

Commodity Futures Trading Commission
CEA CASES

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

CITATION: Comm. Fut. L. Rep. (CCH) P21,809; [1982-1984 TRANSFER BINDER]

DOCKET NUMBER: 75-16; 192

DATE: JULY 20, 1983

DOCUMENT TYPE: ORDER

NOTE: FORMERLY CEA DOCKET # 192

[P 21,809] In the Matter of Cox.

Commodity Futures Trading Commission. No. 75-16, July 20, 1983. Order in full text.

Rules of Practice -- Filings -- Excessive Page Length. -- The Commission limited the size of appeal briefs in an enforcement case to 100 pages or less. This was an ordered reduction in length from the 120 page appeal briefs originally filed. The Commission increased the length from 60 to 100 in consideration of the length of the initial decision, number of issues presented and the volume of the record.

See P 11,175, "Liabilities -- Prohibitions" division, Volume 1.

This enforcement case involving allegations of market manipulation comes before the Commission on the Division of Enforcement's ("Division") motion to strike the appeal brief of each respondent, and respondents' individual responses and motions for leave to file a brief in excess of 60 pages. n1 As submitted, each respondent's brief is over twice the page limitation set forth in Section 10.12(e)(5) of the Commission's Regulations. Both briefs contain extensive factual statements and extensive quotation from the hearing transcripts. n2 In view of the length of the initial decision, the number of issues presented, and the volume of the record, we believe some relaxation of the page limitation is appropriate, *compare In the Matter of First National Monetary Corp., and Monex International, Ltd.*, CFTC Docket Nos. 79-56, 79-57, Commission Order (June 15, 1983), n3 but respondents' briefs are simply excessive.

n1 Respondents have each filed a request for oral argument and the Division has filed an opposition to those requests. Respondent Cox has also filed a motion for leave to file a reply brief. The requests and the motion are denied without prejudice to their being renewed after the Division has filed its answering brief. The Commission looks with disfavor on the filing of a document not in accordance with the Rules of Practice either before or at the same time a motion for leave to file is submitted.

n2 The parties are free to allocate the space allowed in the manner they see fit, but from the Commission's perspective citation to pages of the transcript that support a party's argument is sufficient.

n3 In that decision we stated:

The Commission believes that the page limitation established by Section 10.12(e)(5) is, in general, more than adequate for a party to state concisely its position for the Commission. Motions for leave to file a brief in excess of the page limitation are not favored and will be granted only for extraordinary and compelling reasons. *Cf.* General Rule 8(h). United States Court of Appeals for the District of Columbia Circuit.

Accordingly, based upon the submissions of the parties and the record of this proceeding, the Division's motion to strike respondent Cox's brief and respondent Frey's brief is granted. Respondents shall have 30 days from the date this Order is served by the Hearing Clerk to submit appeal briefs of 100 pages or less. The Division shall have 30 days thereafter to submit an answering brief of 100 pages or less. Each party shall then have 30 days to submit additional motions or requests for Commission consideration.

By the Commission (Acting Chairman PHILLIPS and Commissioners HINEMAN and WEST)

LOAD-DATE: August 6, 2008

