

Commodity Futures Trading Commission  
CEA CASES

**NAME:** SECRETARY OF AGRICULTURE V. WALTER T. RICE

**DOCKET NUMBER:** 28

**DATE:** NOVEMBER 24, 1941

**DOCUMENT TYPE:** DECISION AND ORDER

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

CE-A Docket No. 28

Secretary of Agriculture, Complainant v. Walter T. Rice, Respondent

Proceedings, Findings of Fact, Conclusions, and Order

PROCEEDINGS

On May 31, 1941, complaint was issued by the Assistant Secretary of Agriculture, pursuant to the Commodity Exchange Act (7 U. S. C. and Supp. V, §§1-17a), against Walter T. Rice, the respondent. It was alleged that respondent, during the period from October 1939 to January 1940, had traded in privileges in Chicago, and in March and April 1940 had conspired with others to give false information to representatives of the Commodity Exchange Administration concerning a futures account. It was ordered that an answer be filed in 15 days and that a hearing be held in Chicago on June 17, 1941.

A copy of the complaint was served on respondent by registered mail on June 4, with a letter from the referee continuing the hearing to June 30 to allow time for answering. On June 18, respondent asked a continuance until August or September. The referee extended the time for answering to July 12 and postponed the hearing until July 22. On July 9, the Government filed a notice that it would move to amend the complaint by changing the charge of conspiracy from 1940 to 1941. Respondent asked a continuance because of the amendment and to allow time to reach an agreement with the Government. The referee denied respondent's motion to quash, based on the claim that the act is unconstitutional, and said that, because of the amendment, the hearing would be continued for at least a week.

On July 12, respondent filed an answer, denying the constitutionality of sections 4c(B) and 6(b) of the act as applied to the facts alleged, and denying the allegations of the complaint as to privileges and conspiracy.

A session of the hearing was held before Jack W. Bain, the referee, in Chicago, on July 19, by agreement of counsel, for the disposition of two motions only. Charles W. Bucy, Office of the Solicitor, Department of Agriculture, appeared for the Government, and William G. Blood, of the firm of Hopkins, Sutter, Halls & DeWolfe, Chicago, for the respondent. The Government's motion to amend the complaint, as stated in its notice of July 9, was granted. Respondent moved to continue the hearing to August 15 or later, to give time to settle the case or, if no settlement could be reached, to prepare a defense. The referee postponed the hearing until July 29.

At the hearing on July 29 in Chicago, respondent filed an answer to the complaint, as amended. The facts were admitted, but it was denied that they constituted violations or warranted disciplinary action. As applied to the facts, sections 4c (B) and 6(b) of the act were claimed to be unconstitutional, and section 1.35 of the rules and regulations was alleged to be void as an

executive attempt to legislate. Further hearing before the referee was waived, but argument at the appropriate time was asked.

The referee's report, containing the two findings herein and a recommendation of suspension of respondent's trading privileges, was issued on September 12. Respondent filed exceptions and requested oral argument, which was held before the Assistant Secretary on October 30. In his exceptions and argument, respondent claimed that the facts did not constitute violations of the act and that, if they were violations, they did not warrant the type of penalty recommended. It was argued that the effect on interstate commerce of the privilege transactions was not shown. It was alleged and admitted that the privileges entered into could be used for hedging and fixing the price basis of grain transactions in interstate commerce. Such privileges are prohibited by the statute.

It was claimed that section 4b(B) forbids reports of a broker to his customer only, and does not apply to falsifying of records by the customer. A reading of the section will disclose that it is made illegal for anyone to cause any false record to be entered. Section 1.35 of the regulations requires a futures

commission merchant to give true information regarding accounts, and respondent admitted that he had conspired with others to cause false information to be given.

Respondent alleged, but did not argue, that various provisions of the act and regulations were unconstitutional. As respondent stated, it is not thought that such issues should be determined in this proceeding.

Respondent, in the argument, said that he would agree not to trade in privileges in the future, and asked that no order be made public in this proceeding because of the effect it would have upon his, and his firm's, reputation. These are matters which respondent should have considered before he violated the law. Such considerations should not be allowed to defeat the enforcement of the law. Facts have been admitted which are violations of the act. Failure to assess any penalty for the violation would be an invitation to others to disregard the expressed will of Congress.

#### FINDINGS OF FACT

1. Walter T. Rice, the respondent, on various dates between October 1, 1939, and January 31, 1940, including October 21, November 10, and December 15, 1939, and January 16, 23, and 25, 1940, at Chicago, Illinois, offered to enter into, and entered into, transactions in privileges, also known as bids or offers, in wheat and other grains, which could be used for hedging or fixing the price basis of transactions in such grains in interstate commerce. These transactions in privileges were entered into with W. A. Anderson and Moses Eisemann, and in some instances resulted in futures contracts on The Board of Trade of the City of Chicago, a contract market.

2. Walter T. Rice, the respondent, during March and April 1941, engaged in a conspiracy with I. P. Skolly, a registered futures commission merchant and a member of a contract market, Ed Sproules, an employee of Skolly, and others, to conceal the identity of the parties to wheat and other grain futures contracts on The Board of Trade of the City of Chicago, a contract market, and to cause Skolly to give false information to an authorized representative of the Commodity Exchange Administration concerning such futures contracts, made by Skolly for respondent and carried on Skolly's books in an account designated "Account No. 100."

#### CONCLUSIONS

By offering to enter into, and by entering into privilege transactions, respondent violated Section 4c(B) of the Commodity Exchange Act. By conspiring to conceal the true names of parties to futures contracts, respondent violated

section 4 of the act, and by conspiring to cause false information to be given to a representative of the Department, he violated sections 4 and 4b(B) of the act and section 1.35 of the regulations thereunder. For these violations, his trading privileges on contract markets should be denied for ninety days.

ORDER

IT IS ORDERED that all contract markets refuse Walter T. Rice all trading privileges thereon for a period of ninety days, beginning on the effective date of this order.

IT IS FURTHER ORDERED that a copy hereof be sent by registered mail to the respondent and to each contract market, and that this order shall be effective 10 days after its date.

Done at Washington, D. C., this 24th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

(SEAL)

(S) Grover B. Hill

Assistant Secretary of Agriculture

**LOAD-DATE:** June 16, 2008

