

Commodity Futures Trading Commission
CEA CASES

NAME: COWEN & CO.

CITATION: 27 Agric. Dec. 338

DOCKET NUMBER: 152

DATE: MARCH 27, 1968

DOCUMENT TYPE: DECISION AND ORDER

(No. 11,684)

In re COWEN & Co. CEA Docket No. 152. Decided March 27, 1968.

Segregated funds -- Failure to prepare records -- Denial of trading privileges -- Suspension of registration -- Stipulation

Respondent's failure to prepare daily records of customers' funds held in segregated accounts is a violation of the act for which suspension of registration and the denial of trading privileges on the contract markets for a period of 10 days are ordered. However, these sanctions are not to become effective unless respondent should be found in violation within a two-year period.

Earl L. Saunders for Commodity Exchange Authority.

Jacob Imberman, of Proskauer Rose Goetz & Mendelsohn, New York, N. Y., for respondent.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint and notice of hearing issued under section 6(b) of the act (7 U.S.C. 9). The respondent, a partnership registered as a futures commission merchant under the Commodity Exchange Act, is charged with violating section 4d of the act (7 U.S.C. 6d) and section 1.32 of the regulations thereunder (17 CFR 1.32). No hearing has been held with respect to this proceeding. On March 11, 1968, the respondent submitted a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which it admits "for the purposes of this proceeding and for such purposes only" the facts hereinafter set forth, waives hearing, and consents to the entry of the order contained herein.

FINDINGS OF FACT

1. The respondent, a partnership with offices at 45 Wall Street, New York, New York, is now and was at all times mentioned herein a registered futures commission merchant under the Commodity Exchange Act.

2. From January 26 through November 1, 1967, the respondent, acting in the capacity of futures commission merchant, carried accounts for five customers who traded in commodity futures subject to the provisions of the Commodity Exchange Act and regulations. During this period the respondent handled 22 transactions for the five customers. At all times material herein, the respondent maintained in segregated accounts sufficient funds to pay all the credits and equities due to its customers. However, during the same period, the respondent did not make any computation or permanent record, as of the close of the market on each business day, of the amount of money, securities, and property of customers required to be held in segregation in accordance with the provisions of section

4d of the Commodity Exchange Act (7 U.S.C. 6d). During November and December, 1965, the Commodity Exchange Authority had communicated with the respondent because of the respondent's failure to prepare and maintain a daily record of customers' funds required to be held in segregation. On January 6, 1966, the Director of the Authority's Accounting and Licensing Division had written a letter to the respondent calling attention to its delinquencies in that respect, and stating that the respondent would be afforded an opportunity to bring itself into compliance.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that the respondent willfully violated section 4d of the Commodity Exchange Act and section 1.32 of the regulations, as charged in the complaint.

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and the terms of the order to which the respondent proposes to consent. It is the opinion of the administrative officials that in the circumstances the proposed order would be adequate, and that the prompt entry of such an order would constitute a satisfactory disposition of the case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant recommends, therefore, that the stipulation and waiver be accepted and that the proposed order be issued. It is so concluded.

ORDER

The registration of respondent Cowen & Co. as a futures commission merchant is suspended for a period of ten (10) days, and all contract markets shall refuse all trading privileges to respondent Cowen & Co. for a period of ten (10) days, *Provided, However*, that the aforesaid suspension of registration and refusal of trading privileges shall not become effective unless, after complaint and hearing in accordance with established procedure, respondent Cowen & Co. should be found to have violated the Commodity Exchange Act within two years from the date of entry of this order, in which event the Secretary of Agriculture may, without further notice to respondent Cowen & Co., issue a supplemental order making effective forthwith the aforesaid suspension of registration and refusal of trading privileges, which shall be in addition to any sanction which may be imposed as a result of such subsequent violation.

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

LOAD-DATE: June 8, 2008

