

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Cincinnati Insurance Board., U.S. District Court, S.D. Ohio, 1963 Trade Cases ¶70,945, (Dec. 19, 1963)

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United States v. Cincinnati Insurance Board.

1963 Trade Cases ¶70,945. U.S. District Court, S.D. Ohio, Western Division. Civil No. 5489. Entered December 19, 1963. Case No. 1770 in the Antitrust Division of the Department of Justice.

Sherman Act

Refusal to Deal—Association of Insurance Brokers—Refusal to Do Business with Insurance Companies Not Represented by Association Members—Consent Judgment.—An insurance board representing insurance agents and brokers, and its members, were enjoined by a consent judgment from entering into any agreement or understanding to boycott or refuse to do business with mutual insurance companies which appoint agents who are not members of the board or from expelling or taking punitive action against members for representing any mutual insurance company which appoints agents who are not members.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, Harry G. Sklarsky, William D. Kilgore, Jr., Norman H. Seidler, Dwight E. Moore and Joseph J. Calvert, Attorneys, Department of Justice.

For the defendant: Murray S. Monroe, Taft, Stettinius & Hollister.

Final Judgment

PECK District Judge [*In full text*]: Plaintiff, United States of America, having filed its Complaint herein; and Plaintiff and Defendant by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without any admission by any party hereto with respect to any such issues, it is hereby

Ordered, adjudged and decreed as follows:

I

[Sherman Act]

The Court has jurisdiction of the subject matter hereof and of the parties herein. The Complaint states claims against the Defendant upon which relief may be granted under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[Definitions]

As used in this Final Judgment:

- (A) "Person" shall mean any individual, corporation, partnership, association or any other business or legal entity;
- (B) "Board" shall mean the defendant The Cincinnati Insurance Board, a corporation organized and existing under the laws of the State of Ohio;
- (C) "Insurance" shall mean fire, casualty and surety insurance and each of them;
- (D) "Mutual company" shall mean any insurance company in which proprietorship rights are vested in the policyholders rather than the stockholders, and any insurance company which is affiliated with, managed, by, or

owned by an insurance company in which proprietorship rights are vested in the policyholders rather than in the stockholders.

III.

[*Applicability*]

The provisions of this Final Judgment applicable to the Defendant Board shall apply to such Defendant, its members, officers, directors, trustees, agents, employees, successors, and assigns and to those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Practices Prohibited*]

The Defendant Board is enjoined and restrained from adopting, entering into, maintaining, adhering to, enforcing or claiming any rights under any by-law, rule or regulation or any contract, agreement, understanding, plan or program in concert with any member or any other person having the purpose or effect of:

(A) Boycotting or otherwise refusing to do business with any mutual company, or with any insurance company which appoints agents in Hamilton County, Ohio who are not members of the Board;

(B) Requiring any person to refrain from placing brokerage business with, or receiving brokerage business from, any other person because some part of the insurance will be carried by a mutual company, or by any insurance company which appoints agents in Hamilton County, Ohio who are not members of the Board.

V.

[*Dealings with Members*]

The Defendant Board is enjoined and restrained from:

(A) Expelling from membership or otherwise taking punitive action against any member for the reason that such member represents or does business with a mutual company, or with any insurance company which appoints agents in Hamilton County, Ohio who are not members of the Board;

(B) Refusing to admit to membership any person for the reason that such person represents or does business with any mutual company or with any insurance company which appoints agents in Hamilton County, Ohio who are not members of the Board,

VI.

[*By-laws Inconsistent with Judgment*]

The Defendant Board and all those acting in concert with it are enjoined and restrained from maintaining, adopting, adhering to, enforcing or claiming any rights under any by-law, rule or regulation contrary to or inconsistent with any provision of this Final Judgment.

VII.

[*Compliance*]

The Defendant Board is ordered and directed to:

(A) Mail an exact copy of this Final Judgment to each of its agent members, and to each insurance company doing business through independent agents in Hamilton County, Ohio;

(B) Furnish to each agent applying for membership in said Board, a copy of this Final Judgment upon acceptance of his application for membership and require as a condition of membership in Defendant Board that each member agree to comply with the terms of this Final Judgment; and

(C) File, within 60 days from the date that this Judgment becomes final, an affidavit with the Clerk of the Court certifying that copies of the Final Judgment have been mailed in accordance with the provisions of sub-section (A) of this Section VII.

VIII.

[Inspection]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, on a reasonable notice to Defendant Board at its principal office, be permitted, subject to any legally recognized privilege, (a) reasonable access, during office hours, to those parts of the books, ledgers, correspondence, memoranda and other records and documents in the possession or under the control of Defendant Board, which relate to any of the matters contained in this Final Judgment, and (b) subject to the reasonable convenience of Defendant Board, and without restraint or interference from it, to interview regarding any such matters officers and employees of Defendant Board, who may have counsel present.

Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, Defendant Board shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment. No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX.

[Jurisdiction Retained]

Jurisdiction is retained for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.