

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

AFFIDAVIT

Civ. Action File
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

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STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

ROY M. COHN, being duly sworn, deposes and says:

I am a partner in the firm of Saxe, Bacon, Bolan & Manley, attorneys for defendants in the above-entitled action, and am familiar with the facts and circumstances herein.

I make this affidavit in support of our motion to dismiss the complaint for failure to state a claim upon which relief can be granted or for a more definite statement. The Government has failed to allege even one fact in the complaint upon which a cause of action could be granted and it appears certain that they will be entitled to no relief. Under Federal Rules of Civil Procedure, Rule 12(b), a motion may be made to dismiss the complaint for failure to state a claim upon which relief can be granted. The Government's complaint recites the statutes alleged to have been violated verbatim with no factual allegations to support the complaint.

On October 16, 1973, the Government announced the filing of their suit in the Daily News with banner headlines stating that the United States Charges Bias. Similar headlines appeared on the front page of the New York Times. They attempted to bring

unlawful and undue pressure upon the defendants to settle this case. The Government has no facts to support the charges. If they did, they would be stated in the complaint. This action was brought to coerce the defendants into making a settlement and nothing more. The request for interrogatories served upon defendants by the Government makes it evident that this is a form of harassment and that the Government is merely "fishing" for facts upon which it can base its case. These facts do not exist and the Government knows they do not exist.

In the alternative, I request that a sufficiently full, definite, certain and specific complaint be served upon defendants so that they may prepare their answer and prepare for trial. The Federal Rules of Civil Procedure provide for such a motion and such a motion is the proper method of obtaining a fuller statement of a cause of action. Rule 12(e) of the Federal Rules of Civil Procedure states:

" . . . if a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. . . . "

As has been set forth above and as the complaint attached hereto clearly shows, the defendants are unable to properly answer the charges alleged therein and a more definite statement of these charges should be required.

This case represents an abuse of process. The Civil Rights Division did not file a lawsuit. It slapped together a piece of paper for use as a press release, and only secondarily as a court document. It contains not one fact concerning the discriminatory practices against blacks by the Trump organization

It does not name one single building in which any improper practices were directed. It not only contains no statement of days or months, but believe it or not, it does not even designate any year. What was done was simply to copy verbatim the language of the statute, and add the name of the Trump organization, because it is one of the largest in its field. If a private litigant filed such a paper, it would be summarily dismissed, with costs to the defendants. The Civil Rights Division's conduct after the filing of this threadbare document is even more outrageous. They immediately approached the defendants to quickly terminate the litigation by entering into a "consent" decree dictated by the Civil Rights Division! This would undoubtedly have resulted in the next press release -- that one announcing the capitulation of the defendants and the substitution of the Welfare Department for the management corporation. Such a capitulation would have been a surrender under pressure of the rights of the defendants, who have established an efficient organization which has contributed substantially to community life on all levels for many years. It would have been a surrender of the interests of our tenants -- past, present and future -- who are entitled to the maintenance of the type service we offer -- not subservience to the Welfare Department.

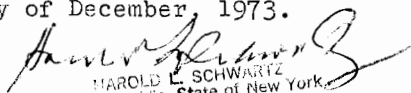
When it became apparent that we would not accept this "capitulation" an amazing thing occurred. Realizing that it had no case, the Civil Rights Division served us with fifteen pages of interrogatories, asking such question as the "number of persons per month, by race, making inquiries concerning the availability of an apartment . . ." (Pltf's first interrogatories to Def. p. 4, 5, F); the name of any credit reporting company

used and the dates of their service (p.5, J); "State the monthly rental rates for efficiencies, one, two and three-bedroom apartments. Indicate whether there have been any increases or decreases in these rental rates since January 1, 1968, and, if so, the reasons for such changes. State this information for each complex owned and/or managed by T.M.I. "(p. 8,M); and "Indicate the name, race, last known address, job title, job location, dates of employment, immediate supervisor and details of the duties of every person who has had the authority to accept and/or consider and/or act on rental applications since January 1, 1968 (p.9, O).

The reading of the Bill of Particulars which is attached hereto in effect, asks us to go out and make an investigation as to whether any of our employees had ever had a disagreement against anyone. In other words, after having smeared us on the front page of the New York Times with an amorphous complaint, the Government is now asking us to find out whether there could have been any truth to it. Our top management was never even questioned in advance of the charges or given the opportunity to show that we do not employ discriminatory practices.

I respectfully urge that these defendants do not discriminate in the renting of their apartments and that the Government's charges are totally unfounded. The complaint, which shows no facts, and the publicity which was released by the Government and has damaged the defendants was all geared to force the defendants to compromise their rights for fear of Government reprisal.

Sworn to before me this 11th
day of December, 1973.


HAROLD L. SCHWARTZ
Notary Public, State of New York
No. 31-8872220
Qualified in New York County
Commission Expires March 30, 1976


ROY M. COHN