

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff	)	
	)	
v	)	
	)	Civil No. 28042
INSURANCE BOARD OF CLEVELAND,	)	
	)	Filed 2-28-61
Defendant	)	2:02 P.M.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein; the defendant, Insurance Board of Cleveland, having appeared and filed its answer to such complaint; certain issues having been determined, on motions for summary judgment, by opinion of the Court on August 14, 1956, and an order pursuant to such opinion having been entered on July 2, 1957; the remaining issues having been tried from March 7 to March 14, 1960 and briefs having been submitted by both parties; and the Court having filed its opinion on October 7, 1960 and said opinion constituting findings of fact and conclusions of law; it is hereby ORDERED ADJUDGED AND DECREED:

I.

The Court has jurisdiction of the subject matter hereof and of the parties herein. The defendant, Insurance Board of Cleveland, has combined and conspired with its members to unreasonably restrain trade and commerce in fire, casualty and surety insurance, in violation of Section 1 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.

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 Insurance Board of Cleveland, 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;

(E) "Direct writing company" shall mean any insurance company which solicits business from the assured for its own account either directly or through any of its own employees, and any insurance company which is affiliated with, managed by, or owned by an insurance company which solicits business from the assured for its own account either directly or through any of its own employees.

### III.

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.

(A) The defendant Board is ordered and directed:

- (1) To terminate and ~~cancel~~ those portions of the following by-laws, rules and regulations of the defendant Board, in effect in March, 1960, which prohibit members from representing or otherwise doing business with any mutual company or any direct writing company:

Article III - Section 4c, page 2

Article III - Section 5c, page 4

Article III - Section 6c, page 6;

- (2) To terminate and cancel in their entirety the following by-laws, rules and regulations of the defendant Board in effect in March, 1960:

Article III - Section 8b, page 9

Article III - Section 8e, page 9

Article IV - Section 8, page 19.

(B) 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.

V.

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;

(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;

(C) Boycotting or otherwise refusing to do business with any direct writing company.

VI.

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 direct writing company;

(B) Refusing to admit to membership any person for the reason that such person represents or does business with any mutual company or direct writing company.

#### VII.

The defendant Board is ordered and directed to:

(A) Mail an exact copy of this final judgment to each of its agent members;

(B) For a period of five years from the date that this judgment becomes final, furnish to each agent applying for membership in said Board a copy of this final judgment upon acceptance of his application for membership; and

(C) File within 60 days from the date that this judgment becomes final an affidavit with the Clerk of this Court certifying:

(1) That copies of the final judgment have been mailed in accordance with the provisions of sub-section (A) of this Section VII; and

(2) That the by-laws, rules and regulations specified in sub-sections (A) (1) and (A) (2) of Section IV of this judgment have been terminated and cancelled as required by said sub-sections.

#### VIII.

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, and on reasonable notice to defendant Board at its principal office, be permitted, subject to any legally recognized privilege, (a) reasonable access, during office hours, to all books, ledgers, correspondence, memoranda and other records and documents in the possession or under the control of defendant Board, relating 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 is retained for the purpose of enabling any of the parties 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.

X.

Judgment is entered against the defendant Board for all costs to be taxed in this proceeding.

Approved as to form:

/ s/ Dwight B. Moore  
Attorney, Dept. of Justice

Approved as to form:  
/s/ Michael R. Gallagher  
Hauxhurst, Sharp, Cull & Kellogg  
Attorneys for Defendant

/s/ Charles J. McNamee  
District Judge