

Commodity Futures Trading Commission
CEA CASES

NAME: GRAPPEL TRADING CO.

CITATION: 27 Agric. Dec. 579

DOCKET NUMBER: 153

DATE: MAY 2, 1968

DOCUMENT TYPE: DECISION AND ORDER

(No. 11,790)

In re GRAPPEL TRADING Co. CEA Docket No. 153. Decided May 2, 1968.

Customers' funds -- Misuse of -- Suspension of registration -- Stipulation

Respondent consented to the issuance of an order suspending its registration as a futures commission merchant and directing all contract markets to refuse all trading privileges to it for a period of 30 days, the final 15 days of such period not to become effective unless respondent is found to be in violation within a two-year period. Respondent was charged with undersegregation of customers funds and the use of such funds to margin trades of others.

Earl L. Saunders for Commodity Exchange Authority.

Respondent *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), in which the respondent, a partnership registered as a futures commission merchant under the act, is charged with willfully violating section 4d(2) of the act (7 U.S.C. 6d(2)) and sections 1.20, 1.21 and 1.22 of the regulations thereunder (17 CFR 1.20, 1.21, 1.22). No hearing has been held. The respondent has filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which it admits, for the purposes of this proceeding, the facts contained herein under "Findings of Fact", waives hearing, and consents to the entry of the order hereinafter set forth.

FINDINGS OF FACT

1. The respondent, a partnership with offices at 6 Harrison Street, New York, New York, is now and was at all times material herein a registered futures commission merchant under the Commodity Exchange Act with membership privileges on the New York Mercantile Exchange, a duly designated contract market under the said act.

2. At the times hereinafter stated, the respondent in the regular course of its business as futures commission merchant, carried accounts for customers who traded in commodity futures on the New York Mercantile Exchange. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Commodity Exchange Act and the rules and regulations issued thereunder. At all such times, the respondent had to its credit with a bank or other depository, sums of money in varying amounts, held in segregated account and identified as cusotomers' funds, representing deposits of margin by and trading profits accruing to such customers.

3. On the 64 business days between April 12 and July 13, 1967, both inclusive, the respondent was under-segregated in amounts within the range of \$

1,086 and \$ 3,606 -- that is, on the 64 business days mentioned the total amount of customers' funds held in segregation by the respondent, as described in Finding of Fact 2 hereof, was from \$ 1,086 to \$ 3,606 less than the amount necessary to pay all credits and equities due to such customers. The undersegregation mentioned above came about because the respondent used the funds belonging to certain customers to finance the trading of other customers.

4. Examination of the respondent's records by the Commodity Exchange Authority as of December 30, 1966, disclosed that on 30 business days between April 29 and July 7, 1966, both inclusive, the respondent was under-segregated in amounts within the range of \$ 49 to \$ 2,101. On February 9, 1967, the Director of the Accounting and Licensing Division of the Commodity Exchange Authority wrote a letter to the respondent as follows:

The Commodity Exchange Authority audits the records of firms operating as futures commission merchants. The audits are made to determine compliance with the provisions of the Commodity Exchange Act and related regulations. This

letter concerns the audit made of your records as of December 30, 1966.

This law, as you know, regulates futures trading in commodities mentioned in section 2. Section 4d (2) provides standards for handling regulated customers' accounts. With reference to the money, securities, and property received from or accruing to such customers, it provides:

1. They shall be treated as belonging to the customer depositing them.
2. They shall be separately accounted for and not be commingled with those of the commission merchant.
3. They shall not be used to margin the trades of any person except the one for whom held.

This requires that money or property held for customers shall be placed in segregated accounts. The money or property held in such accounts must be sufficient to pay amounts due customers.

Sections 1.23 and 1.32 of the regulations provide for a record of segregated condition. Your records show many failures to keep sufficient funds in segregated accounts. They show under-segregation on thirty business days in the period beginning April 29 through July 7, 1966. The amounts of under-segregation range from \$ 49 to \$ 2,101.

Our representative told you that this under-segregation was a serious failure to comply with the law. This letter is to confirm the audit findings as discussed by our accountant. Also, we wish to afford you an opportunity to achieve compliance.

CONCLUSIONS

The facts admitted by the respondent are identical to the facts alleged against it in the complaint and these have been adopted as the Findings of Fact in this proceeding. By reason of these findings, it is concluded that, as charged in the complaint, the respondent willfully violated section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) and sections 1.20, 1.21 and 1.22 of the regulations thereunder (17 CFR 1.20, 1.21, 1.22).

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the

proposed stipulation and order and that they believe the proposed sanctions are adequate and the prompt entry, without further proceedings, of the order to which the respondent has consented, will constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the

Commodity Exchange Act. The complainant therefore recommends that the stipulation and waiver submitted by the respondent be accepted and that the proposed order be issued. It is so concluded.

ORDER

The registration of the respondent, Grappel Trading Co., as a futures commission merchant is hereby suspended for a period of 30 days, effective on the 30th day after the date of entry of this order, and all contract markets are hereby directed to refuse all trading privileges to the respondent for said period of 30 days, such refusal to apply to all trading done and positions held by the respondent, directly or indirectly, *Provided, However*, that only the first 15 days of said period of suspension of registration and refusal of trading privileges shall become effective as of the said effective date, and that the final 15 days of the said period of suspension of registration and refusal of trading privileges shall not become effective unless, after complaint, notice, and hearing in accordance with established procedure, the respondent should be found to have violated the Commodity Exchange Act within two years from the date of entry of this order, in which event the Secretary of Agriculture may, without further notice to the respondent, issue a supplemental order making effective forthwith the 15-day remainder of the said period of suspension of registration and refusal of trading privileges, which shall be in addition to any sanction which may be imposed as a result of such subsequent violation.

A copy of this Decision and Order shall be served upon each of the parties and upon each contract market.

LOAD-DATE: June 8, 2008

