affiliated in any way with an insurance company, who is engaged in the adjustment of claims;

(h) "Extended coverage insurance" shall mean insurance which protects the insured against damage to his property caused by windstorm, hail, smoke, explosion, riot, vehicles and aircraft;

(i) "Paid loss" shall mean the amount of loss for which money has been disbursed by the insurer;

(j) "Insurance company group" shall mean a group of several insurers under common ownership or management;

(k) "Claim" shall mean a demand for payment under a property damage insurance contract;

(l) "Loss" shall mean the amount for which the insurer becomes liable on occurrence of the event insured against under a property damage insurance contract;

(m) "Assessment billing schedule" shall mean that schedule utilized by General Adjustment Bureau, Inc. to determine the amount General Adjustment Bureau, Inc. is to charge for adjusting a claim.

III

DEFENDANT

4. General Adjustment Bureau, Inc. (hereinafter referred to as "GAB") is made the defendant herein. GAB is a corporation organized and existing under the laws of the State of New York and maintains its principal office at 123 William Street, New York, New York. From February 14, 1930 until June 1947, GAB was known as the Fire Companies' Adjustment Bureau, Inc.

Reference hereinafter to GAB includes all predecessor corporations.

IV

CO-CONSPIRATORS

5. Various other persons, firms, organizations and corporations, including shareholders, engaged in the business of writing property damage insurance or activities relating thereto or in the adjustment and settlement of claims, not made defendants herein, have participated as co-conspirators and are parties with GAB in the offense hereinafter charged, and have performed acts and have made statements in furtherance thereof.

V

NATURE OF TRADE AND COMMERCE

6. The writing of property damage insurance contracts constitutes an important segment of the insurance industry. Property damage insurance is sold by insurance companies, including shareholders, throughout the United States and in the District of Columbia, by the issuance of an insurance contract, commonly called a policy, in exchange for an amount of money, commonly called a premium. The insured may obtain property damage insurance directly from insurance companies or through insurance agents or other underwriting organizations representing an insurance company or companies, or through brokers who represent the insured. The property damage insurance business involves a continuous and indivisible stream of intercourse among states of the United States and the District of Columbia, and is composed of the collection of

premiums, payments of policy obligations and documents and communications essential to the negotiation and execution of policy contracts and the adjustment and settlement of claims or losses.

7. A vital phase of the property damage insurance business is the adjustment and settlement of claims. Insurance companies may use their own employees to determine the amount of damage, and some insurance companies give certain of their agents authority to adjust and settle small claims. However, because of company restrictions placed on the type of claims staff adjusters and agents are to handle, and the inability of staff adjusters or agents to adjust certain types of claims due to lack of experience or the location of the damaged property, insurance companies, including shareholders, require adjusting facilities in addition to their own.

8. An adjuster examines property damage to determine the amount payable or services to be rendered, if any, by an insurer to an insured under a property damage insurance contract. The process of adjustment and settlement of claims includes a continual transmission between home offices of insurance companies, claims managers, adjusters and claimants located in different states of the United States and the District of Columbia of claim forms, statements, reports, directives, checks and drafts, documents and communications of various kinds, all of which are essential to the adjustment and settlement of claims.

9. GAB is a nationwide adjusting organization, whose stock is owned by approximately 170 insurance companies. Of the 170 companies 159 are stock companies and 11 are mutuals. The 159 stock companies, which include virtually all of the major property damage insurers, own or control approximately 98.6 percent of the total outstanding stock of GAB. At the end of 1968 there were 305 stock insurance companies owning GAB stock or controlled by or affiliated with stock insurance companies owning GAB stock. These companies had approximately \$31.4 billion in assets, 74 percent of the total for all stock companies engaged in the property damage insurance field. All of GAB's stock is owned or controlled by insurance companies engaged in the sale of property damage insurance. Most of the shareholders own interests in or are members of other stock company organizations engaged in insurance underwriting, the adjustment of claims or endeavors closely allied therewith, and are represented on the governing bodies of such organizations. The latter sponsor a continuing use of GAB facilities.

10. GAB's Board of Directors, which consists of 22 members, is composed of executives of its shareholders. All corporate powers except those expressly reserved by statute to the shareholders are vested in and may be exercised by the Board of Directors or its Executive Committee. GAB's activities are carried on through a national office, five departmental offices and over 700 branch offices situated throughout the United States, including the District of Columbia.

11. GAB's Conference Committee, which is composed of senior loss executives of shareholders, meets with GAB's management to discuss adjusting policies and methods, including uniform adjusting practices and procedures. Claim adjustment practices and procedures are further coordinated between GAB and its shareholders by use of regional and local advisory committees or boards. The membership of these committees or boards consists of local shareholder claim and loss executives, executives of various shareholder service organizations and executives of general agencies representing shareholders.

12. In addition to GAB, there are several thousand independent adjusters located throughout the United States who are engaged in the business of adjusting property damage claims in competition with GAB. While some independent adjusters operate on a multi-state basis, the majority are small, one to five man businesses whose activities are confined to relatively small local areas. In contrast, GAB employs approximately 3,500 adjusters and, in 1968, adjusted 1,077,672 property damage claims, resulting in paid losses of over \$1 billion.

13. In the field of fire insurance, the paid losses resulting from claims adjusted by GAB in 1968 accounted for 71 percent of fire losses paid by all stock companies and over 60 percent of fire losses paid by all fire insurance companies. In the field of extended coverage insurance, the paid losses resulting from claims adjusted by GAB in 1968 accounted for 65 percent of the losses paid by all stock companies and 54 percent of the losses paid by all insurance

companies.

14. The adjustment and settlement of property damage claims is normally an element of vigorous competition among insurance companies. This competition is directed not only at purchasers of insurance, but also determines in part the success of an insurance company in attracting and retaining the more productive insurance agencies.

VI

OFFENSE CHARGED

15. Beginning in or about 1930, and continuing up to and including the date of the filing of this complaint, the defendant and the co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in the business of adjustment and settlement of property damage claims in violation of Sections 1 and 3 of the Sherman Act. The offense is continuing and will continue unless the relief hereinafter prayed for is granted.

16. Pursuant to and in effectuation of the aforesaid combination and conspiracy the defendant and co-conspirators have done those things which, as hereinbefore alleged, they agreed to do, including, among other things, the following:

- (a) Caused shareholders to utilize GAB's facilities for adjustment and settlement of claims;
- (b) Caused shareholders to boycott independent adjusters;
- (c) Caused shareholders to coerce and intimidate agents to channel claims to GAB;

(d) Caused shareholders to adhere to GAB's assessment billing schedule in dealing with independent adjusters;

(e) Formulated uniform price lists for labor and material used in the repair and replacement of damaged property; and,

(f) Established uniform practices and procedures to be used in the adjustment and settlement of claims.

VII

EFFECTS

17. The aforesaid offense has had, among others, the following effects:

(a) Competition among shareholders in the adjustment and settlement of property damage claims has been lessened and eliminated and insureds of the shareholders have been denied the benefits of such competition;

(b) Agents representing shareholders have been restricted to using the facilities of GAB; and

(c) Independent adjusters have been foreclosed from a substantial segment of the business of adjusting and settling property damage claims.

VIII

PRAYER

WHEREFORE, the Plaintiff prays:

1. That the aforesaid combination and conspiracy be adjudged and decreed to be in violation of Sections 1 and 3 of the Sherman Act.

2. That the defendant, its officers, directors, agents and employees, and all committees or persons acting or claiming to act on behalf of the defendant, be perpetually enjoined from continuing to carry out, directly or indirectly, the aforesaid combination and conspiracy to restrain interstate trade and commerce and that they be perpetually enjoined from engaging in or participating in practices, contracts, agreements or understandings, or claiming any rights thereunder, having the purpose or effect of continuing, reviving, or renewing the aforesaid offense or any offense similar thereto.

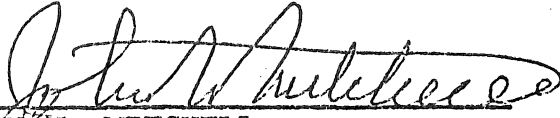
3. That the defendant be perpetually enjoined from making any of its facilities or services available to any insurance company or insurance company group or any person, firm, or organization acting on behalf of an insurance company or insurance company group, which at the time owns or controls, directly or indirectly, any financial or other interest in GAB.

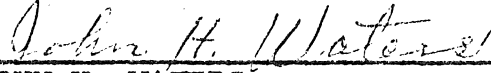
4. That the defendant be perpetually enjoined from allowing any person who is a director, officer, agent, employee or representative in any capacity of an insurance company or insurance company group to act or serve as a director, officer, agent, employee or representative in any capacity

of GAB.


5. That the plaintiff have such other and further relief as the nature of the case may require and the court may deem just and proper.

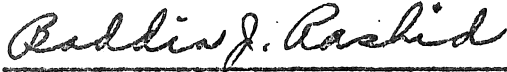
6. That the plaintiff recover the costs of this suit.



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