

Commodity Futures Trading Commission  
CEA CASES

**NAME:** GENERAL FOODS CORPORATION, CHARLES W. METCALF, DANIEL F. RICE AND COMPANY, DANIEL F. RICE, LAWRENCE J. RYAN, AND PHILIP R. O'BRIEN

**CITATION:** 6 Agric. Dec. 652

**DOCKET NUMBER:** 34

**DATE:** JULY 11, 1947

**DOCUMENT TYPE:** DECISION AND ORDER ON PETITIONS FOR RECONSIDERATION

(A. D. 1535)

*In re* GENERAL FOODS CORPORATION ET AL. CEA DOC. NO. 34. Decided July 11, 1947.

**Denial of Further Argument on Petitions for Reconsideration on Question of Respondents' Violation of Act -- Modification of Prior Order -- Effective Suspension of Respondents' Registrations not Required**

Upon consideration of the respondents' petitions for reconsideration of the order of April 28, 1947, it is concluded that there should be no further argument

or no change in the findings and conclusions of the decision and order of April 28, 1947, with reference to respondents' violation of the act, but, examining again the ordered sanctions, it is determined that the effective suspension of the respondents' registrations as futures commission merchants and as floor broker in addition to suspension of the trading privileges of respondents for their own accounts is not required and, accordingly, that part of the decision and order of April 28, 1947, inconsistent herewith, is modified as ordered herein.\*

\* Reference to other points involved in this case will be found in Index-Digest in this issue of Agriculture Decisions. -- Ed.

*Rooks and Freeman*, of Chicago, Illinois, for respondents Daniel F. Rice and Daniel F. Rice & Company. *Bowden, Taylor & Norville*, of Chicago, Illinois, for Lawrence J. Ryan. *Messrs. Howard W. Vesey and William A. Clineburg*, of Washington, D. C., for Philip R. O'Brien. *Mr. Ben Ivan Melnicoff* for Commodity Exchange Authority.

*Decision by Thomas J. Flavin, Judicial Officer.*

**DECISION AND ORDER ON PETITIONS FOR RECONSIDERATION**

On April 28, 1947 6 Agric. Dec. 288 (6 A. D. 288), a decision and order were entered in this disciplinary proceeding under the Commodity Exchange Act (7 U. S. C. Chapter 1) finding and concluding mainly (1) that respondents Daniel F. Rice, Daniel F. Rice and Company, Philip R. O'Brien, and Lawrence J. Ryan in violation of the act collectively and individually attempted to manipulate the price of rye futures on the Chicago Board of Trade and actual rye on and subject to the rules of the Chicago Board of Trade and to corner such futures and actual rye and (2) that all respondents in violation of the act collectively and individually attempted to and did manipulate the price of rye futures on the Chicago Board of Trade and actual rye on or subject to the rules of the Chicago Board of Trade by virtue of a two-million bushel transaction in rye in May 1944.

All contract markets were ordered to refuse Daniel F. Rice and Daniel F. Rice and Company all trading privileges thereon for a period of six months, to refuse all trading privileges to General Foods Corporation, Charles W. Metcalf, and Philip R. O'Brien for a period of 30 days, and to refuse all trading privileges to Lawrence J. Ryan for a period of 10 days. The registration of Daniel F. Rice and Company as a futures commission merchant was ordered suspended for a period of six months, the registration of Philip R. O'Brien as a floor broker for 30 days, and the registration of Lawrence J. Ryan as a futures commission merchant for 10 days.

All respondents filed petitions for reconsideration except General Foods Corporation and Metcalf who sought immediate judicial review. The effective date of the order of April 28, 1947, was postponed as to the respondents who filed petitions for reconsideration pending

action upon the petitions 6 Agric. Dec. 415, 416 (6 A. D. 415, 416). n1 Complainant filed answers to the petitions for reconsideration. The Rice respondents and O'Brien filed replies to complainant's answers.

n1 As to General Foods and Metcalf the Circuit Court of Appeals for the Seventh Circuit entered a stay order on May 9, 1947. See 6 Agric. Dec. 417, 418 (6 A. D. 417, 418).

In general, the petitions for reconsideration, as well as the Rice respondents' replies to the complainant's answers to the petitions for reconsideration, attempt to isolate, to examine separately and to give a possible and legitimate explanation for each of the facts and circumstances that led to the findings and conclusions of violations of the act. While it may be that our findings and conclusions are not beyond controversy, it was not only the facts and circumstances but their combination and concatenation that resulted in the findings and conclusions made. I am not persuaded by the petitions for reconsideration that there should be any other further argument or that any change should be made in the findings and conclusions of the decision and order of April 28, 1947, to the effect that respondents violated the act.

However, prior to that decision and order, the question as to what sanctions should be imposed for violations found was subordinated by the parties to the principal issues as to whether respondents violated the act. Examining again the ordered sanctions in the light of the nature and history of the case, the sanctions ordered in other proceedings under the Commodity Exchange Act and the Grain Futures Act, and the far reaching effects of the suspension of respondents' registrations, it is concluded that effective suspension of the respondents' registrations in addition to suspension of the trading privileges of respondents (who appear to be active and sizable traders on their own accounts) is not required.

Accordingly, that part of the decision and order of April 28, 1947, inconsistent herewith is modified and that the order as modified may be clear, the following is substituted for the heading "Order" that appeared in the decision and order of April 28, 1947:

#### **ORDER**

1. All contract markets shall refuse respondents Daniel F. Rice and Daniel F., Rice and Company trading privileges thereon for a period of six months and shall refuse respondents General Foods Corporation, Charles W. Metcalf and Philip R. O'Brien trading privileges thereon for a period of 30 days and shall refuse respondent Lawrence J. Ryan trading privileges thereon for a period of 10 days. The refusal of trading privileges ordered extends only to the trading privileges of respondents for their own accounts and does not order refusal of trading privileges of Daniel F. Rice and Company and Lawrence J. Ryan as futures commission merchants or Philip R.

O'Brien as floor broker, acting on behalf of bona-fide customers who will not include, of course, any of respondents during the period for which trading privileges for their own accounts are ordered to be refused by the contract markets.

2. The registration of Daniel F. Rice and Company as a futures commission merchant is suspended for a period of six months, the registration of Philip R. O'Brien as a floor broker is suspended for 30 days, and the registration of Lawrence J. Ryan as a futures commission merchant is suspended for 10 days, but these suspensions are suspended. However, in the event any of these respondents is found after notice and opportunity for hearing to have violated the act or regulations during the period of suspension ordered for him but suspended, such suspension of registration may be taken into account in evaluating the sanction for any such subsequent violation.

3. The refusals of trading privileges prescribed shall begin on the 40th day after this date.

4. All charges contained in the complaint not found to be established are dismissed as far as this proceeding is concerned.

5. Copies hereof shall be served on the parties or their counsel of record and on each contract market.

**LOAD-DATE:** March 12, 2008

