

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Northwestern National Bank of Minneapolis; First National Bank of Minneapolis; Midland National Bank of Minneapolis; Marquette National Bank of Minneapolis; First National Bank of St. Paul; Northwestern National Bank of St. Paul; The American National Bank of Saint Paul; The Midway National Bank of St. Paul; Stock Yards National Bank of South St. Paul; Northern City National Bank of Duluth; First American National Bank of Duluth., U.S. District Court, D. Minnesota, 1964 Trade Cases ¶71,020, (Mar. 24, 1964)

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United States v. Northwestern National Bank of Minneapolis; First National Bank of Minneapolis; Midland National Bank of Minneapolis; Marquette National Bank of Minneapolis; First National Bank of St. Paul; Northwestern National Bank of St. Paul; The American National Bank of Saint Paul; The Midway National Bank of St. Paul; Stock Yards National Bank of South St. Paul; Northern City National Bank of Duluth; First American National Bank of Duluth.

1964 Trade Cases ¶71,020. U.S. District Court, D. Minnesota, Fourth Division. Civil No. 4–63 Civ. 52. Entered March 24, 1964. Case No. 1737 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Bank Service Charges and Interest Rates—Consent Judgment.—Banks were prohibited under the terms of a consent judgment from agreeing to fix the rate of interest on loans, from restricting the solicitation of business by any correspondent bank, or from preventing the absorption of exchange charges or losses on securities for any third person.

For the Plaintiff: William H. Orrick, Jr., Assistant Attorney General, W. D. Kilgore, Jr., Donald F. Melchior, Samuel Flatow, John M. Toohey, and Charles A. Degnan, Attorneys, Department of Justice.

For the Defendants: Covington & Burling, Washington 5, D. C., by Hamilton Carothers, for Northwestern National Bank of Minneapolis, Midland National Bank of Minneapolis, Northwestern National Bank of St. Paul, Stock Yards National Bank of South St. Paul, First American National Bank of Duluth; Faegre & Benson, Minneapolis, Minnesota, by Loring M. Staples, for Northwestern National Bank of Minneapolis; Dorsey, Owen, Marquart, Windhorst & Wes, Minneapolis, Minnesota, by John G. Dorsey, First National Bank of Minneapolis; Ueland & Sundheim, Minneapolis, Minnesota, by Rolf Ueland, for Midland National Bank of Minneapolis; Levitt, Palmer & Bearmon, Minneapolis, Minnesota, by Matthew J. Levitt, for The Marquette National Bank of Minneapolis; Briggs and Morgan, Saint Paul, Minnesota, by J. Neil Morton, for The First National Bank of Saint Paul; Doherty, Rumble & Butler, Saint Paul, Minnesota, by Richard J. Leonard, for Northwestern National Bank of St. Paul; Kelly, Segell & Fallon, Saint Paul, Minnesota, by Fallon Kelly, for The American National Bank of Saint Paul; Murnane, Murnane, Battis and De Lambert, Saint Paul, Minnesota, by Charles R. Murnane, for The Midway National Bank of St. Paul; Grannis & Grannis, South Saint Paul, Minnesota, by Vance B. Grannis, for Stock Yards National Bank of South St. Paul; Sullivan, McMillan, Hanft & Hastings, Duluth, Minnesota, by William P. O'Brien, for Northern City National Bank of Duluth; Palmer, Hood, Crassweller & McCarthy, Duluth, Minnesota; by Ray G. Palmer, for First American National Bank of Duluth.

Final Judgment

DEVITT, Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on February 8, 1963, and the defendants, by their respective attorneys, having severally consented to the entry of this Final

Judgment without admission by any party with respect to, or trial or adjudication of, any issue of fact or law herein, and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony and upon consent of the parties hereto, it is hereby Ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants under 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

[*Definitions*]

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, firm, corporation, association, trustee or other business or legal entity other than any charitable or eleemosynary institution;

(B) "Exchange charges" shall mean the pecuniary charges made by many State (nonpar) banks for paying checks drawn on them when such checks are presented for payment by other banks and payment is made by remittance to the presenting banks.

III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply also to its successors, assigns, officers, directors, agents and employees, and to any person owning or controlling a majority of the stock of such defendant, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment only, transactions or communications solely between a registered bank holding company under the Bank Holding Company Act of 1956, or any servicing subsidiary of such bank holding company, and subsidiaries of such bank holding company recognized as such under such Act, shall be deemed to be transactions and communications not prohibited by this Final Judgment; provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such past or future transactions or communications.

IV

[*Prohibited Practices*]

Each consenting defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining or furthering any contract, combination, agreement, undertaking, by-law, plan or program with another Commercial Bank:

(A) To limit, restrict or forego the solicitation of business relations, including group insurance, with any correspondent bank;

(B) To furnish or refrain from furnishing bank drafts, stationery, any other bank supplies or other gifts to any third person;

(C) To limit, restrict or prevent the absorption of any exchange charges for any third person;

(D) To limit, restrict or prevent the absorption of any loss on any securities for any third person;

(E) Except where the defendant and such other Commercial Bank are actual parties to the negotiations for or the loan transactions resulting therefrom, to fix, determine, maintain, establish, stabilize or make uniform:

- (1) The rate of interest, terms or conditions of any loan to any officer, director or stockholder of any bank which by reason of such loan continues to be or becomes a correspondent bank;
- (2) The rate of interest, terms or conditions on any livestock loan made by any third bank;
- (3) The rate or amounts of rebate, kickback or commission paid to any third bank which originates or services any livestock loan made by any third bank; or
- (4) The rate of interest, terms or conditions on any loan by any bank;

provided, however, that the making and entry of this Final Judgment shall in no wise estop a later adjudication under any law of the legality or illegality of any such transactions or negotiations not prohibited by this subsection (E).

V

[*Exchange of Information*]

Each consenting defendant is enjoined and restrained from directly or indirectly:

- (A) Communicating to or exchanging with any bank (except any Federal Reserve Bank, any Federal lending agency or any bank when acting in a fiduciary capacity) clearing house, bank holding company or other organization of banks, any information as to transactions prohibited by subsection (E) of Section IV, except (1) with or after the release of such information to the public generally or pursuant to court process, or (2) as necessary to provide data processing services, including services contemplated by 12 U. S. C. §§ 1861–65, but if performed by a defendant, such defendant shall not use any of the data so obtained from another bank in any of its other banking operations;
- (B) Continuing to be a member of or participating in the activities of any association or other organization, formal or informal, with knowledge that any of the official activities of such association or organization are being carried on in a manner which, if the association or organization were a consenting defendant herein, would violate any of the provisions of this Final Judgment.

VI

[*Permissive Provisions*]

Nothing in this Final Judgment shall be deemed to prohibit any defendant from seeking to procure the enactment, issuance, repeal, amendment or interpretation of any Federal or State law or regulation applicable to banks; or from complying with or doing anything authorized by any duly promulgated rule or regulation of any Federal agency or any Federal law or statute now or hereafter in force.

VII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

- (A) Access during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII 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 for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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 provision thereof, for the enforcement of compliance therewith, and for punishment of violation thereof.