

Commodity Futures Trading Commission
CEA CASES

NAME: MILROSE BROKERAGE CO., INC., AND MILTON E. ROSENBERG

CITATION: 26 Agric. Dec. 225

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(No. 11,072)

In re MILROSE BROKERAGE CO., INC., and MILTON E. ROSENBERG. CEA Docket No. 145.
Decided March 3, 1967.

**Segregation of funds -- Reports -- Records -- Suspension of registration --
Denial of trading privileges -- Stipulation**

Respondents consented to the issuance of an order suspending the registration of the corporate respondent as a futures commission merchant for 90 days and directing all contract markets to deny trading privileges to both respondents for a like period for activities involving the improper handling of customers' funds, failure to segregate and keep records with respect to such funds, and failure to send monthly statements to customers.

Mr. Earl L. Saunders for Commodity Exchange Authority.

Respondents *pro se*.

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 filed on January 24, 1967, by the Assistant Secretary of Agriculture. The respondents are a Pennsylvania corporation registered as a futures commission merchant, and an individual who is the president and manager of the corporation and its principal stockholder. The complaint charges the respondents with improper handling of customers' funds, failure to segregate and keep records with respect to such funds, and failure to send monthly statements or accountings to customers, in wilful violation of the act and the regulations thereunder.

No hearing has been held. On February 28, 1967, the respondents submitted a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which they withdraw their answer previously filed, admit the facts as alleged in the complaint, waive hearing, and consent to the entry of the order hereinafter set forth.

FINDINGS OF FACT

1. Respondent Milrose Brokerage Co., Inc., a Pennsylvania corporation with offices at 2033 Penn Avenue, Pittsburgh, Pennsylvania, is now, and was at all times material herein, registered

as a futures commission merchant under the Commodity Exchange Act.

2. Respondent Milton E. Rosenberg, an individual whose address is 552 North Neville Street, Pittsburgh, Pennsylvania, is now, and was at all times material herein, the president of the respondent corporation and its principal

stockholder. At all such times, respondent Milton E. Rosenberg conducted, managed and controlled the affairs of the corporation as his own business. The operations of the corporation, hereinafter described, were ordered and directed or carried out by respondent Milton E. Rosenberg.

3. At the times hereinafter stated, the respondent corporation, in the regular course of its business as futures commission merchant, carried accounts for customers who traded in commodity futures. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Commodity Exchange Act and the rules and regulations issued thereunder. At all such times, the respondent corporation had to its credit with a bank or other depository, sums of money in varying amounts, held in segregated account and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers.

4. On 51 business days during the period from June 22, 1966, through September 6, 1966, the respondent corporation was undersegregated in amounts ranging from \$ 265.50 on June 22 to \$ 4,515.50 on June 29 -- that is, on the 51 days mentioned the total amount of customers' funds held in segregation by the respondent corporation, as described in Finding of Fact 3 hereof, was from \$ 265.50 to \$ 4,515.50 less than the amount necessary to pay all credits and equities due to such customers.

5. On 13 business days during the period from June 22, 1966, through July 11, 1966, and on 11 business days during the period from July 26, 1966, through August 9, 1966, the respondent corporation purchased and sold commodity futures for the use and benefit of certain customers and margined, guaranteed, or secured such purchases and sales with funds belonging to other customers of the respondent corporation. The funds so used ranged from \$ 254.25 on July 8, 1966, to \$ 2,406.25 on June 29, 1966.

6. On 46 business days during the period from July 1, 1966, through September 6, 1966, the respondent corporation failed to prepare and maintain a daily segregation record setting forth

the amount of money, securities and property of customers required to be kept in segregation, and during the months of June, July and August 1966, no monthly statements or accountings were sent to its customers.

7. In June 1966 and prior to the acts and omissions described above, an examination of the books and records of the respondent corporation by the Commodity Exchange Authority disclosed that during the period from October 4, 1965, through March 6, 1966, the respondent corporation had not prepared a daily record of customers' funds required to be held in segregation, and that during the period from March 7, 1966, through June 6, 1966, the respondent corporation had become under-segregated on all but seven days. Representatives of the Commodity Exchange Authority informed respondent Milton E. Rosenberg that these matters constituted violations of the Commodity Exchange Act and regulations, and the said respondent promised the representatives of the Commodity Exchange Authority that necessary corrective measures would be taken and that such violations would not be repeated.

CONCLUSIONS

The respondents have admitted the facts as alleged in the complaint, and these have been adopted as the Findings of Fact in this proceeding. These findings demonstrate that the corporate respondent, under the supervision and direction, or by means of the acts of the individual respondent, failed to treat and deal with customers' funds as belonging to such customers, failed to segregate and account separately for such funds, used funds held for customers to margin and guarantee the trades and secure and extend the credit of customers other than those for whom such funds were held, failed to prepare and maintain the records required under the Commodity Exchange Act and the regulations issued

thereunder as a basis for such segregation and accounting, and failed to send customers required statements. By reason thereof, the respondents wilfully violated sections 4d and 4g of the Commodity Exchange Act (7 U.S.C. 6d, 6g) and sections 1.20, 1.21, 1.32 and 1.33 of the regulations (17 CFR 1.20, 1.21, 1.22, 1.32, 1.33).

Complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and order, and that they believe the proposed

sanctions are adequate and that the prompt entry, without further proceedings, of the order to which the respondents have consented will constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. Complainant recommends, therefore, that the stipulation and waiver submitted by the respondents be accepted and that the proposed order be issued. It is so concluded.

ORDER

Effective on the thirtieth day after the date of entry of this order, (1) the registration of Milrose Brokerage Co., Inc. as a futures commission merchant is suspended for a period of 90 days, and (2) all contract markets shall refuse all trading privileges to Milrose Brokerage Co., Inc. and Milton E. Rosenberg for a period of 90 days, such refusal to apply to all trading done and all positions held by the said Milrose Brokerage Co., Inc. and Milton E. Rosenberg, or either of them, directly or indirectly.

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

