

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

STEPHEN PICCOLO	:	
	:	
v.	:	CFTC Docket No. 03-E-1
	:	
COFFEE, SUGAR & COCOA EXCHANGE, INC.	:	ORDER OF SUMMARY
	:	AFFIRMANCE

Steven Piccolo (“Piccolo”) appeals from a decision of the Coffee, Sugar & Cocoa Exchange (“CSCE”) suspending his CSCE clerk registration for six months. CSCE imposed the suspension in light of evidence showing that Piccolo threw a punch that escalated a verbal dispute into a physical brawl directly outside the exchange. It concluded that under CSCE Rule 3.21(c), this conduct established that continuation of Piccolo’s clerk registration was contrary to CSCE’s best interests.<sup>1</sup> Piccolo contends that CSCE denied him procedural protections mandated by Commission and CSCE rules, misinterpreted the scope of CSCE Rule 3.21(c), and imposed an arbitrary sanction based on findings contrary to the weight of the evidence. CSCE urges the Commission to affirm its decision in all respects.

Our review of the record shows that substantial evidence supports CSCE’s finding that Piccolo threw a punch that escalated a verbal dispute into a physical brawl directly outside the exchange. Because the parties do not raise important questions of law or policy that merit extended discussion, and our review establishes that CSCE committed

---

<sup>1</sup> CSCE Rule 3.21(c) states that CSCE’s Executive Floor Committee may suspend the registration of a clerk if it determines “after notice and an opportunity to be heard, that . . . continued registration . . . is contrary to the best interests of [CSCE].”

no error material to the outcome of this proceeding, we are affirming the result of CSCE's decision without opinion. *See* Commission Rule 9.33(b).

Piccolo's procedural challenges focus on the adequacy of the notice CSCE provided prior to the hearing and its refusal to grant a request for continuance that he raised at the outset of the hearing. Our review of the record establishes that CSCE's rulings were consistent with the requirements of fundamental fairness.<sup>2</sup> Piccolo's emphasis on CSCE's failure to comply with Commission and CSCE rules applicable in disciplinary proceedings is misplaced. Because the focus of CSCE's proceeding was Piccolo's fitness to remain registered rather than an alleged violation of a CSCE rule, it did not amount to a disciplinary proceeding.<sup>3</sup> In these circumstances, the applicable procedural requirements were specified in CSCE Rule 3.21(d), and the exchange complied with those requirements.

Finally, Piccolo contends that the suspension CSCE imposed is arbitrary because the exchange generally imposes a fine on members involved in physical altercations. He fails to cite any evidence in support of this claim, however, and the language of CSCE

---

<sup>2</sup> CSCE's September 17, 2002 letter to Piccolo notified him of: (1) the conduct at issue -- his alleged participation in a physical altercation on September 10, 2002; and (2) the focus of the proceeding -- whether his participation in the physical altercation established that his continued registration was contrary to CSCE's interests. Moreover, the remedial steps authorized by CSCE Rule 3.21(c) -- suspension or termination of clerk registration -- made the potential for serious consequences quite evident. Finally, neither Piccolo's conduct nor the conduct of his brother (who presented his case at the hearing) suggest any misunderstanding about the focus or seriousness of the proceeding.

At the outset of the September 25, 2002 hearing, CSCE denied Piccolo's request that the proceeding be continued while he sought legal counsel to represent him. CSCE essentially denied the request as untimely. While Piccolo claims that this amounted to a denial of his right to legal representation, he has not made any showing that circumstances attributable to CSCE made it impractical either to retain legal counsel or seek a continuation in the period between his receipt of CSCE's September 17, 2002 letter and the commencement of the hearing.

<sup>3</sup> Commission Rule 8.03(d) indicates that a disciplinary procedure involves "the investigation and adjudication of possible rule violations and the imposition of appropriate penalties . . . ."

Rule 3.21 does not authorize the imposition of a fine in the context of a fitness determination. In these circumstances, CSCE remedial action cannot be viewed as arbitrary.<sup>4</sup>

Accordingly, we affirm the result of CSCE's decision.

IT IS SO ORDERED.

By the Commission (Chairman NEWSOME, and Commissioners HOLUM, LUKKEN, and BROWN-HRUSKA.

---

Jean A. Webb  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: July 31, 2003

---

<sup>4</sup> Piccolo's claim that CSCE misinterpreted the scope of CSCE Rule 3.21 is facially unpersuasive. The language of the rule clearly implies that, in assessing fitness, CSCE may consider conduct occurring outside the physical boundaries of the exchange. For example, CSCE Rule 3.21(b) permits most registration applications to be deemed approved when filed, but requires that CSCE's President and Executive Floor Committee review applications disclosing, *inter alia*, that the applicant has been "convicted of any felony arising from fraud or moral turpitude." Nothing in the rule suggests that relevant felonies are limited to those involving conduct on CSCE.