

Commodity Futures Trading Commission  
CEA CASES

**NAME:** CONTINENTAL GRAIN COMPANY AND IN RE CONTINENTAL GRAIN COMPANY, JULIUS MAYER, AND SELWYN S. UNELL

**CITATION:** 17 Agric. Dec. 854

**DOCKET NUMBER:** 72 AND 84

**DATE:** SEPTEMBER 22, 1958

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 5606)

*In re* CONTINENTAL GRAIN COMPANY and *In re* CONTINENTAL GRAIN COMPANY, JULIUS MAYER, AND SELWYN S. UNELL. CEA Dockets No. 72 and No. 84. Decided September 22, 1958.

**Manipulation of Prices of Wheat and Corn -- Suspension of Registrations -- Denial of Trading Privileges -- Consent Order**

The complaints charge that the respondents manipulated or attempted to manipulate the prices of wheat and corn in wilful violation of the Commodity Exchange Act. The sanctions ordered were consented to by the respondents and recommended by complainant.

*Messrs. Benj. M. Holstein and Charles W. Bucy, for Commodity Exchange Authority. Thompson, Raymond, Mayer, Jenner & Bloomstein, of Chicago, Illinois, for respondents Continental Grain Company and Julius Mayer. Respondent Selwyn S. Unell pro se.*

*Decision by Thomas J. Flavin, Judicial Officer*

**PRELIMINARY STATEMENT**

These are disciplinary proceedings under the Commodity Exchange Act (7 U.S.C., 1952 ed., Chapter 1) instituted by complaints and notices of hearing issued under section 6(b) of the act (7 U.S.C., 1952 ed., § 9) by the Assistant Secretary of Agriculture on April 30, 1956 for Docket 72, and May 12, 1958 for Docket 84.

The sole respondent in Docket 72 is Continental Grain Company, a corporation organized under the laws of the State of Delaware, with its principal office and place of business at 141 West Jackson Boulevard, Chicago 4, Illinois. The corporation is now and was at all times material to this complaint a clearing member of the Board of Trade of Kansas City, Missouri, and of the Board of Trade of the City of Chicago, a registered futures commission merchant under the Commodity Exchange Act, and engaged in business as a merchant, receiver, shipper, broker, warehouseman, importer, and exporter of grain and other commodities.

The complaint charges that the corporation on January 26, 1955 and on November 30, 1955, by means of transactions in wheat futures on the Kansas City Board of Trade, attempted to manipulate and did manipulate the price of wheat in interstate commerce and for future delivery on or subject to the rules of the board of trade, in wilful violation of sections 6(b) and 9 of the Commodity Exchange Act.

On June 27, 1956 the respondent filed an answer denying the material allegations in the complaint. Hearings were begun in Kansas City, Missouri, on

August 14, 1956 and continued intermittently thereafter in Kansas City and Chicago until May

23, 1957. Subsequent to the completion of the hearings, the complainant and the respondent, respectively, filed with the referee suggested findings of fact, conclusions, and order, and on August 20, 1958 the referee filed a report accepting in substance the suggestions of the complainant and recommending that the sanctions proposed by the complainant be imposed.

In Docket 84 there are three respondents, the aforementioned Continental Grain Company, Julius Mayer, and Selwyn S. Unell. Respondent Julius Mayer is an individual who was at all times material herein an executive vice president of Continental, a member of the Board of Trade of the City of Chicago, and a registered floor broker under the Commodity Exchange Act. Respondent Selwyn S. Unell is an individual, a member of the Board of Trade of the City of Chicago, and a registered floor broker under the Commodity Exchange Act.

The complaint charges that on September 13, 1957 respondent Unell, acting on behalf of Continental, and pursuant to orders and instructions given to him by respondent Julius Mayer, entered into transactions in corn futures on the Chicago Board of Trade for the purpose and with the intent and effect of manipulating the price of corn in interstate commerce, and for future delivery on and subject to the rules of the board of trade in wilful violation of sections 6(b) and 9 of the Commodity Exchange Act.

The answer in Docket 84 is not yet due and there have been no proceedings beyond the issuance of the complaint.

The respondents in both of these proceedings have filed a document consisting of an admission of jurisdictional facts, a withdrawal of the answer previously filed in CEA Docket 72, a waiver of all further proceedings in both matters, and a consent to the entry of the order contained herein.

#### **FINDINGS OF FACT**

1. Respondent Continental Grain Company, hereinafter called Continental, is now and was at all times material herein a corporation organized under the laws of the State of Delaware, with its principal office and place of business at 141 West Jackson Boulevard, Chicago 4, Illinois, and branch offices throughout the United States. The said corporation is now and was at all such times engaged in business as a merchant, receiver, shipper, broker, warehouseman, importer and exporter of grain and other commodities, buying and selling

grain through its various offices and trading in grain for future delivery for its own account on boards of trade in the United States, including the Board of Trade of the City of Chicago, and the Board of Trade of Kansas City, Missouri. The said corporation is now and was at all such times a clearing member of the Board of Trade of the City of Chicago, and the Board of Trade of Kansas City, Missouri, and a registered futures commission merchant under the Commodity Exchange Act.

2. Respondent Julius Mayer, an individual whose address is 912 Skokie Ridge Drive, Glencoe, Illinois, is now and was at all times material herein an executive vice president of Continental, a member of the Board of Trade of the City of Chicago, and a registered floor broker under the Commodity Exchange Act. Respondent Selwyn S. Unell, an individual whose address is 710 Hinman Avenue, Evanston, Illinois, is now and was at all times material herein a member of the Board of Trade of the City of Chicago and a registered floor broker under the Commodity Exchange Act.

3. The Board of Trade of the City of Chicago and the Board of Trade of Kansas City, Missouri, are now and were at all times material herein duly designated contract markets under the Commodity Exchange Act.

4. On January 26, 1955, Continental Grain Company transmitted orders to Walter D. Farmer, a registered floor broker, to sell March 1955 wheat futures for its account on the Kansas City Board of Trade, and such orders were thereupon executed by the said Walter D. Farmer on the Kansas City Board of Trade for and on behalf of said Continental Grain Company.

5. On November 30, 1955, Continental Grain Company transmitted orders to the said Walter D. Farmer to sell December 1955 wheat futures for its account on the Kansas City Board of Trade, and such orders were thereupon executed by the said Walter D. Farmer on the Kansas City Board of Trade for and on behalf of said Continental Grain Company.

6. On September 13, 1957, Julius Mayer, acting on behalf of Continental Grain Company, transmitted orders to the said Selwyn S. Unell to sell September 1957 corn futures for its account on the Chicago Board of Trade, and such orders were thereupon executed by the said Selwyn S. Unell on the Chicago Board of Trade for and on behalf of Continental Grain Company.

### **CONCLUSIONS**

The rules of practice under the Commodity Exchange Act provide that the Secretary in his discretion may allow a respondent to consent to an order at any time prior to a hearing, provided the respondent submits for filing in the record a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction, and agrees that an order may be entered against him. This procedure is applicable to the present status of CEA Docket 84. The rules make no provision for the issuance of a consent order after the commencement or the completion of a hearing. However, the mere absence of a specific provision in the rules of practice should not be construed as a prohibition. Since the parties have reached an agreement which appears to be reasonable they should be permitted to terminate the proceedings in both dockets on that basis. If the admission of such facts as are necessary to the Secretary's jurisdiction will justify a consent order prior to hearing, it follows that the admission of similar facts after the hearing has commenced or been completed should have the same effect.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and waiver submitted by the respondents and the terms of the order to which they propose to consent. The complainant expresses the view that the proposed sanctions are adequate and that the prompt entry of the order contained herein without further hearings or proceedings of any kind will constitute a satisfactory disposition of these matters, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. Based on this view, the complainant recommends that the stipulation and waiver be accepted, that the hearings be declared closed, and that the order agreed upon be issued, terminating both proceedings. It is so concluded.

### **ORDER**

Effective on the 60th day after the date of this order, the registration of Continental Grain Company as a futures commission merchant under the Commodity Exchange Act shall be suspended for a period of ninety (90) days; the Board of Trade of Kansas City, Missouri, is directed to refuse all trading privileges thereon in wheat to the said Continental Grain Company for a period of ninety (90) days; and the Board of

Trade of the City of Chicago is directed to refuse all trading privileges thereon in corn to the said Continental Grain Company for a period of ninety (90) days.

Effective on the 60th day after the date of this order the registration of Julius Mayer as a floor broker under the Commodity Exchange Act shall be suspended for a period of ninety (90) days, and all contract markets are

directed to refuse all trading privileges thereon to the said Julius Mayer for a period of ninety (90) days.

Effective on the 60th day after the date of this order the registration of Selwyn S. Unell as a floor broker under the Commodity Exchange Act shall be suspended for a period of thirty (30) days and all contract markets are directed to deny all trading privileges thereon to the said Selwyn S. Unell for a period of thirty (30) days.

A copy of this decision and order shall be served upon each of the parties by registered mail or in person and upon each contract market.

**LOAD-DATE:** June 8, 2008

