

Commodity Futures Trading Commission
CEA CASES

NAME: ANDREW CASCIO

CITATION: 28 Agric. Dec. 1108

DOCKET NUMBER: 164

DATE: SEPTEMBER 5, 1969

DOCUMENT TYPE: DECISION AND ORDER

(No. 12,702)

In re ANDREW CASCIO. CEA Docket No. 164. Decided September 5, 1969.

Segregation of funds -- Denial of trading privileges--Consent

Respondent is ordered to cease and desist from failing to segregate and account separately for customers' funds and from failing to prepare and maintain reports and records pertaining to transactions and positions of his customers, and is prohibited from trading on all the contract markets for a period of 30 days.

Earl L. Saunders for Commodity Exchange Authority.

John A. Doyle, Doyle, Budzinski and Brogan, Chicago Ill., for respondent.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1, 1964 ed., as amended, Supp. IV, 1969) in which the respondent is charged with violating sections 4d and 4g of the Act (7 U.S.C. 6d and 6g, Supp. IV, 1969) and sections 1.20, 1.21, 1.22, 1.32 and 1.35 of the regulations issued under the Act (17 CFR 1.20, 1.21, 1.22, 1.32 and 1.35). No hearing has been held with respect to this proceeding. The respondent has submitted a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)) in which he admits the facts hereinafter set forth, waives hearing on the charges, and consents to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent, Andrew Cascio, is an individual whose address is 2238 Oak Park Avenue, Berwyn, Illinois. Between February 27, 1968 and December 20, 1968, the respondent and Joseph M. Sclafini, now deceased, were co-partners in Sclafini and Cascio, a partnership registered as a futures commission merchant under the Commodity Exchange Act.

2. Between February 27, 1968 and December 20, 1968, the partnership of Sclafini and Cascio, in the regular course of its business, carried accounts of customers who traded in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act and the regulations thereunder. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the said act and the regulations thereunder. At all such times, the said partnership had to its credit with banks or other depositories sums of money in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers.

CONCLUSIONS

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR 0.4(b)) provides as follows:

(b) *Consent Order*. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

The facts admitted by the respondent and set forth in the findings of fact are sufficient to subject him to the jurisdiction of the Secretary of Agriculture under the provisions of the above section.

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the

stipulation and the terms of the proposed order and that they believe the prompt entry of such an order without further proceedings would constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant therefore recommends that the stipulation and waiver be accepted and that the proposed order be issued, terminating this proceeding. It is so concluded.

ORDER

Effective on the date of service of this order upon the respondent, Andrew Cascio, he shall, while engaged as futures commission merchant, cease and desist from failing to segregate and account separately from customers' funds as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and sections 1.20, 1.21 and 1.22 of the regulations thereunder (17 CFR 1.20, 1.21, 1.22) and from failing to prepare and maintain reports and records pertaining to the transactions and positions of customers as required by section 4g of the Commodity Exchange Act (7 U.S.C. 6g, Supp. IV, 1969) and sections 1.32 and 1.35 of the regulations thereunder (17 CFR 1.32, 1.35).

Effective on the thirtieth day after the date of service of this order upon the respondent, Andrew Cascio, he is prohibited from trading on or subject to the rules of any contract market for a period of 30 days, and all contract markets shall refuse all trading privileges to him during this period, such prohibition and refusal to apply to all trading done and all positions held by the said Andrew Cascio, directly or indirectly.

A copy of this order shall be served upon each of the parties and upon each contract market.

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