

Commodity Futures Trading Commission
CEA CASES

NAME: JOSEPH KLEIN AND COMPANY, JOSEPH KLEIN AND RUBIN LAZARUS

CITATION: 14 Agric. Dec. 648

DOCKET NUMBER: 70

DATE: AUGUST 30, 1955

DOCUMENT TYPE: DECISION AND ORDER

(No. 4340)

In re JOSEPH KLEIN AND COMPANY, JOSEPH KLEIN AND RUBIN LAZARUS. CEA Docket No. 70. Decided August 30, 1955.

Suspension of Registration -- Denial of Trading Privileges -- Stipulation by Respondents -- Jurisdiction of Secretary -- Consent Order

Upon respondent's admission of jurisdictional facts, waiver of oral hearing, consent to entry of the order herein, and stipulation, the registration of respondent Joseph Klein, as a floor broker, is suspended for a period of 20 days, and the trading privileges of all contract markets are denied to Joseph Klein and Company for a period of 20 days, and the trading privileges of all contract markets are denied to Rubin Lazarus for a period of 60 days.

Mr. Benjamin J. Holstein for Commodity Exchange Authority. *Joseph Klein and Company, Mr. Joseph Klein, and Mr. Rubin Lazarus*, of New York, New York, respondents, *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a quasi-judicial proceeding under the Commodity Exchange Act (7 U.S.C., Chapter 1) instituted by a complaint and notice of hearing issued under Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) by the Assistant Secretary of Agriculture on August 19, 1955.

The complaint charges that the Klein respondents offered to enter into, entered into, and confirmed the execution of transactions in cotton futures which were used to cause prices to be reported and recorded which were not true and *bona fide prices*, in wilful violation of Section 4c of the Commodity Exchange Act (7 U.S.C. 6c); that respondent Rubin Lazarus also offered to enter

into and entered into such transactions; and that all three respondents attempted to manipulate and did manipulate the market price of cotton and cotton futures, in violation of Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9).

These charges are based upon allegations that respondent Rubin Lazarus ordered the Klein respondents to execute transactions in cotton futures on the New York Cotton Exchange, the purpose of which was to establish a predetermined numeral as the final digit of the low price of the opening or closing range of a previously designated future; and that, on specified dates, respondent Joseph Klein bought or sold cotton futures on the New York Cotton Exchange pursuant to such instructions at prices which included the specified numerals, confirmed the execution of these trades to respondent Lazarus, and caused the transactions to be entered in the account of respondent Lazarus on the books of Joseph Klein and Company. The complaint also alleges that the Klein respondents accepted these

orders and instructions and executed these transactions with knowledge of the fact that their purpose was to establish a predetermined price on the New York Cotton Exchange.

No hearing has been held. On August 25, 1955, prior to the date set for filing the answer, respondents Joseph Klein and Joseph Klein and Company, acting jointly, and respondent Rubin Lazarus, acting separately in his own behalf, submitted stipulations under section 0.4(b) of the rules of practice under the act (17 CFR 0.4(b)), admitting the facts contained herein under "Findings of Fact" and consenting to the entry of the order hereinafter set forth.

FINDINGS OF FACT

1. Respondent Joseph Klein and Company is a partnership with offices located at No. 15 William Street, New York, New York. The said partnership is now and was at all times material herein a registered futures commission merchant under the Commodity Exchange Act. Respondent Joseph Klein, an individual located at the same address, is now and was at all such times the principal partner and the manager of respondent Joseph Klein and Company, and a registered floor broker under the Commodity Exchange Act.

2. Respondent Rubin Lazarus is an individual engaged in the textile business at 396 Broadway, New York, New York.

3. At all times material herein, the New York Cotton Exchange was a duly designated contract market under the Commodity Exchange Act.

4. During the period from December 20, 1954, to and including February 15, 1955, respondents Joseph Klein and Company and Joseph Klein accepted orders for transactions in cotton futures on the New York Cotton Exchange, executed and confirmed the execution of such orders, and entered the resulting transactions on the books of respondent Joseph Klein and Company.

5. During the period from December 20, 1954, to and including February 15, 1955, respondent Rubin Lazarus caused the execution for his account of transactions in cotton futures on the New York Cotton Exchange.

CONCLUSIONS

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR 0.4 (b)) provides as follows:

(b) Consent order. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, 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. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

The facts admitted by the respondents and set forth in the Findings of Fact are sufficient to subject them and each of them to the jurisdiction of the Secretary of Agriculture.

The complainant has filed a recommendation which recites that it has carefully considered the stipulations and the terms of the order to which the respondents propose to consent, and which states that the prompt entry of such an order without further proceedings would provide adequate sanctions, constitute a satisfactory disposition of the case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. For

these reasons, the complainant recommends that the waivers be accepted and that the order to which the respondents have consented be issued. It is so concluded.

ORDER

Effective September 12, 1955, the registration of respondent Joseph Klein as a floor broker under the Commodity Exchange Act is suspended for a period of twenty (20) days.

Effective September 12, 1955, all contract markets shall refuse all trading privileges to Joseph Klein and Company and Joseph Klein for a period of twenty (20) days. Such refusal shall apply to all trading done and positions held directly by the said Joseph Klein and Company and Joseph Klein, or either of them, and also to all trading done and positions held indirectly through persons or firms owned or controlled by them, or either of them, or otherwise, *provided*, that such refusal shall not be construed to prohibit the execution of bona fide orders received from customers by the said Joseph Klein and Company in its capacity as a registered futures commission merchant, *provided, further*, that such orders shall not be executed by the said Joseph Klein.

Effective September 12, 1955, all contract markets shall refuse all trading privileges to Rubin Lazarus for a period of sixty (60) days, such refusal to apply to all trading done and positions held by the said Rubin Lazarus directly, and also to all trading done and positions held indirectly through persons owned or controlled by him, or otherwise.

A copy of this decision and order shall be served upon each of the parties by registered mail or in person and upon each contract market.

LOAD-DATE: June 8, 2008

