

Commodity Futures Trading Commission
CEA CASES

NAME: SECRETARY OF AGRICULTURE V. W. G. EDWARDS

DOCKET NUMBER: 18

DATE: JULY 11, 1940

DOCUMENT TYPE: DECISION AND ORDER

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

C. E. A. Docket No. 18

Secretary of Agriculture, Complainant, v. W. G. Edwards, Respondent.

Proceedings, Findings of Fact, Conclusions, and Order.

PROCEEDINGS

On March 22, 1940, the Assistant Secretary of Agriculture issued a complaint charging W. G. Edwards with having violated the Commodity Exchange Act (7 U.S.C. and Supp. V, §§ 1-17a). It was alleged that the respondent, while trading as W. G. Edwards & Company, a registered futures commission merchant, in Billings, Montana, and Rapid City, South Dakota, during 1938 and 1939, had not kept the required records, had not segregated customers' funds, had incorrectly reported to customers, and had bucketed customers' orders. The respondent was directed to show why his registration should not be revoked and his trading privileges on contract markets denied, at a hearing to be held in Washington on April 5, 1940. The complaint was served upon the respondent by registered mail on March 26, 1940.

On March 29, the referee wrote the respondent that if he wished to be heard at a place other than Washington, he should so request. No such request was made.

The Hearing was held in Washington at the appointed time, before Jack W. Bain, Esquire, the referee designated by the Assistant Secretary. Charles W. Bucy, Esquire, Office of the Solicitor, Department of Agriculture, appeared for the Government, and T. B. Thorson, Esquire, of Rapid City, South Dakota, appeared for the respondent. Judicial notice was taken of the designation of the Chicago Board of Trade and the Minneapolis Chamber of Commerce as contract markets. Douglas B. Bagnoll, in charge of the Division of Violations and Complaints, Commodity Exchange Administration, Department of Agriculture, called by the Government, produced the report of an audit of the respondent's firm made in June 1939. This shows that there were, insufficient funds in segregated account, but that this situation was corrected when the audit was completed. Some twenty trades confirmed to customers were either not executed on contract markets or were executed at prices different from those reported to the customers. Confirmations used by the respondent were different from those in general use, and showed that the respondent, as principal, took the other side of the customer's trade. The witness identified some correspondence between the respondent and the Commodity Exchange Administration regarding his method of handling trades, and said that he, the respondent, discontinued the handling of commodity futures business in September 1939.

The respondent testified in his own behalf. According to his testimony, upon going into business for himself in 1938, he consulted attorneys and an accounting firm, and thought he had established lawful accounting and trading

methods. His customers were unwilling to pay a commission large enough to yield him a profit, but were willing for him to take their trades as principal and make a profit on them if he could. He would confirm their trades to them, and then attempt to execute the trades at a price that would give him a profit. It was unintentional when a trade was not executed at all, such usually resulting from the customer's closing out before the respondent had had opportunity to get execution of the trade at a profit. He did not intend to bucket trades nor to violate the law. He profited on some trades, lost on others. No customer lost as a result of the respondent's methods of handling trades. He does not now handle controlled commodity futures, nor does he intend to.

After the close of the hearing, the referee's report, proposed findings of fact and conclusions, and recommended order were served upon the respondent, Government counsel, and the Commodity Exchange Administration. A period of twenty days from the receipt thereof was given for filing exceptions, briefs, and a request for oral argument before the Secretary. The time has elapsed, and none has been filed.

FINDINGS OF FACT

1. W. G. Edwards, the respondent, trading as W. G. Edwards & Company, in Billings, Montana, and Rapid City, South Dakota, from about

May 1938 until September 1939, engaged as a futures commission merchant and registered with the Secretary of Agriculture as such for the calendar years 1938 and 1939.

2. The respondent failed to segregate and account separately for funds received from and accruing to his customers in connection with sales of wheat, and other commodities named in the Commodity Exchange Act, for future delivery on The Board of Trade of the City of Chicago and the Minneapolis Chamber of Commerce, contract markets, with the result that there was a shortage of \$ 3,237.16 on May 31, 1939, and of \$ 949.92 on June 24, 1939, in segregated funds.

3. Between July 1938 and June 1939, the respondent, a correspondent of members of contract markets, in many instances reported prices to customers different from the actual prices at which their commodity futures trades were executed on contract markets.

4. During the same period, the respondent, in some instances, did not execute commodity futures trades, confirmed to his customers, on contract markets, but bucketed such trades.

5. The commodity futures contracts mentioned herein could have been used for hedging or determining the price basis of transactions in interstate commerce in the commodity involved.

CONCLUSIONS

While it does not appear that the respondent attempted to cheat or defraud his customers, or that his acts resulted in a loss to them, or that he specifically intended to violate the law, the evidence

clearly shows that he did violate various provisions of the act, and warrants the issuance of an order denying him trading privileges on contract markets until further notice. As his registration has expired, it need not be revoked.

ORDER

IT IS ORDERED that all contract markets, until further notice by the Secretary of Agriculture, refuse all trading privileges thereon to W. G. Edwards.

IT IS FURTHER ORDERED that a copy hereof be sent by registered mail to W. G. Edwards, 517 Sixth Street, Rapid City, South Dakota, and to each contract market, and that this order shall be effective 15 days after the date hereof.

(SEAL)

Done at Washington, D. C. this 11th day of July 1940. Witness my hand and the seal of the Department of Agriculture.

(Signed)

CLAUDE R. WICKARD

Under Secretary of Agriculture.

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