

Commodity Futures Trading Commission
CEA CASES

NAME: EDWARD A. COX JR. AND GEORGE F. FREY JR.

CITATION: 1978 CFTC LEXIS 174; 1978 WL 10787

DOCKET NUMBER: 75-16; 192

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UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

In the Matter of: EDWARD A. COX, JR., AND GEORGE F. FREY, JR.

CFTC Docket No. 75-16

ORDER GRANTING STAY

On February 23, 1978, respondents Edward A. Cox, Jr. and George F. Frey, Jr. filed an application for Interlocutory Commission review and a request for a stay pending appeal pursuant to Section 10.101 of the Commission's Rules of Practice. Respondents seek review of the February 22, 1978 order of Administrative Law Judge George H. Painter denying respondents' motions to disqualify Judge Painter and to stay the commencement of a hearing in this case which is presently scheduled to commence in Chicago, Illinois on February 28, 1978. On February 24, 1978, the Division of Enforcement filed a response to the request for a stay. Noting its reluctance, given the "overly ripe" status of this case, the Division consented nonetheless. The Division also indicated that it was unable to prepare an adequate response to respondents' application for interlocutory review within the short time remaining before the commencement of the hearing.

The Commission shares the Division's concern over the age of this case (which is predicated upon allegations of attempted manipulation and manipulation of the May 1971 wheat futures contract traded on the Chicago Board of Trade). However, the issues raised in respondents' application for interlocutory review are not susceptible

of disposition before February 28, 1978, the date set for commencement of the hearing, especially in the absence of a response to the application by the Division. The timing of respondents' request, the nature of the issues raised, and the Division's consent to the stay lead us to conclude that respondents' request for a stay of the proceedings before Judge Painter should be granted. This will afford the Division an opportunity to respond to the application for interlocutory review in accordance with the time frame set forth in Section 10.101(b)(3) and will provide an opportunity for a considered judgment by the Commission on the questions raised.

Accordingly, IT IS ORDERED that this proceeding is hereby stayed until further Order of the Commission, pending Commission consideration of respondents' application for Interlocutory review.

By the Commission pursuant to Senior Commissioner Authority (Commissioner SEEVERS).

[SEE SIGNATURE IN ORIGINAL]

Gary L. Seevers

Senior Commissioner pursuant to

17 C.F.R. § 140.11

41 Fed. Reg. 28473 (July 12, 1976)

Dated: February 24, 1978

LOAD-DATE: August 6, 2008

