

Commodity Futures Trading Commission
CEA CASES

NAME: CHARLES KEESHIN, INC., CHARLES KEESHIN, SEYMOUR M. KEESHIN, AND HAROLD VISION

CITATION: 18 Agric. Dec. 339

DOCKET NUMBER: 89

DATE: APRIL 27, 1959

DOCUMENT TYPE: DECISION AND ORDER

(No. 5863)

In re CHARLES KEESHIN, INC., CHARLES KEESHIN, SEYMOUR M. KEESHIN, AND HAROLD VISION. CEA Docket No. 89. Decided April 27, 1959.

Customers' Funds -- Suspension of Registration -- Denial of Trading Privileges -- Consent Order

Respondents Charles Keeshin and Harold Vision consented to the issuance of an order suspending their registrations as floor brokers and denying them all trading privileges for specified periods.

Mr. Benj. M. Holstein, for Commodity Exchange Authority. *Mr. Richard A. Griffin*, of Chicago, Illinois, for respondents.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. 1952 ed., Chapter 1). The complaint and notice of hearing was issued by the Acting Secretary of Agriculture on November 6, 1958. The respondents are an Illinois corporation and three of its officers. The corporate respondent is registered as a futures commission merchant under the Commodity Exchange Act and respondents Charles Keeshin and Harold Vision are registered as floor brokers under the act.

It is alleged in the complaint that the corporate respondent failed to treat and deal with customers' funds as belonging to such customers, failed to segregate and to account separately for such funds, used such funds to margin and guarantee the trades and secure and extend the credit of customers other than those for whom such funds were held, commingled customers' funds with funds belonging to the firm, and prepared and kept false records with respect to customers' funds, all in violation of sections 4d(2) and 4g of the act (7 U.S.C. 1952 ed., §§ 6d(2), 6g), and sections 1.20, 1.21 and 1.22 of the rules and regulations issued thereunder (17 CFR 1.20, 1.21, 1.22). The complaint further charges that such violations were initiated and carried out under the supervision and direction of the individual respondents acting in their capacities as officers of the respondent corporation.

None of the respondents filed an answer to the complaint within the twenty-day period specified in the rules of practice (17 CFR 0.9), and on December 4, 1958, the referee submitted a report in which he adopted as findings of fact the material allegations of the complaint, concluded that the respondents had wilfully violated the act as charged, and recommended sanctions against each of the four respondents. Thereafter, prior to any action by the Judicial Officer, counsel for all the respondents filed a petition to re-open and for hearing on behalf of respondents Charles Keeshin and Harold Vision only, and submitted

answers on their behalf. Counsel for the respondents stated that the failure to answer on behalf of these two respondents was due to counsel's misunderstanding of procedural requirements. The Judicial Officer granted the petition, ordered the answers filed

in the proceeding, remanded the matter to the referee for hearing with respect to these two respondents, and entered a decision and order imposing sanctions against the two remaining respondents, Charles Keeshin, Inc., and Seymour Keeshin (17 Agric. Dec. 1193 (17 A.D. 1193)).

A hearing was had in Chicago before Clarence A. Girard, Office of Hearing Examiners. The respondents were represented by Richard A. Griffin of Borenstein and Griffin, a Chicago law firm. Benj. N. Holstein, Office of the General Counsel, appeared for the complainant.

On April 10, 1959, after the complainant had presented its evidence and while the hearing was in progress, respondents Charles Keeshin and Harold Vision, by their attorney, entered into a stipulation in which they admitted that respondent Charles Keeshin, Inc., was in an undersegregated condition in the amounts and during the periods mentioned in the complaint, and that respondents Charles Keeshin and Harold Vision, as officers of the corporation, were responsible for all of its acts, including such undersegregation. These two respondents also agreed to the entry of the order contained herein, without further proceedings. This stipulation and agreement was read into the record by counsel for the complainant, confirmed by counsel for the respondents, and the referee then declared the hearing closed (Tr. pp. 584-585).

FINDINGS OF FACT

1. Respondent Charles Keeshin, Inc., a corporation organized under the laws of the State of Illinois with its principal office and place of business at 1019 West Fulton Street, Chicago, Illinois, was at all times material herein a registered futures commission merchant under the Commodity Exchange Act, a clearing member of the Chicago Mercantile Exchange, and a member of the New York Mercantile Exchange.

2. Respondent Charles Keeshin, an individual, whose address is 2933 Sheridan Road, Chicago, Illinois, was at all times material to this complaint chairman of the board of directors and treasurer of the respondent corporation, a registered floor broker under the Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and a member of the New York Mercantile Exchange.

3. Respondent Harold Vision, an individual, whose address is 143 North Parkside Avenue, Chicago, Illinois, was at all times material to this complaint secretary of the respondent corporation,

a registered floor broker under the Commodity Exchange Act, and a member of the Chicago Mercantile Exchange.

4. At all times between August 1 and September 9, 1958, inclusive, the respondent corporation had on its books accounts of customers who were trading in commodity futures subject to the Commodity Exchange Act and the rules and regulations issued thereunder, and had to its credit with a bank or with the Clearing House of the Chicago Mercantile Exchange varying sums of money held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits belonging to such customers.

5. On 25 business days during the period from August 1 through September 9, 1958, the respondent corporation was undersegregated in amounts ranging from \$ 6,822 to \$ 62,530.40, that is, on the 25 days mentioned the total amount of customers' funds held in segregation as above described was from \$ 6,822 to \$ 62,530.40 less than the amount necessary to pay all credits and equities due to such customers.

6. Respondents Charles Keeshin and Harold Vision, as officers of respondent Charles Keeshin, Inc., were responsible for all the acts of the said corporation, including the undersegregation described in paragraphs 4 and 5 hereof.

CONCLUSIONS

The rules of practice under the Commodity Exchange Act provide that the Secretary, in his discretion, may allow a respondent to consent to an order at any time prior to hearing, provided the respondent submits for filing in the record "a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him" (17 CFR 0.4(b)). Although the rules make no reference to a consent order after the hearing has started, this should not be construed as a prohibition. Since the parties have arrived at an agreement which appears to be reasonable, they will be permitted to terminate the proceeding on that basis. Termination of the proceedings against Continental Grain Company, et al. (17 Agric. Dec. 854 (17 A.D. 854)), and Murlas Brothers Commodities, Inc., et al. (17 Agric. Dec. 859 (17 A.D. 859)), was accomplished under similar circumstances.

The facts admitted by respondents Charles Keeshin and Harold Vision in their stipulation have been adopted as the findings herein. These respondents were responsible for the fact that on

the twenty-five days in question, the total amount of customers' funds which the corporate respondent had in segregation was less than the amount necessary to pay all credits and equities due to such customers. These respondents thereby violated the requirements of section 4(d)(2) of the act and sections 1.20, 1.21 and 1.22 of the rules and regulations, as charged in the complaint.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and waiver submitted by the respondents and the terms of the order to which they have agreed. The complainant points out that although the stipulation says nothing about the allegations in the complaint concerning false records and failure to prepare a segregation statement on two specific occasions, separate findings on these allegations are not recommended because these matters are connected with and are part of the principal charge of failure to treat and deal with customers' funds as required by law, and respondents Charles Keeshin and Harold Vision have admitted the corporation's dereliction in this regard and their responsibility for all the corporation's acts. Accordingly, no findings are made herein and no conclusions drawn with respect to the alleged failure to prepare a segregation statement on August 7 and September 9, 1958, nor with respect to the allegation that false records were kept.

It is the opinion of the complainant that the proposed sanctions would be adequate, and that the prompt entry of the order to which the respondents have agreed, without further hearing or proceedings of any kind, would constitute a satisfactory disposition of this matter, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant recommends that the stipulation and waiver be accepted and that the proposed order be issued terminating this proceeding. It is so concluded.

ORDER

Effective thirty (30) days after the date of entry of this order, the registration of Charles Keeshin as a floor broker is suspended for a period of four (4) months, and the registration of Harold Vision as a floor broker is suspended for a period of three (3) months.

Effective thirty (30) days after the date of entry of this order, all contract markets are hereby directed to refuse all trading privileges, direct or indirect, to Charles Keeshin for a period of

four (4) months and to Harold Vision for a period of three (3) months.

Copies hereof shall be served upon the parties and upon each contract market.

LOAD-DATE: June 8, 2008

