

Commodity Futures Trading Commission
CEA CASES

NAME: J. F. FREEMAN & CO., INC., JAY A. NOVAK, AND IRVING A. OLSHEVER

DOCKET NUMBER: 186

DATE: SEPTEMBER 28, 1971

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: J. F. Freeman & Co., Inc., Jay A. Novak, and Irving A. Olshever,
Respondents

CEA Docket No. 186

Complaint and Notice of Hearing Under the Commodity Exchange Act

There is reason to believe that the respondents have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the regulations made pursuant thereto, and this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent J. F. Freeman & Co., Inc., a corporation organized and existing under the laws of the State of New York, with offices at 6 Harrison Street, New York, New York 10013, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act, engaged in trading in commodities for future delivery for the accounts of customers and holding for such customers sums of money, representing deposits of margin by and trading profits accruing to such customers. At all such times, the respondent corporation was subject to the minimum financial requirements specified in section 1.17 of the regulations under the Commodity Exchange Act (17 CFR 1.17). At all times material herein, up until August 9, 1971, the name of the respondent corporation was Novak and Novak Trading Co., Inc.

II

Respondent Jay A. Novak, an individual whose address is 8429 - 153 Avenue, Howard Beach, New York, was at all times material herein, the president and a shareholder of the respondent corporation. At all such times, respondent Novak had responsibility for the management, direction and control of the respondent corporation.

III

Respondent Irving A. Olshever, an individual whose address is 187-11 Aberdeen Road, Jamaica, New York, was at all times material herein, a certified public accountant employed by the respondent corporation as its auditor.

IV

During the period between March 31, 1969 and January 30, 1970, both inclusive, the respondent corporation engaged as a registered futures commission merchant under the Commodity Exchange Act while failing to meet the minimum financial requirements prescribed by section 1.17 of the regulations issued by the Secretary of Agriculture under the Act. The respondent corporation lacked approximately \$ 100.00, \$ 14,000.00, \$ 5,000.00 and \$ 3,500.00, on March 31, 1969, November 28, 1969, December 31, 1969 and January 30, 1970, respectively, of having enough working capital to meet such minimum financial requirements.

V

The respondents submitted to the Commodity Exchange Authority two financial reports (Form 1-FR) on behalf of the respondent corporation which purported to give the required financial information as of March 31, 1969, and November 30, 1969. The respondents wilfully made material false statements in such reports. In the report which purported to provide information as of March 31, 1969, they stated that the firm had general funds cash of \$ 42,835.84 in banks and on hand, when the actual amount of such funds was only \$ 15,835.84. In the report which purported to provide information as of November 30, 1969, they stated that the firm had general funds cash of \$ 33,987.71 in banks and on hand, when the actual amount of such funds was only \$ 21,987.71.

VI

By reason of the facts alleged in this complaint, respondents J. F. Freeman & Co., Inc., and Jay A. Novak wilfully violated section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations thereunder (17 CFR 1.17), and each of the respondents wilfully violated section 6(b) of the Act (7 U.S.C. 9).

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 purposes of this proceeding. Failure to file an answer will constitute an admission of all the 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 the complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at 10:00 a.m., local time, on November 22, 1971, in New York, New York, 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) suspending or revoking the registration of the respondent corporation as futures commission merchant, (2) 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 and (3) directing that the respondents shall cease and desist from violating the Act and regulations in the manner alleged herein.

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.

September 28, 1971

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

LOAD-DATE: June 16, 2008

