

Commodity Futures Trading Commission  
CEA CASES

**NAME:** DAVID LAIKEN

**CITATION:** 24 Agric. Dec. 1460

**DOCKET NUMBER:** 129

**DATE:** NOVEMBER 23, 1965

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 10,217)

*In re* DAVID LAIKEN. CEA Docket No. 129. Decided November 23, 1965.

**Suspension of registration -- Denial of trading privileges -- Default**

Respondent's registration as a floor broker is suspended for 15 days and his trading privileges on all contract markets denied for a like period for violations of the act in operating as a futures commission merchant without being so registered and for failing to segregate his customer's funds.

*Mr. Earl L. Saunders* for Commodity Exchange Authority.

*Mr. Jack W. Bain*, Hearing Examiner.

*Decision by Thomas J. Flavin*, Judicial Officer

**PRELIMINARY STATEMENT**

This is a proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint filed September 7, 1965, by the Secretary of Agriculture. Respondent, David Laiken, New York, New York, is a member of the New York Mercantile Exchange and a registered floor broker under the act. Respondent is charged with accepting and executing orders in the capacity of a futures commission merchant for the purchase and sale of potato futures on the New York Mercantile Exchange when he was not so registered under the act in violation of section 4d (1) thereof (7 U.S.C. 6d (1)) and with failing to segregate funds received from his customer in connection with such orders in violation of section 4d (2) of 1.20). A copy of the complaint and a copy of the rules of practice were served upon respondent September 9, 1965.

At the time of service of the complaint, respondent was notified in writing that an answer to the complaint should be filed within 20 days of its receipt and that, in accordance with the rules of practice, failure to file an answer would constitute an admission of the facts alleged and failure to request a hearing would constitute a waiver of hearing. The respondent has not filed an answer nor has he requested a hearing. The matter was referred to Jack W. Bain, 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)). On October 27, 1965, the hearing examiner filed a report

recommending that the respondent be found to have violated the act as charged, that respondent's registration as a floor broker under the act be suspended for a period of 15 days and that an order be issued directing all contract markets to refuse all trading privileges to respondent for a similar period. No exceptions to the hearing examiner's report were filed.

**FINDINGS OF FACT**

1. Respondent, David Laiken, is an individual whose business address is 6 Harrison Street, New York, New York. Respondent is now and was at all times material herein a registered floor broker under the act and a member of the New York Mercantile Exchange, a duly designated contract market under the act.

2. Between April 23 and May 15, 1962, acting in the capacity of a futures commission merchant, respondent accepted and executed orders for a customer residing in St. Louis, Missouri, for the purchase and for the sale of 11 carlots of May 1962 Irish potato futures on the New York Mercantile Exchange. On or about April 29, 1962, respondent received \$ 3,000 from such customer to margin, guarantee or secure the trades or contracts resulting from such orders. Respondent was not during this period registered with the Secretary as a futures commission merchant under the act.

3. Respondent knowingly commingled with his own funds the \$ 3000 mentioned in Finding of Fact 2 by depositing such funds belonging to his customer in his general bank account.

4. Prior to the period mentioned in Finding of Fact 2, respondent had been president of a firm doing business as a registered futures commission merchant under the act, and he was aware of the requirements of the act and the regulations issued thereunder relating to the registration of futures commission merchants and the treatment of customers' funds.

#### **CONCLUSIONS**

By reason of the facts set forth in Finding of Fact 2, respondent willfully violated section 4d (1) of the act (7 U.S.C. 6d (1)). Further, respondent willfully violated section 4d (2) of the act and section 1.20 of the regulations issued thereunder (17 CFR 1.20) by virtue of the facts set forth in Finding of Fact 3. Respondent should be denied all trading privileges on contract markets for a period of 15 days and his registration as a floor

broker under the act should be suspended for a similar period, as recommended by complainant.

#### **ORDER**

Effective December 27, 1965, the registration of David Laiken as a floor broker under the act is suspended for a period of 15 days, and all contract markets shall refuse all trading privileges to him during such period, such refusal to apply to all trading done and all positions held by him directly or indirectly.

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

**LOAD-DATE:** June 8, 2008

