

Commodity Futures Trading Commission
CEA CASES

NAME: PEERS AND COMPANY, HENRY M. PEERS, JR., LEADING EMBROIDERY COMPANY, SMITHERMAN COTTON MILLS, INC., AND LEON SALKIND

DOCKET NUMBER: 61

DATE: FEBRUARY 16, 1954

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re Peers and Company, Henry M. Peers, Jr., Leading Embroidery Company, Smitherman Cotton Mills, Inc., and Leon Salkind, Respondents

CEA Docket No. 61

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

The Secretary of Agriculture has reason to believe that the respondents, Peers and Company, Henry M. Peers, Jr., Leading Embroidery Company, Smitherman Cotton Mills, Inc., and Leon Salkind, have violated the Commodity Exchange Act (7 U.S.C. Chapter 1) and the rules and regulations of the Secretary of Agriculture promulgated thereunder. In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C. 9), this complaint and notice of hearing is issued alleging as follows:

I

Respondent Peers and Company, 76 Beaver Street, New York, New York, is a sole proprietorship, owned and managed by respondent Henry M. Peers, Jr. At all times material to this complaint, the said Peers and Company was a registered futures commission merchant under the Commodity Exchange Act and a clearing member of the New York Cotton Exchange.

II

Respondent Leading Embroidery Company is a partnership organized under the laws of the State of New York and registered in the State of New Jersey, with offices located at 5620 Bergenline Avenue, West New York, New Jersey. The said partnership consists of respondent Leon Salkind, the principal partner, and Harold J. Baum and Max Muehlfriedel, not respondents herein.

III

Respondent Smitherman Cotton Mills, Inc., is a corporation organized under the laws of the State of North Carolina, with offices located at 5620 Bergenline Avenue, West New York, New Jersey. The said corporation is wholly owned and controlled by the above-described partners of the respondent partnership, Leading Embroidery Company. Respondent Leon Salkind is president and a director of the said corporation, and the aforementioned Harold J. Baum is secretary-treasurer and a director of such corporation.

IV

At all times material to this complaint, respondent Leon Salkind managed and controlled the business of the respondent partnership and the respondent corporation, and the commodity futures transactions hereinafter described were carried out at the direction of the said Leon Salkind in his capacity as

principal partner in the respondent partnership and president of the respondent corporation.

V

At all times material to this complaint, the New York Cotton Exchange was a duly designated contract market under the Commodity Exchange Act.

VI

On or about September 10, 1952, respondents Leading Embroidery Company and Smitherman Cotton Mills, Inc., acting through respondent Leon Salkind, each opened a regulated commodity account with respondent Peers and Company, and in connection therewith the said Leading Embroidery Company and Smitherman Cotton Mills, Inc., each furnished to respondent Peers and Company a letter on a standard form of the New York Cotton Exchange, stating that trading in the respective account would consist of hedging transactions. By reason of such representations, initial margin on opening trades in the said accounts was not required under the rules of the New York Cotton Exchange, Such representations were untrue, in that most of the transactions executed for these accounts were not hedges but constituted speculative trading.

VII

On or about September 15, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 4,000 bales of March 1953 cotton futures on the New York Cotton Exchange for the account of respondent Leading Embroidery Company and simultaneously ordered

the said Peers and Company to sell 4,000 bales of March 1953 cotton futures for the account of respondent Smitherman Cotton Mills, Inc. Respondent Peers and Company simultaneously transmitted both orders to Aubrey Wolford, a registered floor broker under the Commodity Exchange Act, for execution on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 4,000 bales of March 1953 cotton futures at 39.31 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said Aubrey Wolford reported the above-described purchase and sale to respondent Peers and Company, and the said Peers and Company entered the transactions in its books in the respective accounts of the respondent partnership and the respondent corporation, and notified respondent Leon Salkind that his orders had been executed.

VIII

On or about November 12, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 3,500 bales of March 1953 cotton futures on the New York Cotton Exchange for the account of respondent Smitherman Cotton Mills, Inc., and simultaneously ordered the said Peers and Company to sell 4,000 bales of March 1953 cotton

futures on the said exchange for the account of respondent Leading Embroidery Company. Respondent Peers and Company simultaneously transmitted both orders to the said Aubrey Wolford for execution on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 3,500 bales of March 1953 cotton futures at 36.06 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said Aubrey Wolford reported the above-described purchase and sale to respondent Peers and Company, and the said Peers and Company entered the transactions in its books in the respective accounts of the respondent corporation and the

respondent partnership, and notified respondent Leon Salkind that his orders had been executed.

IX

On or about November 12, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 4,000 bales of May 1953 cotton futures on the New York Cotton Exchange for the account of respondent Smitherman Cotton Mills, Inc., and simultaneously ordered the said Peers and Company to sell 4,000 bales of May 1953 cotton futures on the said exchange for the account of respondent Leading Embroidery Company. Respondent Peers and Company simultaneously transmitted both orders to the said Aubrey Wolford for execution

on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 4,000 bales of May 1953 cotton futures at 36.16 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said Aubrey Wolford reported such purchase and sale to respondent Peers and Company, and the said Peers and Company entered the transactions in its books in the respective accounts of the respondent corporation and the respondent partnership, and notified respondent Leon Salkind that his orders had been executed.

X

Respondent Peers and Company accepted the orders described in paragraphs VII, VIII, and IX with knowledge of the fact that respondent Leon Salkind controlled the trading in the accounts of the respondent partnership and respondent corporation.

XI

At all times between September 15, 1952, and September 21, 1952, and at all times between September 23, 1952, and February 19, 1953, the books of respondent Peers and Company showed that the account of respondent Leading Embroidery Company had a deficit in excess of \$ 10,000, the maximum amount of credit permitted to be extended by a

member of the New York Cotton Exchange under the rules of the said exchange. No margin funds were deposited by respondent Leading Embroidery Company or by anyone else in its behalf during these periods. On October 23, 1952, and thereafter, such deficit exceeded \$ 100,000. The transactions of November 12, 1952, described in paragraphs VIII and IX, closed out the open contract positions in both accounts and at the close of business on that day the account of respondent Leading Embroidery Company showed a debit balance of approximately \$ 132,765 and the account of respondent Smitherman Cotton Mills, Inc., showed a credit balance of approximately \$ 118,340. The said accounts remained in this status until on or about February 19, 1953, at which time respondent Peers and Company, pursuant to directions from respondent Leon Salkind, applied the said credit balance in the account of respondent Smitherman Cotton Mills, Inc., to the debit balance in the account of respondent Leading Embroidery Company. Shortly thereafter both of the accounts were closed.

XII

The cotton futures transactions described in paragraphs VII, VIII, and IX could be used for hedging transactions in interstate commerce in cotton or the products or by-products thereof, or determining the price basis of transactions in interstate commerce in cotton, or delivering cotton sold, shipped, or received in interstate commerce.

XIII

By reason of the facts described in paragraphs VII, VIII, and IX, the respondents, Peers and Company, Henry M. Peers, Jr., Leading Embroidery Company, Smitherman Cotton Mills, Inc., and Leon Salkind, offered to enter into, and entered into transactions which were wash sales or fictitious sales, in violation of section 4c of the Commodity Exchange Act (7 U.S.C. 60).

Therefore, the said respondents, Peers and Company, Henry M. Peers, Jr., Leading Embroidery Company, Smitherman Cotton Mills, Inc., and Leon Salkind, are hereby notified to be and appear at a hearing to be held at 10:00 a.m., Eastern Standard Time, on the 30th day of March 1954, in Room 602, Cotton Exchange Building, 60 Beaver Street, New York, New York, before a referee designated to conduct such hearing and then and there show cause, if any there be, why an order should not be made revoking or suspending the registration of respondent Peers and Company as a futures commission merchant and directing that all contract markets refuse all trading privileges to all the respondents for such period of time as may be determined by the Secretary of Agriculture.

The respondents will have 20 days after the receipt of this notice of hearing in which to file with the Secretary of Agriculture,

in septuplicate, an answer fully and completely stating the nature of the defense and admitting or denying specifically and in detail each material and relevant allegation of this complaint. Allegations that are not answered will be deemed admitted for the purpose of this proceeding.

It is ordered that this complaint and notice of hearing be served on the respondents by delivery of a true copy thereof by an employee of the Department of Agriculture, or by registered mail, at least 20 days prior to the date set for hearing.

Done at Washington, D. C.

this 16 day of Feb., 1954.

/s/ True D. Morse

Acting Secretary of Agriculture

LOAD-DATE: June 12, 2008

