

Commodity Futures Trading Commission
CEA CASES

NAME: FELDSTEIN PRODUCE COMPANY, FULTON PRODUCTS CORPORATION, ALBERT FELDSTEIN, MEYER GETZ OR MICHAEL GETZ, ARANESS CORPORATION, BECKER BROKERAGE COMPANY, AND WOODSTOCK, INC.

CITATION: 17 Agric. Dec. 598

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(No. 5537)

In re FELDSTEIN PRODUCE COMPANY, FULTON PRODUCTS CORPORATION, ALBERT FELDSTEIN, MEYER GETZ OR MICHAEL GETZ, ARANESS CORPORATION, BECKER BROKERAGE COMPANY, AND WOODSTOCK, INC. CEA Docket No. 83. Decided July 2, 1958.

Accounts and Records -- Stipulation -- Consent Order

Respondent Becker Brokerage Company filed a stipulation in which it admitted the jurisdiction of the Secretary, waived hearing, and consented to an order suspending its registration as a futures commission merchant and denying it trading privileges on all contract markets. However, the suspension and denial are held in abeyance and are not to become effective except under certain conditions.

Mr. Benjamin M. Holstein, for Commodity Exchange Authority. Respondent *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. 1952 ed., Chapter 1), instituted by a complaint and notice of hearing issued under section 6(b) of the act (7 U.S.C. 1952 ed., § 9) by the Assistant Secretary of Agriculture on May 9, 1958.

Respondent Becker Brokerage Company is a corporation registered as a futures commission merchant under the act. It is one of seven respondents in this proceeding. The complaint alleges that, between April 30, 1957, and June 13, 1957,

the said respondent carried egg futures trades and positions in the name of one Meyer Getz (also a respondent herein), and that during the period from May 16 through June 10, 1957, respondent Becker Brokerage Company reported or caused such trades and positions to be reported to the Commodity Exchange Authority as being owned or controlled by the aforesaid Meyer Getz, whereas, in truth and in fact and as respondent Becker Brokerage Company knew, the said trades and positions were owned and controlled by one Albert Feldstein (also a respondent).

Based upon these allegations, the complaint charges that respondent Becker Brokerage Company knowingly failed to evidence the said trades and positions by a record in writing showing the true parties thereto, in wilful violation of section 4 of the act and section 1.37 of the regulations; and knowingly failed to keep books and records pertaining to such transactions in the form and manner required by the Secretary of Agriculture, and knowingly submitted false reports to the Commodity Exchange Authority, in wilful violation of section 4(g) of the act and related sections of the regulations.

No hearing has been held with respect to any of the respondents. On May 26, 1958, respondent Becker Brokerage Company filed an answer explaining the circumstances under which the account in question was opened and carried on its books. On June 18, 1958, the said respondent submitted for filing in the record, under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)), a stipulation in which it admits certain jurisdictional facts, waives hearing, and consents to the entry of an order suspending the said respondent's registration as a futures commission merchant for a period of 60 days and directing all contract markets to refuse all trading privileges to it for a similar period, such suspension and refusal not to become effective unless, after complaint and hearing in accordance with established procedure, the said respondent should be found to have violated the act within one year from the date of entry of such an order, in which event the Secretary of Agriculture is authorized, without further notice to the said respondent, to issue a supplemental order making effective forthwith the aforesaid suspension of registration and refusal of trading privileges.

FINDINGS OF FACT

1. Respondent Becker Brokerage Company, a corporation

with offices and a place of business at 1008 W. Randolph Street, Chicago, Illinois, is now and has been at all times material herein a clearing member of the Chicago Mercantile Exchange and a registered futures commission merchant under the Commodity Exchange Act.

2. During the period from April 30 through June 13, 1957, respondent Becker Brokerage Company, in its capacity as a registered futures commission merchant, carried egg futures trades and positions on the Chicago Mercantile Exchange, a duly designated contract market, and reported or caused such trades and positions to be reported to the Commodity Exchange Authority.

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 said respondent and set forth in the Findings of Fact are sufficient to subject it to the jurisdiction of the Secretary of Agriculture.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation, the terms of order to which the said respondent proposes to consent, and the answer theretofore filed by the said respondent. The complainant states that the answer recites certain actions by this respondent which appear to be of a sufficiently mitigating nature to warrant acceptance of the stipulation. It is the opinion of the complainant that the proposed sanction would be adequate and that the prompt entry of such an order without further proceedings would constitute a satisfactory disposition of this

case as against the said respondent, 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. It is so concluded.

ORDER

The registration of respondent Becker Brokerage Company as a futures commission merchant is hereby suspended for a period of 60 days, and all contract markets are hereby directed to refuse all trading privileges to the said Becker Brokerage Company for a period of 60 days, *provided, however,* that the aforesaid suspension of registration and refusal of trading privileges shall not become effective unless, after complaint and hearing in accordance with established procedure, respondent Becker Brokerage Company should be found to have violated the Commodity Exchange Act within one year from the date of entry of this order, in which event the Secretary of Agriculture may, without further notice to respondent Becker Brokerage Company, issue a supplemental order making effective forthwith the aforesaid suspension of registration and refusal of trading privileges.

A copy of this decision and order shall be served upon the said respondent and upon each contract market.

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