

Commodity Futures Trading Commission
CEA CASES

NAME: WILLIAM LUDWIG

CITATION: 20 Agric. Dec. 183

DOCKET NUMBER: 94

DATE: MARCH 28, 1961

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(No. 7042)

In re WILLIAM LUDWIG. CEA Docket No. 94. Decided March 28, 1961.

Violation of Reporting Requirements -- Denial of Trading Privileges

Respondent's failure to file an answer to the complaint constitutes an admission of the facts alleged in the complaint. All contract markets shall refuse all trading privileges to respondent for one year.

Mr. Benj. M. Holstein, 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. Chapter 1), in which the respondent, a member of the Chicago Mercantile Exchange and a trader in commodity futures, is charged with failing to submit required reports and submitting false reports in connection with his trading in egg futures, and with exceeding the maximum limits on positions and trading in egg futures. The complaint alleges that these violations were deliberate and wilful because the respondent had previously been charged with violating the act in the same respects, as a result of which a consent order had been issued (14 Agric. Dec. 348 (14 A.D. 348)) denying trading privileges to him for 30 days,

effective July 1, 1955. A portion of the trading involved in the violations charged in this proceeding occurred during the effective period of such sanction, and such trading was done by means of accounts which were carried in the names of persons other than the respondent.

At the time of service of the complaint, respondent was notified, in effect, that failure to file an answer would constitute an admission of the facts alleged in the complaint and a waiver of oral hearing. Notwithstanding such notice, respondent has not filed an answer. 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)). The hearing examiner or referee filed a report February 9, 1961, recommending that respondent be denied all trading privileges on all contract markets for a period of one year. No exceptions to the referee's report were filed.

FINDINGS OF FACT

1. Respondent, William Ludwig, is an individual whose address is 180 Duane Street, New York, New York. He is now and was at all times material herein a member of the Chicago Mercantile Exchange.

2. The Chicago Mercantile Exchange is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act.

3. At various periods during 1955 and 1956, the respondent traded in egg futures on the Chicago Mercantile Exchange through Fox DeLuxe Foods, Inc., in accounts carried in the names of William Ludwig, Edson Eldredge, and Charles Colangelo. All transactions in such accounts during such periods belonged to or were controlled by the respondent.

4. On each day from June 29 to July 11, 1955, the respondent held or controlled a net long position in egg futures on the Chicago Mercantile Exchange in one or more of the above named accounts, which position ranged from 33 to 43 carlots in a single future. By reason of the fact that such quantities were equal to or in excess of 25 carlots, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions

executed and all open contract positions held or controlled by him, in all egg futures on all boards of trade (exchanges) during the period and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels.

5. On June 29 and 30, 1955, while the respondent was in reporting status as described in Finding of Fact 4, and on July 11, 1955, when the respondent's position was reduced below 25 carlots, transactions in egg futures on the Chicago Mercantile Exchange were executed on his behalf in two of the above named accounts, but the respondent failed to report to the Commodity Exchange Authority with respect to such transactions.

6. At various times from August 2 through December 19, 1955, the respondent held or controlled a net long position in egg futures on the Chicago Mercantile Exchange in the amount of 25 or more carlots in a single future. By reason thereof, respondent was in reporting status and was required to submit reports to the Commodity Exchange Authority as described in Finding of Fact 4. On 20 days within such period, on each of which days the respondent was in reporting status, transactions in egg futures on the Chicago Mercantile Exchange were executed on behalf of the respondent in one or more of the above named accounts, but respondent failed to submit reports to the Commodity Exchange Authority on seven of such days and submitted false reports with respect to the remaining 13 days.

7. On December 8 and 9, 1955, respondent held or controlled total speculative net long positions of 74 and 98 carlots, respectively, in the December 1955 egg future on the Chicago Mercantile Exchange in the above named accounts.

8. From December 20, 1955, through January 24, 1956, respondent held or controlled speculative net long positions which ranged between 51 and 98 carlots in the January 1956 egg future on the Chicago Mercantile Exchange in the above named accounts.

9. On each day from December 20, 1955, through January 24, 1956, respondent held or controlled a net long position in egg futures on the Chicago Mercantile Exchange in the above named accounts, of 25 or more carlots in a single future, by reason of which respondent was in reporting status and was

required to submit reports to the Commodity Exchange Authority, as described in Finding of Fact 4. On 17 days within such period, on each of which days respondent was in reporting status, transactions in egg futures on the Chicago Mercantile Exchange were executed on his behalf in one or more of the said accounts, but respondent failed to submit reports to the Commodity Exchange Authority on four of such days and submitted false reports to the Commodity Exchange Authority with respect to the remaining 13 days.

10. On March 22, 1955, a complaint was issued in CEA Docket No. 66, charging that the respondent exceeded the speculative limits on daily trading and positions in eggs for future delivery on the Chicago Mercantile Exchange during various periods in 1954 and 1955, and that respondent filed false reports covering his trading and positions. On April 21, 1955, in response to such charges, the respondent submitted a stipulation in which he consented to an order directing all contract markets to refuse all trading privileges to him for a period of 30 days effective July 1, 1955, and such an order was issued May 11, 1955 (14 Agric. Dec. 348 (14 A.D. 348)), applying to all trading done and positions held by William Ludwig directly or indirectly.

CONCLUSIONS

Section 4i of the act (7 U.S.C. 6i) requires every person who trades in futures to submit reports with respect to such trading "whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Secretary of Agriculture." The quantity fixed by the Secretary of Agriculture for reporting purposes under the above provision is 25 carlots in any one egg future (17 CFR 5.21). This regulation has been in effect continuously since several years prior to the trading described in the complaint. Other sections of the regulations prescribe the manner in which reports should be filed, the time for filing, and the information to be furnished in the reports (17 CFR 5.10, 5.11, 5.12).

Section 4a of the act (7 U.S.C. 6a) directs the Commodity Exchange Commission to "fix such limits on the amount of trading under contracts of sale of [a] commodity for future

delivery on or subject to the rules of any contract market which may be done by any person as the commission finds is necessary to diminish, eliminate, or prevent" burdens on interstate commerce caused by excessive speculation. By order issued August 3, 1951, the Commission fixed 50 carlots as the maximum position which any person may hold or control in the December egg future and the same quantity as the maximum position limit for the January egg future (17 CFR 150.5). This order has been in effect continuously since its issuance.

The respondent has not answered the complaint. Under the rules of practice, his failure to do so must be construed as an admission of all the material allegations therein and such allegations have been adopted as the Findings of Fact of this Decision and Order. From these findings, it appears that the respondent failed or refused to submit reports on 14 different occasions when he was required to do so, that he submitted false reports on 26 other occasions, and that he held positions in egg futures on several occasions in amounts ranging from one carlot to 48 carlots in excess of the permissible maximum.

These violations occurred by means of trading in accounts carried in the names of other persons, and part of this trading was done at a time when the respondent was subject to an order denying trading privileges to him for previous violations identical in nature with those charged in this proceeding. We must, therefore, conclude that these violations were not only knowing and wilful, but were undertaken with deliberation and with intent to conceal.

Upon consideration of all factors and in view of the flagrant nature of the violations, it is concluded that all contract markets should be directed to refuse all trading privileges to the respondent for a period of one year, such refusal to apply to all trading done and positions held by the respondent directly or indirectly.

ORDER

Effective May 1, 1961, all contract markets shall refuse all trading privileges to William Ludwig for a period of one year, such refusal to apply to all trading done and positions held by him directly or indirectly.

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

LOAD-DATE: June 8, 2008

