

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

UNITED STATES OF AMERICA,

Plaintiff

versus

NEW ORLEANS INSURANCE EXCHANGE,

Defendant

NO. 4292

CIVIL ACTION

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on January 15, 1954, the defendant, New Orleans Insurance Exchange, having appeared and filed its answer to such complaint, the issues having been tried from May 7, 1956 through May 9, 1956, final argument having been had on December 6, 1956, the Court having entered its Findings of Fact and Conclusions of Law together with its opinion on February 5, 1957, and it appearing to the Court that there is no just reason for delay in entering a Final Judgment, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I.

The Court has jurisdiction of the subject matter hereof and of the parties herein. The defendant, New Orleans Insurance Exchange, has combined and conspired with its members and others to unreasonably restrain and to monopolize and has attempted to monopolize trade and commerce in fire, casualty and surety insurance, in violation of 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.

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, association or any other business or legal entity;

(B) "Exchange" shall mean the defendant New Orleans Insurance Exchange, a corporation organized and existing under the laws of the State of Louisiana;

(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 stockholder

(E) "Participating company" shall mean any insurance company which allows its policyholders to participate in the profits of the company through the issuance of dividends or otherwise;

(F) "Agent" shall mean any person engaged in the business of selling insurance as the representative of an insurance company.

III.

The provisions of this Final Judgment applicable to the defendant Exchange shall apply to such defendant, its members, officers, directors, 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 Exchange is ordered and directed, within thirty (30) days from the date this Judgment becomes final, to terminate and cancel in their entirety the following bylaws, rules and regulations:

Article IV - Section 15

Article IX - Section 1

Article IX - Section 2

Article IX - Section 6

Article IX - Section 7

Article X - All Sections

Article XV - Agency Appointments Committee -

Sections 1, 2, 3

Article XVI- All Sections

Article XVII - In its entirety

(B) The defendant Exchange and all those acting in concert with it are enjoined and restrained from maintaining, adopting, adhering to, enforcing or claiming any rights under any bylaw, rule or regulation contrary to or inconsistent with any provision of this Final Judgment.

V.

The defendant Exchange is enjoined and restrained from adopting, entering into, maintaining, adhering to, enforcing or claiming any rights under any bylaw, 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) Any member or any person boycotting or otherwise refusing to do business with any person;

(B) Fixing, establishing, maintaining or determining commissions or other terms or conditions for the sale of insurance;

(C) Fixing, establishing, maintaining or determining the terms or conditions for the brokerage of insurance;

(D) Any member or any person boycotting or otherwise refusing to do business with any person who appoints as agent, or does business with, any nonmember of the Exchange;

(E) Any member or any person boycotting or otherwise refusing to do business with (1) any mutual company or any participating company, or (2) any person who does business with such mutual company or participating company;

(F) Any member or any person boycotting or otherwise refusing to do business with any person who solicits insurance directly from policyholders.

VI.

Defendant Exchange is enjoined and restrained from:

(A) Inspecting or claiming the right to inspect the books or records or otherwise policing the business activities, of any of its members or any other person;

(B) Exacting or claiming the right to exact fines or other punitive damages from any of its members or any other person;

- (C) Receiving or claiming any commissions for the sale of insurance;
- (D) Preventing or restricting any member of the Exchange from engaging in any business.

VII.

Defendant Exchange is ordered and directed to:

- (A) Mail an exact copy of this Final Judgment to each of its members and to each insurance company represented by any member of the Exchange;
- (B) Furnish to each person applying for membership in said Exchange a copy of this Final Judgment upon acceptance of his application for membership;
- (C) Require as a condition of membership in defendant Exchange that each member agree to comply with the terms of the Final Judgment;
- (D) File, within forty-five (45) days from the date that this judgment becomes final, an affidavit with the Clerk of this Court certifying that the copies of the Final Judgment have been mailed in accordance with the provisions of Subsection (A) of this Section VII.

VIII.

Nothing contained in this Final Judgment shall prevent defendant Exchange from expelling from membership any member adjudicated guilty of violating the State of Louisiana insurance laws.

IX.

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, 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 defendant Exchange made to its principal office, be permitted (1) access during the office hours of the Exchange to those parts of the books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Exchange which relate to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of the Exchange and without restraint or interference from it to interview officers or employees

of said Exchange, who may have counsel present. No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized employee of the Department 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.

X.

One year from the date this judgment becomes effective, the Government shall file in the record a report of the progress on the compliance of the Exchange and its membership with this decree. This report shall be based on an analysis of the books and records of the Exchange and the books and records of the individual members thereof. The report shall show specifically whether or not the boycotts outlawed by this decree have been continued by the membership after the illegal bylaws have been repealed by the Exchange.

XI.

Jurisdiction is retained for the purpose of enabling either 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 or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

XII.

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

New Orleans, Louisiana, March 18, 1957.

/s/ J. Skelly Wright
UNITED STATES DISTRICT JUDGE