

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

STEVEN D. ROBINSON

v.

CHAMPAIGN LANDMARK, INC.,
IOWA GRAIN CO. and SUSAN
ELIZABETH NELSH A/K/A
ELIZABETH FOLLROD

CFTC Docket No. 02-R072

ORDER DENYING
INTERLOCUTORY REVIEW

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C.F.T.C.

In 2002, Steven D. Robinson (“Robinson”) initiated a reparations proceeding against respondents Champaign Landmark, Inc. (“Champaign”), Susan Elizabeth Nelsh A/K/A Susan Elizabeth Follrod (“Nelsh”), and Iowa Grain Co..¹ Robinson charged that Champaign entered an unauthorized hedge-to-arrive transaction in his account in 1996. Noting that the incident preceded the complaint by five years, the Administrative Law Judge (“ALJ”) *sua sponte* certified a question to the Commission for interlocutory review: “Does the Commission’s review of *Grain Land and Competitive Strategies* equitably toll the statute of limitations provision of Section 14 of the Commodity Exchange Act?”² Order of July 1, 2003. In response to the certification, the respondents

¹ The initial complaint was filed on August 14, 2002 and named only Champaign Landmark as a respondent. Iowa Grain and Nelsh were added by addenda to the complaint. The complaint was not served on respondents until March 31, 2003 when the defects were cured, clarifications were made, and all of the present respondents had been added.

² The ALJ’s question refers to two cases that were pending at the time and have since been decided by the Commission: *In re Grain Land Coop.*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,636 (CFTC Nov. 25, 2003); and *In re Competitive Strategies for Agriculture Ltd.*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,635 (CFTC Nov. 25, 2003).

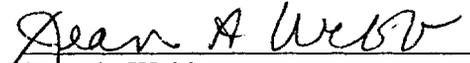
urge the Commission to deny interlocutory review; the complainant has not participated in this aspect of the case.

Under Commission rules, consideration of interlocutory appeals is discretionary and is granted only when extraordinary circumstances have been demonstrated. 17 C.F.R. § 12.309(b)(1) and (c). Based upon our review of the record, we do not believe that interlocutory review of the ALJ's order is warranted. The novel statute of limitations issue presented does not appear to be supported by any legal authority; it does not amount to extraordinary circumstances that would warrant the Commission's immediate intervention.

Accordingly, the request for interlocutory review is denied. The case is remanded to the ALJ for further proceedings.

IT IS SO ORDERED.

By the Commission (Acting Chairman BROWN-HRUSKA and Commissioner LUKKEN).


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

Dated: December 3, 2004