

Commodity Futures Trading Commission
CEA CASES

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

DOCKET NUMBER: 192; 75-16

DATE: JUNE 30, 1972

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Edward A. Cox, Jr., and George F. Frey, Jr., Respondents

CEA Docket No. 192

Complaint and Notice of Hearing Under Sections 6(b) and 6(c) of the Commodity Exchange Act

There is reason to believe that the respondents, Edward A. Cox, Jr. and George F. Frey, Jr., have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.), and the regulations made pursuant thereto (17 CFR, Chapter I), and in accordance with the provisions of sections 6(b) and 6(c) of the said act (7 U.S.C. 9 and 13b), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Edward A. Cox, Jr., an individual whose address is 48 Devonshire Drive, Oak Brooks, Illinois 60521 is now, and was at all times material to this complaint, a member of the Board of Trade of the City of Chicago and a registered floor broker under the Commodity Exchange Act.

II

Respondent George F. Frey, Jr., an individual whose business address is 1730 Board of Trade Building, Chicago, Illinois 60604,

is now, and was at all times material to this complaint, a member of the Board of Trade of the City of Chicago and a registered floor broker under the Commodity Exchange Act.

III

The Board of Trade of the City of Chicago, hereinafter referred to as the Board of Trade, is now, and was at all times material to this complaint, a board of trade duly designated as a contract market under the Commodity Exchange Act.

IV

The futures transactions and positions referred to in this complaint relate to the May 1971 wheat future on the Board of Trade. The last day for trading in the May 1971 wheat future on the Board of Trade was May 19, 1971.

V

The futures transactions and positions of the respondents referred to in this complaint were speculative and did not constitute hedging transactions or positions.

VI

At all times material to this complaint, the stocks of deliverable soft red wheat and of yellow hard wheat in deliverable position in Chicago constituted substantially all of the wheat available for delivery on the May 1971 wheat future on the Board of Trade. As of May 19, 1971, such stocks amounted to approximately 780,000 bushels.

VII

On May 19, 1971, at the beginning of trading on the Board of Trade, the positions owned or controlled by the respondents in the May 1971 wheat future totalled 2,200,000 bushels, representing 46.1 percent of the total open interest. Of such holdings, 1,440,000 bushels were held in respondent Cox's name, including 30,000 bushels against which notices that delivery would be made on May 19, 1971, had been received and stopped, and 760,000 bushels were held in respondent Frey's name. Between 11:10 and 11:31 a.m. on that day, 10,000 bushels of such holdings held in respondent Frey's name were sold by another floor broker at a price of \$ 1.69 per bushel. Subsequently, at 11:31 a.m. on that day, respondents' holdings in the May 1971 wheat future represented 97 percent of the total open interest.

VIII

During the period from May 7 through May 18, 1971, respondent Cox took delivery of 550,000 bushels of wheat in satisfaction of a part of a long position held by him in the May 1971 wheat future on the Chicago Board of Trade and, in addition, received and stopped notices that delivery would be made to him of an additional 30,000 bushels on May 19, 1971. Such deliveries constituted all of the wheat delivered on the May 1971 wheat future up until May 19, 1971, and as a result of taking such delivery and stopping such delivery notices, respondent Cox, as of May 19, 1971, owned or controlled approximately 75 percent of the total stocks of wheat available in Chicago for delivery on the May 1971 wheat futures contract.

IX

At all times on May 19, 1971, there was an insufficient supply of deliverable wheat in deliverable position not owned or controlled by the respondents, and of long May wheat futures held by persons other than the respondents to permit holders of short contracts in the May 1971 wheat future to satisfy such short contracts without purchasing from the respondents May wheat futures or deliverable wheat. Such fact was known to the respondents.

X

On May 19, 1971, the price of the May 1971 wheat future ranged from \$ 1.61 1/2 to \$ 1.70 per bushel, and expired at a price of \$ 1.70 per bushel. This last price was within 3/4 of a cent of the highest price permitted under the rules of the Board of Trade for the May 1971 wheat future on May 19, 1971.

XI

From about 11:31 a.m. on May 19, 1971, until the expiration of the May 1971 wheat future at 12:00 noon that day, respondents sold a total of 2,020,000 bushels of May 1971 wheat futures at a price of \$ 1.70 per bushel, of which sales 1,495,000 bushels were made for the account of respondent Cox and 525,000 bushels for the account of respondent Frey.

XII

The respondents, acting in accordance with an understanding or arrangement between them initiated and carried out the transactions described above for the purpose and with the intent of causing prices

in the May 1971 wheat future which were arbitrary and artificial, and demanded and received such prices in the May 1971 wheat future. By reason thereof, the respondents attempted to manipulate and did in fact manipulate the price of a commodity for future delivery on or subject to the rules of the Board of Trade in wilful violations of sections 6(b) and (c) and 9 of the Commodity Exchange Act (7 U.S.C. 9, 13b and 13).

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, 0.28). The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer with an original and four copies, 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 allegations of 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 a hearing is waived, a hearing will be held at 10:00 a.m., local time, on August 9, 1972, in Chicago, Illinois, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing, the 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 that all contract markets refuse all trading privileges to the respondents for such period of time as may be determined, (2) directing that the respondents shall cease and desist from violating the Commodity Exchange Act in the manner alleged herein, and (3) suspending or revoking the registrations of the respondents as floor brokers.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.

June 30, 1972

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

LOAD-DATE: June 16, 2008

