

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No. 73C 1085
)
 CHICAGO BOARD OPTIONS) Filed: April 26, 1973
 EXCHANGE, INC.,)
)
 Defendant.)

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 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, as amended, 15 U.S.C. § 4, commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 1 of said Act, 15 U.S.C. § 1.

2. The defendant maintains offices, transacts business, and is found within the Northern District of Illinois, Eastern Division.

II

THE DEFENDANT

3. Chicago Board Options Exchange, Inc. (hereinafter "CBOE"), a corporation organized under the laws of Delaware and having its principal place of business at Chicago, Illinois, is named as defendant herein. The CBOE is an incorporated association operating facilities in the City of Chicago for the trading of securities option contracts and is registered under Section 6(c) of the Securities Exchange Act of 1934.

III

MEMBERSHIP OF DEFENDANT

4. The term "member" of the CBOE means and includes individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, the CBOE or given members' trading privileges thereon. Numerous individuals, partnerships, and corporations are members of CBOE. The members of the CBOE are not named as defendants, but many of these members participated in the offense alleged herein and performed acts and made statements in furtherance thereof.

IV

TRADE AND COMMERCE

5. A "securities option" is a contract for the right to purchase or sell a specified number of shares of a security for a set period of time at a price determined at the time the contract is entered into. A contract for the right to sell is commonly referred to as a "put" and a contract for the right to purchase is commonly referred to as a "call". Such contracts are traded in large volume by the public generally and by persons engaged in the business of buying and selling securities options in interstate commerce. The activities of the CBOE and its members, as described herein, are within the flow of interstate commerce and have an effect upon such commerce.

6. The CBOE, formed in 1972, is the nation's only securities options exchange registered as such with the Securities and Exchange Commission under Section 6(c) of the SEC Act of 1934. Heretofore such options have been traded informally over the counter by individual "put" and "call" dealers.

7. For a commission or fee many members of the CBOE render the service of acting as brokers for the purchase or sale of securities options through the facilities of the CBOE. Some members also purchase and sell such options for their own accounts. Many member brokers maintain offices, transact

business, and receive orders for the purchase or sale of securities options in states other than Illinois. The orders are then transmitted to the facilities of the CBOE in the State of Illinois for execution.

V

VIOLATION ALLEGED

8. The defendant and its members are engaged in an unlawful combination to restrain the aforesaid trade and commerce in the provision of brokerage services for the trading of securities options on the CBOE, in violation of Section 1 of the Sherman Act. Said unlawful combination is continuing and will continue unless the relief hereinafter prayed for is granted.

9. The aforesaid combination consists of a continuing agreement and concert of action between the defendant and its members to fix and maintain minimum rates of commission, floor brokerage and other fees for the trading of securities options on the CBOE.

10. In effectuating the aforesaid combination the defendant and its members have done the things which, as hereinbefore alleged, they agreed and combined to do, including among other things, establishing minimum rates of commission, floor brokerage and other fees for the trading of securities options on the CBOE. The following minimum rates of commission for

nonmembers for the purchase and sale of the specified dollar amount of each option transaction are now in effect:

(a) Single Trading Unit Orders

<u>Money Involved in the Order</u>	<u>Minimum Commission</u>
\$ 100 - 2,499	1.3% + \$12.00
2,500 - 4,777	0.9% + 22.00
4,778 - 29,999	65.00

Notwithstanding the foregoing, the commission on a single trading unit order may not be less than \$25.00 nor more than \$65.00.

(b) Multiple Trading Unit Orders

<u>Money Involved in the Order</u>	<u>Minimum Commission</u>
\$ 100 - 2,499	1.3% + \$12.00
2,500 - 19,999	0.9% + 22.00
20,000 - 29,999	0.6% + 82.00

Plus:

First to tenth trading unit	\$6.00 per trading unit
Eleventh trading unit and over	4.00 per trading unit

VI

EFFECTS

11. The aforesaid combination has had the following effects, among others:

- (a) Rates of commission, floor brokerage and other fees for the trading of securities options on the CBOE have been fixed and maintained at a non-competitive level;

- (b) Price competition in the sale of services by the member brokers has been eliminated; and
- (c) The public has been deprived of the right to trade securities options on the CBOE at competitively determined rates of commission, brokerage and other fees.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant and its members have engaged in an unlawful combination in restraint of the aforesaid trade and commerce in the provision of brokerage services for the trading of securities options on the CBOE, in violation of Section 1 of the Sherman Act.

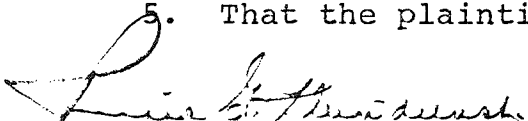
2. That the defendant, its officers, directors, agents and members and all other persons acting or claiming to act on its behalf, be enjoined and restrained from in any manner, directly or indirectly, continuing, maintaining, or renewing the combination hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding, or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

3. That the defendant, its officers, directors, agents, and all other persons acting or claiming to act on its behalf,

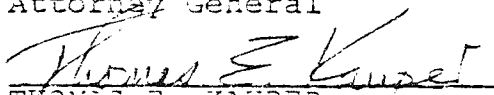
be enjoined and restrained from publishing, establishing, adopting, distributing, or otherwise suggesting and from adhering to any schedule of minimum rates of commission, brokerage or other fees for the provision of brokerage services for trading securities options on the Chicago Board Options Exchange.

4. That the plaintiff have such further relief as the case may require and the Court may deem just and proper under the circumstances.


5. That the plaintiff recover its taxable costs.



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