

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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Office of Proceedings
Proceedings Clerk

4:23 pm, Dec 20, 2013

TRADINGSCREEN INC.

v.

ICE FUTURES U.S., INC. and ICE SWAP
TRADE

CFTC Docket No. 14-E-01

ORDER PURSUANT
TO DELEGATED AUTHORITY

Respondent ICE Swap Trade, LLC, moves to vacate the December 12, 2013 Order Pursuant to Delegated Authority (“Order”). The Order extended the deadline for Complainant TradingScreen Inc. to file its opening brief. For the following reasons, ICE Swap Trade’s motion to vacate is denied.

1. On December 11, 2013, Complainant TradingScreen and Respondent ICE Futures U.S., Inc., (“Moving Parties”) filed a joint motion to extend by 60 days the deadline for TradingScreen’s opening brief. The Moving Parties stated that they were “currently pursuing settlement negotiations, which may resolve their dispute.”

2. I found that this constituted good cause to extend the deadline, and, on December 12, 2013, issued the Order granting the motion and establishing February 17, 2014, as the new deadline.¹

3. On December 13, 2013, Respondent ICE Swap Trade, LLC, contacted the Office of Proceedings by e-mail and stated that it is a distinct legal entity, is not in settlement negotiations, and has not agreed to the extension. ICE Swap Trade made certain substantive arguments and requested that the Commission “determine not to pursue (or dismiss entirely) this matter.” It

¹ Monday, February 17, 2014, is the first business day following the 60th calendar day from the date of the Order.

asked that the “Order be amended in a manner that removes ICE Swap Trade as a party and that requires TradingScreen to file its responsive documents.”

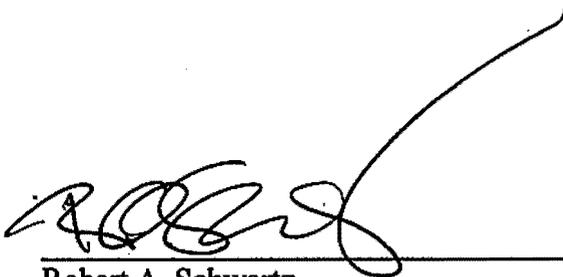
4. Commission Rule 9.5(c) provides that a procedural motion “may be acted on at any time, without awaiting a response thereto,” but that “[a]ny party adversely affected by such action may request reconsideration, vacation or modification of the action.” 17 C.F.R. § 9.5(c).² ICE Swap Trade’s December 13, 2013 e-mail did not state that it would suffer any adverse effect from extending the briefing schedule. Accordingly, on December 17, 2013, the Proceedings Clerk responded via email directing ICE Swap Trade to state “with specificity what prejudice [it] will suffer as a result of” the Order. ICE Swap Trade responded on December 18, 2013, that “in short, ICE Swap Trade has expended (and continues to expend) a great deal of time and expense responding to this matter that has no basis in fact.”

5. ICE Swap Trade has not stated an adverse effect resulting from the extension. While I do not question its representation that it has expended and will expend time and money on the appeal, I am given no reason to conclude that this will be exacerbated by a delay in the briefing schedule. In any event, a settlement between the Moving Parties would facilitate the Commission’s review, because it would narrow the scope of the appeal.

The extension remains warranted, and ICE Swap Trade’s motion to vacate is, therefore, denied.

² Although ICE Swap Futures characterizes its request as a request to “amend” the Order, in substance it is requesting vacatur, because the Order did nothing more than extend the deadline. ICE Swap Futures’ contention that the appeal is, in effect, frivolous and ought to be dismissed cannot be addressed on a motion to amend a scheduling order.

IT IS SO ORDERED.³

A handwritten signature in black ink, appearing to read 'RAS', is written over a horizontal line. The signature is stylized and cursive.

Robert A. Schwartz
Deputy General Counsel
Commodity Futures Trading Commission

Dated: December 20, 2013

³ By the Commission pursuant to delegated authority. 17 C.F.R. § 9.9(b)(vii).