

Commodity Futures Trading Commission
CEA CASES

NAME: H. SACKS & SONS, JULIUS SACKS, ALLEN JOHNSON

DOCKET NUMBER: 80

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: H. Sacks & Sons, a partnership, and Julius Sacks, Respondents

CEA Docket No. 80

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that respondents, H. Sacks & Sons, a partnership, and Julius Sacks, have violated the provisions of the Commodity Exchange Act (7 U.S.C. 1952 ed., Chapter 1), and the rules and regulations of the Secretary of Agriculture made pursuant thereto (17 CFR, Part 1). In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C. 1952 ed. § 9), this complaint and notice of hearing is issued alleging as follows:

I

Respondent H. Sacks & Sons was at all times material to this complaint and is now a partnership with offices and principal place of business located at East Quogue, Long Island, New York. The said partnership enjoys membership trading privileges on the New York Mercantile Exchange.

II

Respondent Julius Sacks was at all times material to this complaint and is now a member of the respondent partnership and controlled and was responsible for execution of the partnership transactions hereinafter described. The said Julius Sacks was at all times material herein a member of the New York Mercantile Exchange.

III

The New York Mercantile Exchange has been at all times material to this complaint and is now a duly designated contract market under the Commodity Exchange Act.

IV

On each day during the period from September 20, 1957, through February 12, 1958, the respondent partnership had a net short or net long open contract position in potato futures on the New York Mercantile Exchange which ranged from 25 carlots to 57 carlots in a single future. By reason of the fact that such quantities were equal to or in excess of 25 carlots, said respondent partnership 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 for its account in all potato futures on all boards of trade (exchanges) during the said period, and with respect to all such transactions by reason of which said respondent's position was reduced below

reporting levels, as provided in section 41 of the Commodity Exchange Act (7 U.S.C. 1952 ed. § 6i) and sections 6.10, 6.11, 6.12, and 6.21 of the rules and regulations thereunder (17 CFR, 6.10, 6.11, 6.12, 6.21).

V

On thirty-four (34) business days within the period specified in paragraph IV hereof, while respondent partnership was in reporting status as therein described, and on the business day immediately thereafter, February 13, 1958, when respondent's position was reduced below 25 carlots, transactions in potato futures on the New York Mercantile Exchange were executed for its account, but said respondent partnership has failed and refused to report to the Commodity Exchange Authority with respect to such transactions, as required under the aforesaid provisions of the Commodity Exchange Act and the rules and regulations.

VI

On numerous occasions dating as far back as September 23, 1948, and continuing up to October 8, 1957, officials of the Commodity Exchange Authority not only informed said respondents of the reporting requirements under the Commodity Exchange Act and regulations but also found it necessary to communicate with respondents, in writing and by telephone, directing attention to respondents' (a) failure to

file reports required to show reportable transactions and positions in potato futures on contract markets; (b) filing of reports showing cumulative trades and positions for an entire month instead of filing a report for each day on which trades or transactions were made while in a reporting status, as required by the regulations, and (c) filing incorrect reports. Respondent partnership was also informed in writing by the Administrator of the Commodity Exchange Authority of its delinquencies in submitting reports, that such delinquencies were a continuing violation of the law, and that continuing failure in this regard could result in the institution of formal proceedings directed toward denial of trading privileges on contract markets. On one occasion, respondent Julius Sacks wrote a letter to the New York Office of the Commodity Exchange Authority with respect to the filing of daily reports. In the circumstances, respondents H. Sacks & Sons and Julius Sacks were fully aware of their obligations under the Commodity Exchange Act and the rules and regulations with respect to filing of required reports, and that failure to submit such reports, as required, constituted a knowing and wilful violation of section 4i of the Commodity Exchange Act and sections 6.10, 6.11, 6.12, and 6.21 of the rules and regulations thereunder.

Respondents are hereby notified that a hearing will be held in this matter beginning at 10:00 a.m. local time, on the 1st day of May, 1958, in Room 202, 44 Beaver Street, New York, New York, before

a referee designated to conduct such hearing. Respondents will have an opportunity at such hearing to show cause, if any there be, why an order should not be made directing all contract markets to refuse all trading privileges to the respondents for such period of time as may be determined. The respondents will have twenty (20) days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., an answer, with an original and five copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material and relevant allegation of this complaint. Allegations that are not answered will be deemed admitted for the purpose of this proceeding.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C., this
6th day of March, 1958.

/s/ Don Paarlberg

Don Paarlberg

Assistant Secretary

LOAD-DATE: June 12, 2008

