

Commodity Futures Trading Commission
CEA CASES

NAME: ROBERT E. WILLEY, EARLE M. COMBS III, RICHARD A. FRYMIRE, AND HOWARD S. FISHER

DOCKET NUMBER: 144

DATE: JANUARY 4, 1967

DOCUMENT TYPE: COMPLAINT

DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C. 20250

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Robert E. Willey, Earle M. Combs III, Richard A. Frymire, and Howard S. Fisher, Respondents

CEA Docket No. 144

Complaint and Notice of Hearing Under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents named herein have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.), hereinafter referred to as the Act, and the regulations made pursuant thereto (17 CFR, Part I). In accordance with the provisions of section 6(b) of the Act (7 U.S.C. 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

The Chicago Board of Trade is now and was at all times material to this complaint a duly designated contract market under the Act.

II

Respondent Robert E. Willey, an individual whose business address is Room 1502, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material to this complaint a registered floor broker under the Act and a member of the Chicago Board of Trade.

III

Respondent Earle M. Combs III, an individual whose business address is Room 1502, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material to this complaint a member of the Chicago Board of Trade.

IV

Respondent Richard A. Frymire, an individual whose business address is Room 1388, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material to this complaint a registered floor broker under the Act and a member of the Chicago Board of Trade.

V

Respondent Howard S. Fisher, an individual whose business address is Room 1632, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material to this complaint a registered floor broker under the Act and a member of the Chicago Board of Trade.

VI

The transactions specified in this complaint were in wheat and soybean futures and were entered into on or subject to the rules of the Chicago Board of Trade. At all times material herein wheat and soybean futures on the Chicago Board of Trade were traded in job lot units of 1,000 bushels and in round lot units of 5,000 bushels.

VII

Respondents Robert E. Willey, Earle M. Combs III and Richard A. Frymire, during the period from May 21, 1965, through February 28, 1966, entered into transactions as specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at little or no price advantage or disadvantage to the respondents for whose accounts the purchases and sales were made.

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| Purchase | | | | | |
|----------|------------------------------------|--|---|--|--|
| Date | Commodity and Future | Respondent for Whose Account Purchase was Made | Respondent Acting As Floor Broker or Trader | Unit | |
| 5/21/65 | March soybeans | Willey | Willey | Round | |
| 5/21/65 | March soybeans | Combs | Combs | Job | |
| 8/27/65 | March wheat | Combs | Combs | Job | |
| 8/27/65 | March wheat | Willey | Willey | Round | |
| 11/23/65 | March wheat | Willey | Willey | Round | |
| 11/23/65 | March wheat | Combs | Combs | Job | |
| 11/23/65 | March wheat | Willey | Willey | Job | |
| 11/23/65 | March wheat | Combs | Combs | Round | |
| 12/8/65 | May wheat | Combs | Combs | Job | |
| 12/8/65 | September wheat | Willey | Willey | Round | |
| 12/8/65 | May wheat | Willey | Willey | Job | |
| 12/8/65 | September wheat | Combs | Combs | Round | |
| 12/8/65 | March soybeans | Frymire | Willey | Job | |
| 12/8/65 | March soybeans | Combs | Combs | Round | |
| 12/8/65 | May soybeans | Frymire | Willey | Job | |
| 12/8/65 | May soybeans | Combs | Combs | Job | |
| 12/14/65 | May wheat | Willey | Willey | Round | |
| 12/14/65 | May wheat | Combs | Combs | Job | |
| 12/14/65 | September wheat | Willey | Willey | Job | |
| 12/14/65 | September wheat | Combs | Combs | Round | |
| Sale | | | | | |
| Date | Quantity (In Thousands of Bushels) | Price | Respondent Acting As Floor Broker or Trader | Respondent for Whose Account Sale was Made | |
| 5/21/65 | 195 | 2.53-1/4 | Combs | Combs | |
| 5/21/65 | 195 | 2.53-1/4 | Willey | Willey | |
| 8/27/65 | 195 | 1.62-1/2 | Willey | Willey | |
| 8/27/65 | 195 | 1.62-1/2 | Combs | Combs | |
| 11/23/65 | 175 | 1.68 | Combs | Combs | |
| 11/23/65 | 175 | 1.68 | Willey | Willey | |

| Date | Commodity and Future | Purchase | | Unit |
|----------|----------------------|--|---|---------|
| | | Respondent for Whose Account Purchase was Made | Respondent Acting As Floor Broker or Trader | |
| 11/23/65 | 175 | 1.66- 1/2 | Combs | Combs |
| 11/23/65 | 175 | 1.66-1/2 | Willey | Willey |
| 12/8/65 | 195 | 1.66-7/8 | Willey | Willey |
| 12/8/65 | 195 | 1.60 | Combs | Combs |
| 12/8/65 | 195 | 1.67 | Combs | Combs |
| 12/8/65 | 195 | 1.60 | Willey | Willey |
| 12/8/65 | 100 | 2.69-3/4 | Combs | Combs |
| 12/8/65 | 100 | 2.69-3/4 | Willey | Frymire |
| 12/8/65 | 100 | 2.72 | Combs | Combs |
| 12/8/65 | 100 | 2.72 | Willey | Frymire |
| 12/14/65 | 100 | 1.73 | Combs | Combs |
| 12/14/65 | 100 | 1.73 | Willey | Willey |
| 12/14/65 | 195 | 1.63-1/2 | Combs | Combs |
| 12/14/65 | 195 | 1.63-1/2 | Willey | Willey |

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| Date | Commodity and Future | Purchase | | Unit |
|----------|----------------------|--|---|-------|
| | | Respondent for Whose Account Purchase was Made | Respondent Acting As Floor Broker or Trader | |
| 12/15/65 | May wheat | Willey | Willey | Job |
| 12/15/65 | May wheat | Combs | Combs | Round |
| 12/15/65 | September wheat | Willey | Willey | Round |
| 12/15/65 | September wheat | Willey | Willey | Round |
| 12/15/65 | September wheat | Combs | Combs | Job |
| 12/15/65 | September wheat | Combs | Combs | Job |
| 1/10/66 | March soybeans | Combs | Combs | Round |
| 1/10/66 | March soybeans | Willey | Willey | Job |
| 2/28/66 | March wheat | Willey | Willey | Job |
| 2/28/66 | March wheat | Combs | -- n1 | Round |

n1 A person not a respondent herein.

| Date | Quantity (In Thousands of Bushels) | Price | Sale | |
|----------|------------------------------------|----------|---|--|
| | | | Respondent Acting As Floor Broker or Trader | Respondent for Whose Account Sale was Made |
| 12/15/65 | 100 | 1.70 | Combs | Combs |
| 12/15/65 | 100 | 1.70 | Willey | Willey |
| 12/15/65 | 100 | 1.62-3/4 | Combs | Combs |
| 12/15/65 | 95 | 1.62-7/8 | Combs | Combs |
| 12/15/65 | 100 | 1.62-3/4 | Willey | Willey |
| 12/15/65 | 95 | 1.62-3/4 | Willey | Willey |
| 1/10/66 | 195 | 2.78 | Willey | Willey |
| 1/10/66 | 195 | 2.78 | Combs | Combs |
| 2/28/66 | 195 | 1.63-1/4 | -- n1 | Combs |

| Date | Quantity (In Thousands of Bushels) | Price | Respondent Acting As Floor Broker or Trader | Sale Respondent for Whose Account Sale was Made |
|---------|--|----------|---|--|
| 2/28/66 | 195 | 1.63-1/4 | Willey | Willey |

n1 A person not a respondent herein.

VIII

Respondents Robert E. Willey, Richard A. Frymire and Howard S. Fisher, during the period from November 8, 1965, through May 19, 1966, entered into transactions as specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at little or no price advantage or disadvantage to the respondents for whose accounts the purchases and sales were made.

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| Date | Commodity and Future | Respondent for Whose Account Purchase was Made | Respondent Acting As Floor Broker or Trader | Unit |
|---------|-------------------------|--|---|-------|
| 11/8/65 | May wheat | Willey | Willey | Round |
| 11/8/65 | May wheat | Frymire | Fisher | Job |
| 11/8/65 | July wheat | Willey | Willey | Round |
| 11/8/65 | September wheat | Frymire | Fisher | Round |
| 11/8/65 | May soybeans | Willey | Willey | Job |
| 11/8/65 | May soybeans | Frymire | Fisher | Round |
| 5/9/66 | May soybeans | Willey | Willey | Round |
| 5/9/66 | May soybeans | Frymire | Frymire | Job |
| 5/10/66 | May wheat | Willey | Willey | Job |
| 5/10/66 | May wheat | Frymire | Frymire | Round |
| 5/19/66 | July wheat | Frymire | Fisher | Round |
| 5/19/66 | July wheat | Frymire | Fisher | Round |
| 5/19/66 | September wheat | Willey | Willey | Round |

| Date | Quantity (In Thousands of Bushels) | Price | Respondent Acting As Floor Broker or Trader | Sale Respondent for Whose Account Sale was Made |
|---------|--|----------|---|--|
| 11/8/65 | 100 | 1.65-1/2 | Fisher | Frymire |
| 11/8/65 | 100 | 1.65-1/2 | Willey | Willey |
| 11/8/65 | 195 | 1.53-1/4 | Fisher | Frymire |
| 11/8/65 | 195 | 1.55 | Willey | Willey |
| 11/8/65 | 100 | 2.58-1/2 | Fisher | Frymire |
| 11/8/65 | 100 | 2.58-1/2 | Willey | Willey |
| 5/9/66 | 100 | 3.00 | Frymire | Frymire |
| 5/9/66 | 100 | 3.00 | Willey | Willey |
| 5/10/66 | 100 | 1.60 | Frymire | Frymire |
| 5/10/66 | 100 | 1.60 | Willey | Willey |
| 5/19/66 | 125 | 1.62-1/4 | Willey | Willey |
| 5/19/66 | 70 | 1.62-3/8 | Willey | Willey |

| Date | Commodity and Future Purchase | Respondent for Whose Account Purchase was Made | Purchase | Respondent Acting As Floor Broker or Trader | Unit |
|---------|-------------------------------|--|----------|---|------|
| 5/19/66 | 195 | 1.64 | Fisher | Frymire | |

IX

The transactions in wheat and soybean futures specified in [ILLEGIBLE TEXT]agraphs VII and VIII hereof, were capable of being used for (1) [ILLEGIBLE TEXT]g a transaction in interstate commerce in wheat or soybeans, [ILLEGIBLE TEXT]pectively, or the products or by-products thereof, or (2) deter[ILLEGIBLE TEXT]ing the price basis of a transaction in interstate commerce in [ILLEGIBLE TEXT]at or soybeans, respectively, or (3) delivering wheat or soybeans, [ILLEGIBLE TEXT]pectively, sold, shipped, or received in interstate commerce.

X

By reason of the facts alleged in this complaint the respondents: [ILLEGIBLE TEXT] entered into transactions which were, or were of the character [ILLEGIBLE TEXT] wash sales and fictitious sales, in wilful violation of section of the Act (7 U.S.C. 6c); and (2) executed purchases and sales commodities for future delivery in a manner which was not open [ILLEGIBLE TEXT] competitive, in wilful violation of section 1.38 of the regula[ILLEGIBLE TEXT]ons (17 CFR 1.38).

WHEREFORE, it is hereby ordered that this complaint and notice hearing be served upon the said respondents. The respondents [ILLEGIBLE TEXT]ll have twenty (20) days after the receipt of this complaint in [ILLEGIBLE TEXT]ch to file with the Hearing Clerk, United States Department of [ILLEGIBLE TEXT]iculture, Washington, D. C. 20250, an answer with an original five copies, fully and completely stating the nature of the [ILLEGIBLE TEXT]se and admitting or denying, specifically and in detail, each

allegation of this complaint. Allegations not answered will be deemed admitted for the purposes of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in the complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at 10:00 a.m., local time, on March 7, 1967, in Chicago, Illinois, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing, the respondents will have the right to appear and show cause, if any there be, why an order should not be made suspending or revoking the registrations of respondents Robert E. Willey, Richard A. Frymire and Howard S. Fisher as floor brokers, and directing that all contract markets refuse all trading privileges to each respondent for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on each of the said respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.

January 4, 1967.

[SEE SIGNATURE IN ORIGINAL]

Assistant Secretary

George L. Mehren

