

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) Civil Action No. 71C 2875
 v.)
) Filed: May 28, 1974
 BOARD OF TRADE OF THE CITY)
 OF CHICAGO, INC.,) Entered: June 28, 1974
)
 Defendant.)

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on December 1, 1971, and Plaintiff and Defendant by their respective attorneys, having consented to the making and entry of this Final Judgment, without admission by any party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party hereto with respect to any such issue;

NOW, THEREFORE, before any testimony has been taken herein, without a trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states claims upon which relief may be granted against the Defendant under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. Sec. 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

- A. "Board" shall mean the defendant, Board of Trade of the City of Chicago;
- B. "Contract" shall mean: 1) a commodity futures contract made on the Board for the purchase or sale of a unit of commodity for future delivery as specified in the Rules and Regulations of the Board, or 2) an amount of cash commodity purchased or sold on the Board equal to a single futures contract in the same commodity;
- C. "Commodity Transaction" shall mean the placing of an order for the purchase or sale of one or more contracts, which order is thereafter executed;
- D. "Non-Member Commission Rates" shall mean the rates of commission to be charged by the Board's members to non-members for commodity transactions;

- E. "Member Commission Rates" shall mean the rates of commission to be charged by the Board's members to other members for commodity transactions;
- F. "Floor Brokerage Rates" shall mean the rates of brokerage to be charged by the Board's members who are floor brokers to other members for the execution of commodity transactions on the Board's trading floor;
- G. "Commission Rates" shall include any fees charged by Board members for services rendered in connection with commodity transactions on the Board and any such fees charged by the Board and distributed, in whole or in part, to the Board's members; and
- H. "Person" shall mean any individual, partnership, firm, corporation or any other legal entity.

III

The provisions of this Final Judgment applicable to the Board shall also apply to its subsidiaries, successors, and assigns, to each of its directors, officers, agents and employees, when acting in such respective capacities, and to members when acting in concert with them, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The purpose of this Judgment is to provide for an orderly transition to freely competitive commission and floor brokerage rates on the Board. The transition shall be accomplished so as to minimize the disruption of commodity futures trading, giving due regard to the interest of the public in maintaining a sound, viable, and competitive commodity futures trading market.

V

(A) The Board is enjoined and restrained from, directly or indirectly fixing, establishing, determining, recommending, suggesting or adhering to, from and after each below-specified date, any non-member commission rate on that portion of each commodity transaction exceeding the number of contracts appearing opposite the specified date:

<u>Schedule of Dates</u>	<u>That Portion of Each Transaction Exceeding</u>
The date of entry of this Final Judgment	24 Contracts
September 4, 1974	19 Contracts
September 4, 1975	14 Contracts
September 4, 1976	9 Contracts
September 4, 1977	4 Contracts

(B) From and after March 4, 1978, the Board is permanently enjoined and restrained from directly or indirectly fixing, establishing, determining, recommending, suggesting, or adhering to any member or non-member commission rate or floor brokerage rate for commodity transactions on the Board, or from taking any other action restricting, directly or indirectly, the right of any member or of any non-member broker to agree with his customer on any commission or fee on any commodity transaction.

(C) Nothing contained herein shall prevent the Board from phasing out fixed rates in a lesser period of time than that provided for by this Judgment.

(D) Nothing contained herein shall prohibit the Board from levying or imposing any fee, charge, or assessment to be used by the Board solely to meet its current and future financial needs.

VI

Within ninety (90) days from the date of entry of this Final Judgment, the Board is ordered and directed to amend its rules, regulations, and by-laws by incorporating therein either the schedule set forth in Section V

hereof, or any schedule which results in the elimination of the respective fixed rates in a lesser period of time, and by eliminating therefrom any provision which is inconsistent with this Final Judgment.

VII

The Board is ordered and directed to mail, within sixty (60) days after the date of entry of this Final Judgment, a copy of this Final Judgment to each of its members, and within one hundred and twenty (120) days from the aforesaid date of entry, to file with the Clerk of this Court, with a copy to the Plaintiff, an affidavit setting forth the fact and manner of compliance with this Section VII and Section V of this Final Judgment.

VIII

For a period of ten (10) years from the date of entry of this Final Judgment, the Board is ordered to file with the Plaintiff on each anniversary date of such entry, a report setting forth the steps which it has taken during the prior year to advise its appropriate officers, directors, agents and employees of its and their obligations under this Final Judgment. The Board is also ordered to file with the Plaintiff reports on its compliance with the schedule set forth in Section V of this Final Judgment not later than ten (10) days after each date specified therein.

IX

The Board may petition the Court for relief from Sections V and VI of this Judgment, and the Court shall grant such relief upon the Board's establishing, by a preponderance of the evidence, that (i) relief from those Sections is essential to the continued functioning of the Board as a commodity futures trading market, and (ii) the relief petitioned for represents the least restrictive way in time and scope, of preserving the Board as a commodity futures trading market. If the Court grants such a petition, the plaintiff shall at any future time obtain modification or elimination of such relief upon a showing, by a preponderance of the evidence, that such relief is no longer required pursuant to the standards in this Section.

X

For the purpose of determining or 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 the Board made to its

principal office, be permitted, subject to any legally recognized privilege, and subject to the presence of counsel if so desired:

(1) Access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of the Board relating to any matter contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the Board, and without restraint or interference from it, to interview officers or employees of the Board regarding any such matters.

Upon such written request, the Board shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section X 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 Plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

Jurisdiction is retained by this Court 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 the purposes and provisions of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: June 28, 1974

/s/ RICHARD B. AUSTIN
UNITED STATES DISTRICT JUDGE