

Commodity Futures Trading Commission
CEA CASES

NAME: P. J. TAGGARES COMPANY, CHEF-REDDY FOODS, PETER J. TAGGARES, KENNETH L. RAMM, IDAHO POTATO PACKERS CORP., IDAHO POTATO PACKERS OF IDAHO, INC., ROBERT H. ABEND, HAROLD ABEND, SAN JACINTO PACKING CO., AGRI-EMPIRE, INC., JAMES MINOR, UNIVERSAL LAND-SNAKE RIVER, EDWARD SPIEGEL, MODIE J. SPIEGEL, J. R. SIMPLOT COMPANY, SIMPLOT EASTERN IDAHO PRODUCE, INC., J. R. SIMPLOT. DECIDED MAY 16, 1973, WITH RESPECT TO IDAHO POTATO PACKERS CORP., IDAHO POTATO PACKERS OF IDAHO, INC., ROBERT H. ABEND, AND HAROLD ABEND

CITATION: 32 Agric. Dec. 1105

DOCKET NUMBER: 200

DATE: MAY 16, 1973

DOCUMENT TYPE: DECISION AND ORDER

(No. 15,218)

In re P. J. TAGGARES COMPANY, a corporation, CHEF-REDDY FOODS, a corporation, PETER J. TAGGARES, an individual, KENNETH L. RAMM, an individual, IDAHO POTATO PACKERS CORP., a corporation, IDAHO POTATO PACKERS OF IDAHO, INC., a corporation, ROBERT H. ABEND, an individual, HAROLD ABEND, an individual, SAN JACINTO PACKING CO., a proprietorship, AGRI-EMPIRE, INC., a corporation, JAMES MINOR, an individual, UNIVERSAL LAND-SNAKE RIVER, a partnership, EDWARD SPIEGEL, an individual, MODIE J. SPIEGEL, an individual, J. R. SIMPLOT COMPANY, a corporation, SIMPLOT EASTERN IDAHO PRODUCE, INC., a corporation, J. R. SIMPLOT, an individual. CEA Docket No. 200. Decided May 16, 1973, with respect to *Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend, and Harold Abend.*

Manipulation of futures prices -- Stipulation -- Denial of trading privileges for 180 days

The stipulation of respondents Idaho Potato Packers Corp, Idaho Potato Packers of Idaho, Inc., Robert H. Abend, and Harold Abend has been accepted and the Order herein is issued. Said four respondents are denied trading privileges for a period of 180 days.

Gilbert A. Horn, Chicago, Illinois, and *Harold J. Reuben*, for complainant.

Dale Clemons, Boise, Idaho, for respondents.

Decision by Donald A. Campbell, Judicial Officer.

DECISION AND ORDER

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. The complaint charges that the respondents attempted to manipulate the prices of potato futures on the Chicago Mercantile Exchange in violation of §§ 6(b), 6(c) and 9 of the Act (7 U.S.C. §§ 9, 13b and 13).

No hearing has been held with respect to this proceeding. On January 10, 1973, a Decision and Order with respect to J. R. Simplot Company, Simplot Eastern Idaho Produce Inc., and J. R. Simplot was entered pursuant to the filing by them of a joint amended stipulation.

Respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend and Harold Abend have at this time filed a stipulation under

section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which (1) they admit the facts hereinafter set forth in findings of fact one through four, (2) they agree, for the purpose of avoiding a trial in this proceeding and for such purpose only, that the facts hereinafter set forth in findings of fact five and six may be taken as true, (3) they state that nothing in this stipulation shall be deemed to constitute an admission that the Commodity Exchange Act or regulations thereunder have been violated by them, and (4) they waive hearing on the charges, and consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent Idaho Potato Packers Corp., a corporation, is a corporation organized under the laws of the State of New York, with its principal office and place of business at 999 East 149th Street, Bronx, New York. Respondent Idaho Potato Packers of Idaho, Inc., is an affiliate corporation organized under the laws of the State of Idaho, with its principal office and place of business at Blackfoot, Idaho. Said corporations are now and at all times material to the Complaint filed herein engaged in a potato growing and distributing business. At all such times respondents Robert H. Abend, whose business address is 999 East 149th Street, Bronx, New York, and Harold Abend, whose business address is P. O. Box 747, Blackfoot, Idaho, were the owners of said corporations; speculatively traded in potato futures on the Chicago Mercantile Exchange for the corporate accounts of said corporations; and in their capacity as president and vice president, respectively, of said corporations directed, controlled and were responsible for the transactions of the corporations involved herein.

2. The Chicago Mercantile Exchange is now and has been at all times material to the Complaint herein a board of trade duly designated as a contract market under the Commodity Exchange Act.

3. The futures transactions referred to in the Complaint related to the May 1971, potato futures on the Chicago Mercantile Exchange. Trading in such futures commenced on May 11, 1970, and continued until its termination on May 10, 1971. A potato

futures contract on the Exchange is a contract for fifty thousand (50,000) pounds of Idaho Russet Burbank potatoes.

4. At all times material to the Complaint, respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend, and Harold Abend, trading in the manner specified in paragraph 1 hereof, purchased May 1971, Idaho potato futures contracts on the Chicago Mercantile Exchange and obtained, held and controlled a "long" position in such futures.

5. Respondents Robert H. Abend and Harold Abend purchased in transactions on the Chicago Mercantile Exchange over a period of time beginning on or about March 3, 1971, and continuing until on or about April 29, 1971, numerous contracts of the May 1971, Idaho potato futures for the accounts of respondents Idaho Potato Packers Corp. and Idaho Potato Packers of Idaho, Inc., and established, maintained and kept open in increasing quantities over a period of time from on or about March 3, 1971, through the expiration of trading on May 10, 1971, a "long" position in such futures, which advanced to the maximum permissible speculative limit of one hundred and fifty (150) open contracts by on or about April 29, 1971, and which remained at such level through the close of trading on May 10, 1971.

6. These respondents did not liquidate or offset their "long" positions in such futures prior to the expiration of trading on May 10, 1971.

CONCLUSIONS

Section 0.4(b) of the Rules of Practice under the Commodity Exchange Act (17 CFR § 0.4(b)) provides as follows:

(b) *Consent Order*. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow

the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent,

which shall have the same force and effect as an order made after oral hearings.

The facts admitted by respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend and Harold Abend and set forth in the findings of fact are sufficient to subject them to the jurisdiction of the Secretary of Agriculture under the provisions of the above section.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the proposed order. It is the view of the complainant that the proposed sanctions would be adequate, and that the prompt entry of such an order without further proceedings would constitute a satisfactory disposition of this case as to respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend and Harold Abend, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant therefore recommends that the stipulation and waiver be accepted and that the proposed order be issued, terminating this proceeding as to respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend and Harold Abend. It is so concluded.

ORDER

Effective immediately, respondents Idaho Potato Packers Corp., Idaho Potato Packers of Idaho, Inc., Robert H. Abend and Harold Abend shall henceforth cease and desist from manipulating or attempting to manipulate the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market.

Effective immediately, (1) the said respondents are prohibited from trading on or subject to the rules of any contract market for a period of 180 days, and (2) all contract markets shall refuse all trading privileges to the said respondents during this period. Such prohibition and refusal shall apply to all trading done and positions held directly by the said respondents, or any of them, for their own accounts or as the agents or representatives of any other persons or firms, and also to all trading done and positions held indirectly through persons or firms owned wholly or in substantial amount by the said respondents or in any way subject to their direction or control, wholly or substantially.

A copy of this decision and order shall be served upon each of the parties and upon each contract market.

LOAD-DATE: June 9, 2008

