

Commodity Futures Trading Commission
CEA CASES

NAME: FRED STROHMEIER, JR.

CITATION: 18 Agric. Dec. 100

DOCKET NUMBER: 88

DATE: FEBRUARY 11, 1959

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(No. 5786)

In re FRED STROHMEIER, JR. CEA Docket No. 88. Decided February 11, 1959.

Violation of Reporting Requirements -- Denial of Trading Privileges

It is concluded that respondent wilfully violated the reporting requirements of the act and the regulations thereunder, and all contract markets are directed to refuse all trading privileges to respondent for a 30-day period.

Mr. Benj. M. Holstein, for Commodity Exchange Authority. *Mr. Jack W. Bain*, Referee.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1), instituted by a complaint issued under section 6(b) of the act October 31, 1958, by the Acting Secretary of Agriculture. Respondent is charged with knowingly and wilfully violating the reporting requirements of the act and the regulations issued thereunder. A copy of the complaint and a copy of the rules of practice were served upon respondent November 5, 1958.

At the time of service of the complaint, respondent was notified, in effect, that an answer thereto should be filed within 20 days

after such service and that, in accordance with section 0.9 of the rules of practice (17 CFR 0.9), failure to plead specifically to the allegations contained in the complaint would constitute an admission of the facts alleged therein and a waiver of oral hearing. On November 24, 1958, respondent filed a letter in which he failed to deny the allegations of the complaint. To insure that respondent would not be prejudiced due to a lack of understanding with respect to the result of his failure to deny such allegations, the Commodity Exchange Authority filed a statement setting forth such result. Notwithstanding such notice and statement, respondent has failed to plead specifically to the allegations of the complaint. 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. The hearing examiner filed a report January 8, 1959, recommending that respondent be denied all trading privileges on all contract markets for a period of 30 days. No exceptions were filed to the hearing examiner's report.

FINDINGS OF FACT

1. Respondent, Fred Strohmeier, Jr., is and was at all times material herein a dealer in eggs with an office and principal place of business at Jeffersontown, Kentucky.

2. The Chicago Mercantile Exchange, Chicago, Illinois, was at all times material herein a duly designated contract market under the act.

3. During 1956 and 1958, the respondent traded in egg futures through various futures commission merchants in accounts controlled by him under the names Fred Strohmeier, Strohmeier Egg Company, E. B. Strohmeier, and Eleanor Strohmeier.

4. On August 9 and 10, and 16 through 28, 1956, the respondent had a net short position in egg futures on the Chicago Mercantile Exchange which ranged from 25 carlots to 38 carlots in a single future. On each day during the period August 19 through 22, 1958, respondent had a net short position in egg futures on the Chicago Mercantile Exchange which ranged from 59 carlots to 89 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 for his account in all

egg futures on all boards of trade (exchanges) during the said periods, and with respect to all such transactions by reason of which the respondent's position was reduced below reporting levels.

5. On eight business days during the periods specified in Finding of Fact 4, while respondent was in reporting status as therein described, and on three business days within the said periods, when the respondent's positions were reduced below 25 carlots, transactions in egg futures on the Chicago Mercantile Exchange were executed for his account, but the respondent has failed to report to the Commodity Exchange Authority with respect to such transactions.

6. On four occasions in 1956 officials of the Commodity Exchange Authority informed the respondent by mail of the reporting requirements with respect to egg futures under the act and the regulations issued thereunder and requested the submission of reports which were then due from the respondent, as described in Findings of Fact 4 and 5. The respondent was also informed in writing by the Administrator of the Commodity Exchange Authority on November 14, 1956, and again on August 26, 1958, of respondent's delinquencies in submitting reports, and notified that such delinquencies were a continuing violation of the law and could result in the institution of formal proceedings directed toward the denial of trading privileges on contract markets.

CONCLUSIONS

Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) provides as follows:

"It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Secretary of Agriculture * * * (2) 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 of egg futures fixed by the Secretary for reporting purposes pursuant to section 4i is 25 carlots (17 CFR 6.21).

Respondent failed and refused to file required reports on eleven different occasions in violation of section 4i of the act and sections

6.10, 6.11 and 6.12 of the regulations issued thereunder (17 CFR 6.10, 6.11 and 6.12). The fact that respondent received ample notification of the reporting requirements, the possible consequences of failure to comply therewith and of his delinquency prior to the institution of this proceeding justify the conclusion that the violations herein were deliberate and wilful. Accordingly,

all contract markets should be directed to refuse all trading privileges to respondent for a period of 30 days as recommended by complainant, such refusal to apply to all trading done and positions held by respondent directly or indirectly. See, e.g., *In re Joseph R. Awad*, 17 Agric. Dec. 601 (17 A.D. 601) (1958).

ORDER

Effective on the thirtieth day after the date of this order, all contract markets shall refuse all trading privileges to respondent for a period of thirty days, such refusal to apply to all trading done and positions held by respondent 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

