

Commodity Futures Trading Commission
CEA CASES

NAME: ROBERT E. O'GRADY, CARL D. LEAVEN, LEONARD B. FELDMAN, DONALD T. BARCLAY, TIME TRADING CO., AND RITTENHOUSE INVESTMENTS, INC.

CITATION: 30 Agric. Dec. 1635

DOCKET NUMBER: 184

DATE: NOVEMBER 18, 1971

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(No. 14,267)

In re ROBERT E. O'GRADY, CARL D. LEAVEN, LEONARD B. FELDMAN, DONALD T. BARCLAY, TIME TRADING CO., and RITTENHOUSE INVESTMENTS, INC. CEA Docket No. 184.
Decided November 18, 1971.

Wash sales -- Order as to 4 respondents -- Cease and desist -- Suspension of registrations for 10 days -- Consent

Respondents O'Grady, Leaven, Feldman and Time Trading Co. are ordered to cease and desist from violations of the act involving wash sales and transactions that are not open and competitive. Respondents O'Grady, Leaven and Feldman are suspended as registrants under the act for a period of 10 days and are denied all trading privileges on all the contract markets for a like period.

John Broadley and Earl L. Saunders for Commodity Exchange Authority.

Ira Marcus, Chicago, Ill., for respondents O'Grady, Leaven, Feldman, and Time Trading Co.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint and notice of hearing issued on September 10, 1971. The respondents are charged with violating section 4c of the Act (7 U.S.C. 6c) and section 1.38 of the regulations thereunder (17 CFR 1.38).

No hearing has been held with respect to any of the respondents. On November 10, 1971, respondents Robert E. O'Grady, Carl D. Leaven, Leonard B. Feldman and Time Trading Co. submitted for filing in the record, under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)), a stipulation in which they (1) admit the facts hereinafter set forth in paragraphs one and two of the Findings of Fact, (2) admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraph three of the Findings of Fact, (3) waive oral hearing and the report of the Hearing Examiner, and (4) consent to the entry of the order contained herein.

FINDINGS OF FACT

1. (a) Respondent Robert E. O'Grady, an individual whose address is 100 North La Salle Street, Fourth Floor, Chicago, Illinois 60602, is now, and was at all times material herein, a registered floor broker under the Commodity Exchange Act and a member of the Chicago Mercantile Exchange.

(b) Respondent Carl D. Leaven, an individual whose address is 100 North La Salle Street, Fourth Floor, Chicago, Illinois 60602, is now, and was at all

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

(c) Respondent Leonard B. Feldman, an individual whose address is 110 North Franklin Street, Room 421, Chicago, Illinois 60606, is now, and was at all times material herein, a registered floor broker under the Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and a general partner in respondent Time Trading Co.

(d) Respondent Donald T. Barclay, an individual whose address is 10615 South Seeley Street, Chicago, Illinois 60643, was at all times material herein, a registered floor broker under the Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and president of respondent Rittenhouse Investments, Inc.

(e) Respondent Time Trading Co., a partnership whose address is 110 North Franklin Street, Chicago, Illinois 60606, is now, and was at all times material herein, a clearing member of the Chicago Mercantile Exchange and a registered futures commission merchant under the Commodity Exchange Act.

(f) Respondent Rittenhouse Investments, Inc., a corporation whose address is 10615 South Seeley Street, Chicago, Illinois 60643, was at all times material herein, a clearing member of the Chicago Mercantile Exchange, and is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act.

2. The Chicago Mercantile Exchange is now, and was at all times material herein, a duly designated contract market under the Commodity Exchange Act. The transactions referred to in the complaint relate to the purchase and sale of pork belly futures contracts on the exchange. Such contracts could have been used for hedging transactions in interstate commerce in pork bellies or the products or by-products thereof, or for determining the price basis of transactions in interstate commerce in pork bellies, or for delivering pork bellies sold, shipped, or received in interstate commerce.

3. On December 15, 1969, the respondents entered into the transactions in pork belly futures specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions, the respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at specified prices whereby a

profit of \$ 19,500.00 would be reported to respondent Barclay's account and a loss of the same amount would be reported to respondent Feldman's account.

See original document—page 4

Buying Broker	Customer	Quantity (No. of contra- cts)	(1970) Future	Price	Selling Broker	Customer	Time	Spread Difference
Leaven	Barclay	50	February	\$ 43.30	O'Grady	Feldman	12:24	60 points
O'Grady	Barclay	50	March	42.70	Leaven	Feldman	12:24	60 points
O'Grady	Feldman	50	February	43.95	Leaven	Barclay	12:26	60 points
Leaven	Feldman	50	March	43.35	O'Grady	Barclay	12:26	60 points

CONCLUSIONS

By reason of the Facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, respondents Robert E. O'Grady, Carl D. Leaven, Leonard B. Feldman and Time Trading Co. (1) entered into transactions which were, or were of the character of, wash sales or fictitious sales, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c), and

(2) executed purchases and sales of commodities for future delivery in a manner that was not open and competitive, in wilful violation of section 1.38 of the regulations (17 CFR 1.38).

The complainant states that the Commodity Exchange Authority has carefully considered the proposed order, and that the Authority believes the proposed sanctions are adequate and the prompt entry of such an order would constitute a satisfactory disposition of this case as to respondents O'Grady, Leaven, Feldman and Time Trading Co. The complainant states that the Commodity Exchange Authority has informed respondents Feldman and Time Trading Co. of the Authority's position that if respondent Time Trading Co. should for its partnership account during the period of the denial of trading privileges to respondent Feldman and while he remains a partner in respondent Time Trading Co., such trading would constitute a violation on the part of respondent Feldman of the order denying him trading privileges. The complainant recommends that the stipulation be accepted and the proposed order be issued. It is concluded that the complainant's recommendation should be adopted.

ORDER

Effective upon the date of service of this order upon respondents Robert E. O'Grady, Carl D. Leaven, Leonard B. Feldman and Time Trading Co., they shall cease and desist from: (1) entering into, or offering to enter into, any futures transaction subject to the Commodity Exchange Act if such transaction is, is of the character of, or is commonly known to the trade as, a "wash sale"; and (2) executing any futures transaction subject to the Commodity Exchange Act if such transaction is not executed openly and competitively in accordance with section 1.38 of the regulations issued under the Commodity Exchange Act (17 CFR 1.38).

Effective on the twentieth day after the date of issuance of this order, (1) the registrations of respondents Robert E.

O'Grady, Carl D. Leaven and Leonard B. Feldman as floor brokers under the Commodity Exchange Act are suspended for a period of ten (10) days, and (2) these respondents are prohibited from trading on or subject to the rules of any contract market for a period of ten (10) days, and all contract markets shall refuse all trading privileges to respondents Robert E. O'Grady, Carl D. Leaven and Leonard B. Feldman during this period, such prohibition and refusal to apply to all trading done and all positions held by them, or any of them, directly or indirectly.

LOAD-DATE: June 10, 2008

