

06-1265 KLEIN & CO. FUTURES V. BOARD OF TRADE CITY OF NY

DECISION BELOW: 464 F.3d 255

LOWER COURT CASE NUMBER: 05-1374, 05-1662, 05-1702, 05-1718

QUESTION PRESENTED:

The Commodity Exchange Act provides an express private right of action for actual losses to a person who "engaged in any transaction on" or "subject to the rules of" a commodity board of trade against that board of trade if the board, in bad faith, engaged in illegal conduct that caused the person to suffer the actual losses, 7 U.S.C. § 25(b)(1). The question presented is:

Whether the court of appeals erred in concluding that futures commission merchants lack statutory standing to invoke that right of action because, in the court's view, they do not engage in such transactions, despite the statutory requirement that the merchants enter into and execute their transactions on, and subject to the rules of, a board of trade and the fact of the merchants' financial liability for the transactions.

DISMISSED PURSUANT TO RULE 46

CERT. GRANTED 5/21/2007