

Commodity Futures Trading Commission
CEA CASES

NAME: HARRY BREECKER AND SAMUEL ALAMA

DOCKET NUMBER: 233; 75-12

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Harry Breecker and Samuel Alama, Respondents

CEA Docket No. 233

Complaint and Notice of Hearing Under The Commodity Exchange Act

There is reason to believe that the respondents Harry Breecker and Samuel Alama have violated the Commodity Exchange Act, "the Act", (7 U.S.C. §§ 1-17), and the rules and regulations promulgated thereunder, (17 CFR Chapter 1). In accordance with the provisions of sections 6(b) and 6(c) of the Act (7 U.S.C. §§ 9, 13b, and 15), this Complaint and Notice of Hearing is issued stating the charges in that respect as follows:

I

(a) Respondent Harry Breecker, an individual, resides at 401 Atkinson Drive, Apartment 315, Honolulu, Hawaii.

(b) Respondent Samuel Alama, an individual, resides at 564 Ulumu Street, Kailua, Oahu, Hawaii.

II

The transactions in commodities for future delivery referred to herein, if executed, could have been used for (a) hedging transactions in interstate commerce in such commodities or the products or byproducts thereof, or (b) determining the price basis of transactions in interstate

commerce in such commodities, or (c) delivering any such commodity sold, shipped or received in interstate commerce for the fulfillment of such futures contracts.

III

From on or about February 1, 1968, through on or about October 13, 1972, respondent Breecker was an account executive with the firm of Walston & Co., Inc., "Walston", [As of June 1973 duPont, Walston, Inc.; In January of 1974 Payne, Webber, Jackson and Curtis, Inc., purchased the branch offices and customer accounts of duPont Walston, Inc.].

IV

On or about April 7, 1970, the respondents entered into an agreement, whereby respondent Alama would place all of his commodity orders, including the orders of his (Alama's) customers, as detailed below, with respondent Breecker. Mr. Breecker was to place these orders through his (Breecker's) personal account at Walston. All commodity futures transactions by respondent Alama during the

period April 7, 1970, through September 15, 1970, were placed through respondent Breecker pursuant to this agreement.

V

On or about February 24, 1972, respondent Alama accepted \$ 900.00 (cashier's check number 01-1778686 drawn on the Aikahi Branch, Bank of Hawaii) from Edward J. Wyland in order to establish a commodity futures account, with Walston, in Mr. Wyland's name. Mr. Alama was to have discretionary authority with regard to all trading decisions made for this

account. This check was endorsed over to respondent Breecker, who, on February 25, 1972, negotiated it to his personal account (No. 05-203171-06) at the City Bank of Honolulu.

VI

On or about March 16, 1972, respondent Alama accepted \$ 2,200.00 (cashier's check number 01-2109320 drawn on the Keneohe Branch, Bank of Hawaii), from Edward J. Wyland as an additional deposit to his (Wyland's) account. On or about March 16, 1972, respondent Alama negotiated this check to his personal account (No. 27-60200-2) at the City Bank of Honolulu. The money accepted by Mr. Alama as described in paragraphs V and VI was to be used to margin, guarantee, or secure Mr. Wyland's open-end order for the purchase or sale of commodity futures subject to the Commodity Exchange Act. Mr. Alama accepted this money without having registered as a futures commission merchant under the Act.

VII

On or about March 20, 1972, respondent Alama, acting as a futures commission merchant, solicited orders from Robert C. Ruegomer, and in connection with such solicitation accepted \$ 2,000.00 (cashier's check number 24258 drawn on the Montgomery Federal Savings and Loan Association, Baltimore, Maryland), to be used to margin, guarantee, or secure such orders for the purchase or sale of commodity futures subject to the Commodity Exchange Act, without having registered as a futures commission merchant under the Act. On April 17, 1972, respondent Alama negotiated this check to his personal account (No. 27-60200-2) at the City Branch, Bank of Honolulu.

VIII

At all times material, respondent Alama failed to separately account for and segregate the monies received by him as detailed in paragraphs V, VI and VII.

IX

From April 7, 1970, through September 15, 1972, respondent Alama placed 176 orders with respondent Breecker for the purchase or sale of "frozen pork bellies", all but two of which were bucketed by respondent Breecker. Respondent Breecker then reported to respondent Alama that the orders had been executed. By reason of such acts, respondent Breecker bucketed orders for the sale of commodity futures on or subject to the rules of one or more contract markets, and knowingly and without the prior consent of respondent Alama became the seller with respect to the buying orders and buyer with respect to the selling orders, in wilfull violation of section 4b(D) of the Act (7 U.S.C. § 6b(D)); respondent Breecker wilfully caused false records to be made in connection with the execution of such orders, wilfully deceived respondent Alama, and cheated and defrauded respondent Alama, in wilful violation of sections 4b(A), 4b(B), and 4b(C) of the Act (7 U.S.C. 6b(A), 6b(B), and 6b(C)).

X

From on or about April 7, 1970, through on or about August 17, 1972, respondent Breecker accepted \$ 6,623.00 from respondent Alama, which represented deposits by respondent Alama, Edward J. Wyland, and

Robert C. Ruegomer (as detailed in paragraphs V, VI, and VII), which was to be used in whole or in part to margin, guarantee or secure orders for the purchase or sale of commodity futures subject to the Commodity Exchange Act, without having registered as a futures commission merchant under the Commodity Exchange Act. During this period Mr. Breecker returned \$ 4,350.00 to Mr. Alama, converting the balance to his own use, and failed to hold in separate account the money received by him as detailed in paragraphs V and X.

XI

By reason of the facts alleged in this complaint, respondent Samuel Alama wilfully violated section 4d of the Commodity Exchange Act (7 U.S.C. § 6d), and sections 1.7, 1.20, 1.27 and 1.32 of the regulations issued thereunder (17 CFR §§ 1.7, 1.20, 1.27 and 1.32) and respondent Harry Breecker wilfully violated sections 4b, 4c and 4d of the Commodity Exchange Act (7 U.S.C. §§ 6b, 6c and 6d), and sections 1.7, 1.20 and 1.21 of the regulations issued thereunder (17 CFR §§ 1.7, 1.20 and 1.21).

WHEREFORE, it is hereby ordered that this Complaint and Notice of Hearing be served upon the respondents, and this proceeding shall be governed by sections 0.1, 0.2, 0.4(b), 0.5 through 0.22 and 0.28 of the Rules of Practice under the Commodity Exchange Act (17 CFR §§ 0.1, 0.2, 0.4(b), 0.5 through 0.22 and 0.28). The respondents have twenty-five (25) days after receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington,

D. C. 20250, an answer, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the allegations in this complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in this complaint are admitted, likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held in Honolulu, Hawaii, at a place therein and a date to be specified later, before an Administrative Law Judge designated to conduct such hearing. At such hearing respondents will have the right to appear and show cause, if any there be, why an appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) prohibiting the respondents from trading on or subject to the rules of any contract market, and directing all contract markets refuse trading privileges to respondents for such period of time as may be determined, and (2) directing that the respondents shall cease and desist from violating the Act and regulations in the manner alleged herein. August 8, 1974

Done at Washington, D. C.

[SEE SIGNATURE IN ORIGINAL]

RICHARD L FELTNER

Assistant Secretary for Marketing and Consumer Services

LOAD-DATE: August 6, 2008

