

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

MICHAEL P. MCERLAINE

v.

BOARD OF TRADE OF THE CITY OF NEW
YORK, INC.

CFTC Docket No: 05 E-205


ORDER OF SUMMARY
AFFIRMANCE

RECEIVED
CFTC
2005 JUL 6 P 4:58

Our review of the record and the parties' appellate submissions establishes that the findings and conclusions of the Board of Trade of the City of New York, Inc. ("NYBOT") are supported by substantial evidence; we therefore adopt them.¹ Because the record also shows that NYBOT committed no error material to the outcome of this proceeding and none of the arguments on appeal raise important questions of law or policy, we summarily affirm NYBOT's decision without opinion. *See* Commission Regulation 9.33(b).

IT IS SO ORDERED.

By the Commission (Acting Chairman BROWN-HRUSKA and Commissioners LUKKEN, HATFIELD and DUNN).



Catherine D. Daniels
Assistant Secretary of the Commission
Commodity Futures Trading Commission

Dated: July 6, 2005

¹ Our review is based on the record as it was developed during the NYBOT proceeding and does not include documents that Michael McErlaine ("McErlaine") attached to his appeal brief. *See* Commission Regulation 9.2(i) defining the record of the exchange proceeding and Commission Regulation 9.21 providing for the filing of the record by the exchange. We note that McErlaine provided no explanation for his failure to submit these documents during the exchange proceeding.