

Commodity Futures Trading Commission
CEA CASES

NAME: RICHARD D. KOHN, MARSHALL J. STEIN, THOMAS CURTEAN, AND BRIAN H. MCGUIRE

CITATION: 31 Agric. Dec. 1253

DOCKET NUMBER: 199

DATE: OCTOBER 25, 1972

DOCUMENT TYPE: DECISION AND ORDER

(No. 14,810)

In re RICHARD D. KOHN, MARSHALL J. STEIN, THOMAS CURTEAN, and BRIAN H. MCGUIRE.
CEA Docket No. 199. Decided October 25, 1972.

Floor broker -- Purchases and sales not open and competitive -- Stipulation --
- Brian H. McGuire -- Suspension

Where respondent Brian H. McGuire's stipulation is accepted, this order is issued as to respondent Brian H. McGuire and said respondent is suspended as a floor broker under the Act for 15 days.

Richard W. Davis, Jr., for complainant.

Harry H. Fortes, Chicago, Illinois, for respondent McGuire.

Decision by Allen B. Chronister, Acting Judicial Officer

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. Chap. 1), instituted by a complaint and notice of hearing issued on September 1, 1972, under section 6(b) and (c) of the said Act (7 U.S.C. 9 and 13b). The respondents are charged with willfully violating section 1.38 of the regulations issued under the said Act (17 CFR 1.38).

No hearing has been held in this proceeding as to respondent Brian H. McGuire. On October 17, 1972, this respondent filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which he (1) admits the facts hereinafter set forth in paragraphs 1 and 2 of the Findings of Fact, (2) admits, for the purposes of this proceeding and for such purposes only, the remaining facts set forth in the Findings of Fact, and (3) waives oral hearing on the charges in the complaint and the report of the referee and consents to the entry, without further proceedings, of the order contained herein.

FINDINGS OF FACT

1. Respondent Brian H. McGuire is now, and was at all times material herein, a registered floor broker under the Commodity

Exchange Act and a member of the Chicago Mercantile Exchange, a duly designated contract market under the said Act.

2. The transactions specified herein were in live cattle futures and were entered into on or subject to the rules of the Chicago Mercantile Exchange. Such transactions could have been used for hedging transactions in interstate commerce in cattle or the products or by-products thereof, or for determining the price basis of transactions in interstate commerce in cattle, or for delivering cattle sold, shipped, or received in interstate commerce.

3. On August 21, 1969, and March 24, 1970, the respondents entered into transactions as specified in the tabulation below. In entering into such transactions the respondents acted pursuant to and in accordance with, an understanding or arrangement (1) that on August 21, 1969, respondent Stein would enter into a spread transaction with respondent McGuire and that respondent Kohn would enter into a reciprocal spread transaction with respondent Curtean, (2) that on March 24, 1970, respondent Stein would enter into a spread transaction with respondent McGuire offsetting that entered into between them on August 21, 1969, and that respondent Kohn would enter into a spread transaction with respondent Curtean offsetting that entered into on August 21, 1969.

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Purchase				
Date	Commodity and Future	Respondent for Whose Account Purchase Was Made	Respondent Acting as Floor Broker or Trader	Quantity (No. of Contracts)
8/21/69	October Cattle	Stein	Stein	100
8/21/69	December Cattle	McGuire	McGuire	100
8/21/69	October Cattle	Curtean	Curtean	100
8/21/69	December Cattle	Kohn	Kohn	100
3/24/70	October Cattle	McGuire	McGuire	100
3/24/70	December Cattle	Stein	Kohn	100
8/24/70	October Cattle	Kohn	Stein	100
3/24/70	December Cattle	Curtean	Curtean	100
Sale				
Date	Commodity and Future	Price (Per Cwt.)	Respondent Acting as Floor Broker or Trader	Respondent for Whose Account Sale Was Made
8/21/69	October Cattle	26.00	McGuire	McGuire
8/21/69	December Cattle	26.00	Stein	Stein
8/21/69	October Cattle	26.00	Kohn	Kohn
8/21/69	December Cattle	26.00	Curtean	Curtean
3/24/70	October Cattle	30.55	Kohn	Stein
3/24/70	December Cattle	30.55	McGuire	McGuire
8/24/70	October Cattle	30.55	Curtean	Curtean
3/24/70	December Cattle	80.55	Stein	Kohn

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that respondent Brian H. McGuire, as charged in this complaint, executed purchases and sales of commodities for future delivery in a manner that was not open and competitive, in willful violation of section 1.38 of the regulations under the Commodity Exchange Act (17 CFR 1.38).

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the stipulation and the terms of the proposed order and they believe that the entry of such an order without further proceedings would constitute a satisfactory disposition of this case as to Brian H. McGuire, serve the public interest and effectuate the purposes of the Commodity Exchange Act. The complainant, therefore, recommends that the stipulation be accepted and the proposed orders issued, terminating this proceeding as to respondent Brian H. McGuire.

It is concluded that the complainant's recommendation should be adopted.

ORDER

1. Effective upon the date of service of this order upon respondent Brian H. McGuire, he shall cease and desist from executing any futures transaction subject to the Commodity Exchange Act if such transaction is not executed openly

and competitively in accordance with section 1.38 of the regulations issued under the Commodity Exchange Act (17 CFR 1.38).

2. Effective on the thirtieth day after the date of entry of this order, (1) the respondent is prohibited from trading on or subject to the rules of any contract market for a period of 15 days, and all contract markets shall refuse all trading privileges to the respondent during this period, such prohibition and refusal to apply to all trading done and all positions held by the respondent directly or indirectly, and (2) the registration of the respondent as floor broker under the Commodity Exchange Act is suspended for a period of 15 days.

A copy of this Decision and Order shall be served on each of the parties and on each contract market.

LOAD-DATE: December 15, 2008

