

Commodity Futures Trading Commission
CEA CASES

NAME: INDIANA FARM BUREAU COOPERATIVE ASSOCIATION INC. AND LOUIS M. JOHNSTON

CITATION: 1983 CFTC LEXIS 489; 1983 WL 29481

DOCKET NUMBER: 75-14; 234

DATE: MARCH 1, 1983

DOCUMENT TYPE: ORDER

NOTE: FORMERLY CEA DOCKET # 234

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

In the Matter of INDIANA FARM BUREAU COOPERATIVE ASSOCIATION, INC., and LOUIS M. JOHNSTON

CFTC Docket No. 75-14

ORDER

On December 17, 1982, the Commission issued an opinion and order affirming the Administrative Law Judge's dismissal of the complaint in this proceeding. The Commission's decision to affirm the dismissal was unanimous. n1 Each of the Commissioners agreed that respondents could not be held causally responsible for the abrupt price increases which occurred during the liquidation of the July 1973 corn futures contract on the Chicago Board of Trade. n2 The Division of Enforcement (the "Division") has filed a petition for reconsideration pursuant to Section 10.106 of the Commission's Regulations. The issues raised by the Division's petition focus on the disagreements that have already been extensively explored in the majority and concurring opinions issued in this case. n3 Even if the Commission were to adopt the resolution of

the issues raised in the petition in the manner favored by the Division, the result in this case would not change. Any opinion we might issue would be, in effect, an advisory opinion. Section 10.106 was not intended to serve as a vehicle for such a pronouncement.

n1 Chairman Johnson concurred in the result, but stated views substantially different than those of the majority on the issue of price artificiality and on the rights and duties of the longs in the futures market when forces or events beyond their control create a market congestion that interferes with the ability of shorts to deliver the commodity in satisfaction of their contractual obligations. In the Matter of Indiana Farm Bureau Cooperative, CFTC Docket No. 75-14, Commission Opinion and Order (December 17, 1982) slip op. at 1-4 (Chairman Johnson's concurrence). Commissioner Stone also concurred in the result, but expressed separate views on the issues of an artificial price and intent.

n2 Id. slip op. at 1 (Commissioner Stone's concurrence).

n3 The issues raised by the Division are:

1. Whether a finding of price artificiality depends upon the "legitimacy" of the factors affecting the price; and

2. Whether, in a regulated market affected with a national public interest, a dominant long has a contractual right to exact the highest possible prices from the shorts during a natural market congestion.

Upon consideration of the petition for reconsideration, and the record of this proceeding, IT IS ORDERED that the petition is DENIED.

By the Commission (Commissioners PHILLIPS and HINEMAN; Chairman JOHNSON concurring; n4 Commissioner WEST not participating).

n4 While I generally view the arguments and analysis presented by the Division of Enforcement as meritorious, I concur in the denial of its motion for reconsideration because the relief sought, even if granted in full, would not disturb the ultimate conclusion in this case that respondents were not the legal or culpable cause of the market events in question. See also footnote 1 to my concurring opinion filed December 17, 1982.

[SEE SIGNATURE IN ORIGINAL]

Jane K. Stuckey

Secretary of the Commission

Commodity Futures Trading Commission

Dated: March 1, 1983

LOAD-DATE: August 6, 2008

