

Commodity Futures Trading Commission
CEA CASES

NAME: A. E. ALBERT, AND A. E. ALBERT AND SONS, INC.

DOCKET NUMBER: 64

DATE: NOVEMBER 12, 1954

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: A. E. Albert, and A. E. Albert and Sons, Inc., Respondents

CEA Docket No. 64

Complaint and Notice of Hearing Under the Commodity Exchange Act

The Assistant Secretary of Agriculture has reason to believe that the respondents, A. E. Albert and A. E. Albert and Sons, Inc., have violated the provisions of the Commodity Exchange Act (7 U.S.C., Chapter 1) and the rules and regulations made pursuant to its requirements (17 CFR, Chapter 1). 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 A. E. Albert and Sons, Inc. is a corporation organized under the laws of the State of Massachusetts. The address of the said corporation is P. O. Box 107, Worthington, Massachusetts. On September 24, 1954, the said corporation was registered as a futures commission merchant under the Commodity Exchange Act and is presently so registered. Respondent A. E. Albert, an individual

whose address is Chesterfield Avenue, Worthington, Massachusetts, is the president and principal shareholder of the respondent corporation, and manages and controls its business. At all times material to this complaint, the said A. E. Albert was a member of the New York Mercantile Exchange, and by reason thereof the respondent corporation exercised membership trading privileges on the said exchange.

II

The New York Mercantile Exchange is a duly designated contract market under the Commodity Exchange Act.

III

The acts and transactions hereinafter described were initiated and carried out under the supervision and direction of respondent A. E. Albert in his capacity as president and managing officer of the respondent corporation.

IV

On each day during the periods from September 10, 1953 to November 17, 1953, from December 17, 1953 to March 23, 1954, from May 13, 1954 to May 16, 1954, and from July 22, 1954 to October 18, 1954, the net long or net short open contract position of respondent A. E. Albert

and Sons, Inc. in potato futures on the New York Mercantile Exchange ranged from 25 carlots to 174 carlots in a single future. By reason of the fact that such quantities were equal to or in excess of 25 carlots in one potato future, the said corporation was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held for its account in all potato futures on all boards of trade (exchanges) during the said periods, as provided in section 4i of the Commodity Exchange Act and sections 6.10, 6.11, 6.12, and 6.21 of the rules and regulations thereunder (17 CFR 6.10, 6.11, 6.12, 6.21).

V

On approximately 30 business days within the periods specified in paragraph IV, and while the respondent corporation was in reporting status as therein described, transactions in potato futures on the New York Mercantile Exchange were executed for the account of the said corporation, but the respondents failed or refused to report to the Commodity Exchange Authority with respect to such transactions, as required by the aforesaid sections of the Commodity Exchange Act and the rules and regulations. On approximately 46 other business days within the periods specified in paragraph IV, and while the respondent corporation was in reporting status as therein described,

transactions in potato futures on the New York Mercantile Exchange were executed for the account of the said corporation, but the respondents submitted incomplete and inaccurate reports with respect to such transactions, contrary to the requirements of the aforesaid sections of the Commodity Exchange Act and the rules and regulations.

VI

Between July 17, 1952 and January 12, 1954, the Commodity Exchange Authority found it necessary to communicate with the respondents nine times because of their failure to submit reports and because of the submission of incomplete and inaccurate reports. On January 12, 1954, the Administrator of the Commodity Exchange Authority addressed a letter to respondent A. E. Albert, calling attention to the delinquency of the respondents in submitting reports, informing them that such delinquency was a continuing violation of the Commodity Exchange Act, and warning them that continued failure in this regard might result in the institution of administrative proceedings directed toward the denial of trading privileges on contract markets. The respondents were therefore aware of their obligations under the act and the rules and regulations with respect to the filing of reports, and the failure of the respondents to submit reports and their submission of incomplete and inaccurate reports, as above described, constituted knowing and wilful violations of section 4i of the Commodity Exchange Act (7 U.S.C. 6i)

and sections 6.10, 6.11, 6.12, and 6.21 of the rules and regulations (17 CFR 6.10, 6.11, 6.12, 6.21).

Therefore, the said respondents, A. E. Albert and A. E. Albert and Sons, Inc. are hereby notified to be and appear at a hearing to be held at 10:00 A.M. eastern standard time, on the seventh (7th) day of December, 1954, at 44 Beaver Street, New York 4, New York, in Room 202, 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 A. E. Albert and Sons, Inc. as a futures commission merchant, and directing that all contract markets refuse all trading privileges to the respondents for such period of time as may be determined.

The respondents will have twenty (20) days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., in quadruplicate, 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 twenty (20) days prior to the date set for hearing.

Done at Washington, D. C., this

12th day of November, 1954

/s/ Earl L. Butz

Earl L. Butz

Assistant Secretary

LOAD-DATE: June 12, 2008

