

Commodity Futures Trading Commission  
CEA CASES

**NAME:** PEERS AND COMPANY

**CITATION:** 13 Agric. Dec. 597

**DOCKET NUMBER:** 61

**DATE:** JUNE 28, 1954

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 3925)

PEERS AND COMPANY *et als.* CEA Docket No. 61. Decided June 28, 1954.

**Suspension of Registration -- Violation of Act -- Wash or Fictitious Sales -- Consent Order**

Where respondents caused the execution of fictitious trades on the New York Cotton Exchange in violation of the act, and where respondent Peers and Company admitted the facts alleged and consented to the entry of an order suspending its registration, the company's registration as a future's commission merchant was ordered suspended for a period of fifteen days.

*Mr. Benjamin M. Holstein* for Commodity Exchange Authority. *Mr. Albert I. Collens*, of New York, New York, for respondents *Peers and Company* and *Henry M. Peers, Jr.* *Mr. Jack W. Bain*, Referee.

*Decision by Thomas J. Flavin, Judicial Officer*

**PRELIMINARY STATEMENT**

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C., Chapter I), instituted by a complaint issued under section 6 (b) of the act (7 U.S.C. 9) on February 16, 1954,

by the Acting Secretary of Agriculture, hereinafter called the complainant.

The complaint charges that the respondents caused the execution of wash or fictitious trades on the New York Cotton Exchange, a contract market, in violation of section 4c of the act (7 U.S.C. 6c). The charges are based upon allegations that respondent Leon Salkind opened commodity futures trading accounts with respondent Peers and Company for the partnership respondent Leading Embroidery Company and for the corporate respondent Smitherman Cotton Mills, Incorporated, that on three occasions thereafter respondent Salkind ordered the purchase of a specified quantity of cotton futures for the account of the corporation and simultaneously ordered a sale of the same quantity of the same future for the account of the partnership, or vice versa, that such trades were executed by causing one firm to buy from the other, that respondent Peers and Company accepted, transmitted, and recorded the execution of these orders with knowledge of the fact that respondent Salkind controlled the trading of both firms, and that subsequently, upon directions from respondent Salkind, respondent Peers and Company applied the credit balance in the corporation account against the debit balance in the partnership account, after which both accounts were closed.

An answer was filed on behalf of respondents Peers and Company and Henry M. Peers, Jr., in which these respondents admitted the material allegations in the complaint, except that they denied knowledge by respondent Peers of the fact that the trading in both accounts was controlled by respondent Salkind. No

answer or other communication was received from or on behalf of respondents Leading Embroidery Company, Smitherman Cotton Mills, Incorporated, or Leon Salkind.

The hearing opened in New York on June 8, 1954, before referee Jack W. Bain, of the Office of Hearing Examiners, United States Department of Agriculture. Respondents Peers and Company, and Henry M. Peers, Jr., were represented by Albert I. Collens, of New York, New York. Benjamin M. Holstein of the Solicitor's Office appeared for the complainant. There was no appearance by or on behalf of the other three respondents.

After the hearing opened and prior to the taking of testimony, respondents Peers and Company and Henry M. Peers, Jr., by their counsel, admitted the facts alleged in the complaint, waived further hearing, waived service upon them of a referee's report, consented to the entry of an order suspending the registration of

respondent Peers and Company as a futures commission merchant for a period of fifteen (15) days, and requested that such order be issued as expeditiously and be made effective as soon as possible. The referee then stated that he would certify the matter to the Judicial Officer without any further formal document by the referee, for issuance of the order to which these respondents had consented, and indicated that he would file a report with respect to the three remaining respondents.

The order to which respondents Peers and Company and Henry M. Peers, Jr. have consented and which the referee and the complainant have recommended will be issued, with findings of fact adopted from the material facts alleged in the complaint.

#### **FINDINGS OF FACT**

1. Respondent Peers and Company, 76 Beaver Street, New York, New York, is a sole proprietorship, owned and managed by respondent Henry M. Peers, Jr. At all times material to this decision and order, the said Peers and Company was a registered futures commission merchant under the Commodity Exchange Act and a clearing member of the New York Cotton Exchange.

2. At all times material to this decision and order, the New York Cotton Exchange was a duly designated contract market under the Commodity Exchange Act.

3. On or about September 10, 1952, respondents Leading Embroidery Company and Smitherman Cotton Mills, Incorporated, acting through respondent Leon Salkind, each opened a regulated commodity account with respondent Peers and Company.

4. On or about September 15, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 4,000 bales of March 1953 cotton futures on the New York Cotton Exchange for the account of respondent Leading Embroidery Company and simultaneously ordered the said Peers and Company to sell 4,000 bales of March 1953 cotton futures for the account of respondent Smitherman Cotton Mills, Incorporated. Respondent Peers and Company simultaneously transmitted both orders to Aubrey Wolford, a registered floor broker under the Commodity Exchange Act, for execution on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 4,000 bales of March 1953 cotton futures at 39.31 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said

Aubrey Wolford reported the above described purchase and sale to respondent Peers and Company, and the said Peers and Company entered the transactions in its books in the respective accounts of the respondent partnership and the respondent corporation, and notified respondent Leon Salkind that his orders had been executed.

5. On or about November 12, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 3,500 bales of March 1953 cotton futures on the New York Cotton Exchange for the account of respondent Smitherman Cotton Mills, Incorporated, and simultaneously ordered the said Peers and Company to sell 4,000 bales of March 1953 cotton futures on the said exchange for the account of respondent Leading Embroidery Company. Respondent Peers and Company simultaneously transmitted both orders to the said Aubrey Wolford for execution on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 3,500 bales of March 1953 cotton futures at 36.06 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said Aubrey Wolford reported the above described purchase and sale to respondent Peers and Company, and the said Peers and Company entered the transactions in its books in the respective accounts of the respondent corporation and the respondent partnership, and notified respondent Leon Salkind that his orders had been executed.

6. On or about November 12, 1952, respondent Leon Salkind ordered respondent Peers and Company to buy 4,000 bales of May 1953 cotton futures on the New York Cotton Exchange for the account of respondent Smitherman Cotton Mills, Incorporated, and simultaneously ordered the said Peers and Company to sell 4,000 bales of May 1953 cotton futures on the said exchange for the account of respondent Leading Embroidery Company. Respondent Peers and Company simultaneously transmitted both orders to the said Aubrey Wolford for execution on the New York Cotton Exchange, and the said Aubrey Wolford, acting as floor broker on both sides of each of the said orders, purchased 4,000 bales of May 1953 cotton futures at 36.16 cents per pound on the floor of the New York Cotton Exchange and, as the opposite side of such purchase, sold the same quantity of the same future at the same price. The said Aubrey Wolford reported such purchase and sale to respondent Peers and Company, and the said Peers

and Company entered the transaction in its books in the respective accounts of the respondent corporation and the respondent partnership, and notified respondent Leon Salkind that his orders had been executed.

7. Respondent Peers and Company accepted the orders described in paragraphs 4, 5, and 6 with knowledge of the fact that respondent Leon Salkind controlled the trading in the accounts of the respondent partnership and respondent corporation.

8. At all times between September 15, 1952, and September 21, 1952, and at all times between September 23, 1952, and February 19, 1953, the books of respondent Peers and Company showed that the account of respondent Leading Embroidery Company had a deficit in excess of \$ 10,000, the maximum amount of credit permitted to be extended by a member of the New York Cotton Exchange under the rules of the said exchange. No margin funds were deposited by respondent Leading Embroidery Company or by anyone else in its behalf during these periods. On October 23, 1952, and thereafter, such deficit exceeded \$ 100,000. The transactions of November 12, 1952, described in paragraphs 5 and 6, closed out the open contract positions in both accounts and at the close of business on that day the account of respondent Leading Embroidery Company showed a debit balance of approximately \$ 132,765 and the account of respondent Smitherman Cotton Mills, Incorporated, showed a credit balance of approximately \$ 118,340. The said accounts remained in this status until on or about February 19, 1953, at which time respondent Peers and Company, pursuant to directions from respondent Leon Salkind, applied the said credit balance in the account of respondent Smitherman Cotton Mills, Incorporated, to the debit balance in the account of respondent Leading Embroidery Company. Shortly thereafter both of the accounts were closed.

9. The cotton futures transactions described in paragraphs 4, 5, and 6 could be used for hedging transactions in interstate commerce in cotton or the products or by-products thereof, or determining the price basis of transactions

in interstate commerce in cotton, or delivering cotton sold, shipped, or received in interstate commerce.

**CONCLUSIONS**

Respondent Peers and Company accepted the orders in question with knowledge of the fact that respondent Leon Salkind controlled the trading of both firms, and Peers and Company confirmed

the execution of the trades and entered them in its books when it knew that they had been executed by "crossing," that is, by causing one firm to buy from the other. Under the circumstances, such transactions were wash sales or fictitious sales within the meaning of section 4c of the Commodity Exchange Act (7 U.S.C. 6c). *In re Jean Goldwurm, et al*, 7 Agric. Dec. 265 (7 A.D. 265).

**ORDER**

Effective ten (10) days after the date of this order, the registration of Peers and Company as a futures commission merchant is suspended for a period of fifteen (15) days.

A copy of this decision and order shall be sent by registered mail to respondents Peers and Company and Henry M. Peers, Jr., and to each contract market under the act.

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



