

Commodity Futures Trading Commission
CEA CASES

NAME: GENERAL COMMERCE CORPORATION

CITATION: 16 Agric. Dec. 495

DOCKET NUMBER: 76

DATE: JUNE 19, 1957

DOCUMENT TYPE: DECISION AND ORDER

(No. 5056)

In re GENERAL COMMERCE CORPORATION. CEA Docket No. 76. Decided June 19, 1957.

Violation of Reporting Provisions -- Default -- Denial of Trading Privileges

The complaint charges violation of the reporting provisions of the act and the regulations issued thereunder. Respondent, by failing to answer the complaint, admitted the violations alleged in the complaint. All contract markets are ordered to refuse all trading privileges to respondent for a period of 60 days.

Mr. Benj. M. Holstein, for Commodity Exchange Authority. *Mr. Will Rogers*, Referee.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1), instituted by a complaint issued under section 6(b) of the act on March 13, 1957, by the Assistant Secretary of Agriculture. Respondent is charged with knowingly and wilfully violating the reporting provisions of the act and the rules and regulations issued thereunder. A copy of the complaint and a copy of the rules of practice were served on respondent March 16, 1957.

At the time of service of the complaint respondent was notified, in effect, that an answer thereto should be filed within 20 days after such service and that, in accordance with section 0.9 of the rules of practice (17 CFR 0.9), failure to file an answer would constitute an admission of the facts in the complaint and a waiver of oral hearing. Notwithstanding such notice, respondent has not filed an answer. The matter was referred to Will Rogers, Hearing Examiner, Office of Hearing Examiners, United States Department of Agriculture, for the preparation of a report without further investigation or hearing pursuant to section 0.9(c) of the rules of practice (17 CFR 0.9(c)). The examiner filed a report on May 22, 1957, recommending that respondent be denied all trading privileges on all contract markets for a period of 60 days. No exceptions were filed to the examiner's report.

FINDINGS OF FACT

1. Respondent, General Commerce Corporation, was at all times material herein a corporation with an office and place of business at 571 Central Avenue, Newark, New Jersey.

2. The Board of Trade of the City of Chicago, hereinafter referred to as the Chicago Board of Trade, was at all times material herein a duly designated contract market under the act.

3. On each day during the periods October 25 through December 11, 1956, December 17 through December 19, 1956, and January 17 through January 2, 1957,

the net long or net short open contract position of the respondent corporation in lard futures on the Chicago Board of Trade ranged from 1,040,000 to 1,640,000 pounds in a single future. Respondent was in reporting status during such periods and was required to report

to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held for its account in all lard futures on all boards of trade (exchanges) during the said periods, and with respect to all transactions by reason of which respondent's position was reduced below reporting levels.

4. On seven business days within the periods specified in Finding of Fact 3, while the respondent corporation was in reporting status as therein described, and on three additional business days immediately thereafter when its position was reduced below reporting levels, transactions in lard futures on the Chicago Board of Trade were executed for its account, but respondent failed and refused to report to the Commodity Exchange Authority with respect to such transactions.

5. Between September 14, 1956, and December 11, 1956, the Commodity Exchange Authority communicated with respondent nine times because of its failure to transmit reports. The Administrator, Commodity Exchange Authority, by letter dated December 11, 1956, to the respondent corporation called attention to its delinquencies in submitting reports, informed it that such delinquencies were a continuing violation of the act and warned it that continued failure in this regard could result in the institution of administrative proceedings directed toward the denial to respondent of trading privileges on contract markets.

CONCLUSIONS

Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) provides as follows:

"It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Secretary of Agriculture . . . (2) whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Secretary of Agriculture"

During the periods in question, the quantity of lard futures fixed by the Secretary for reporting purposes pursuant to section 4i was 600,000 pounds prior to November 24, 1956, and 1,000,000 pounds thereafter (17 CFR, 1957 Supp. 9.21; 14 F.R. 2521, 21 F.R. 9165).

Respondent failed and refused to file required reports on 10 occasions within a period of approximately three months. Such failure constitutes a violation of section 4i of the act and sections 9.10, 9.11 and 9.12 of the rules and regulations issued thereunder (17 CFR 9.10, 9.11 and 9.12). The number of instances involved and the fact that the respondent received ample notice of its delinquency prior to the institution of this proceeding justify the conclusion that the violations were deliberate and wilful. Accordingly, all contract markets should be directed to refuse all trading privileges to the respondent corporation for a period of 60 days as recommended by complainant, such refusal to apply to all trading done and positions held by the respondent directly or indirectly.

ORDER

Effective July 22, 1957, all contract markets shall refuse all trading privileges to respondent for a period of 60 days, such refusal to apply to all trading done and positions held by respondent directly or indirectly.

A copy of this decision and order shall be served on respondent and on each contract market.

LOAD-DATE: June 8, 2008

