

Commodity Futures Trading Commission
CEA CASES

NAME: WALSTON & CO., INC., PAT G. NOEL, AND CARLTON M. SMITH

DOCKET NUMBER: 130

DATE: SEPTEMBER 13, 1965

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Walston & Co., Inc., Pat G. Noel, and Carlton M. Smith, Respondents

CEA Docket No. 130

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

There is reason to believe that the respondents, Walston & Co., Inc., Pat G. Noel, and Carlton M. Smith, have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.), and the regulations made pursuant thereto (17 CFR, Part 1), and in accordance with the provisions of section 6(b) of the said act (7 U.S.C. 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Walston & Co., Inc., is now and was at all times material herein a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business at 74 Wall Street, New York, New York, and branch offices at Houston, Texas, and various other cities throughout the United States. The said corporation is now and was at all such times a clearing member of the Chicago Board of Trade and various other contract markets, and a registered futures commission merchant under the Commodity Exchange Act, trading in commodity futures on such contract markets for the accounts of its customers.

II

Respondent Pat G. Noel, an individual whose address is 202 Renoir Drive, Houston, Texas, was at all times material herein employed by the corporate respondent as an account executive in its Houston, Texas, office.

III

Respondent Carlton M. Smith, an individual whose address is 7900 West Heimer Street, Houston, Texas, was at all times material herein employed by the corporate respondent as an account executive in its Houston, Texas, office.

IV

The contracts referred to in this complaint were contracts for the purchase or sale of soybean futures on the Chicago Board of Trade, a duly designated contract market under the Commodity Exchange Act. Such contracts could have been used for hedging transactions in interstate commerce in soybeans or the products or byproducts thereof, or for determining the price basis of transactions in interstate commerce in such commodity, or for delivering such commodity sold, shipped, or received in interstate commerce.

V

The acts and transactions on the part of the corporate respondent hereinafter described were ordered or carried out by respondents Pat G. Noel and Carlton M. Smith acting in their capacities as account executives of the corporate respondent.

VI

During the period from on or about September 16, 1963, through on or about May 5, 1964, respondent Walston & Co., Inc., in closing out certain offsetting long and short soybean futures contracts for the accounts of certain customers of its Houston, Texas, office (Account Nos. 76-01-865, 76-01-756, 76-02-131 and 76-02-079), engaged in the practice of selectively closing out such contracts so that larger profits or smaller losses than actually existed were reported to such customers, thereby for a period of time concealing from each of such customers the actual amount of his losses.

VII

By reason of the facts set forth in this complaint, the respondents, in connection with the disposition or execution of contracts of sale of a commodity for future delivery on or subject to the rules of a contract market, and in regard to acts of agency performed with respect to such contracts, deceived the persons on behalf of whom such contracts were made, in wilfull violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); and applied and closed out offsetting long and short positions in wilfull violation of section 1.46 of the regulations (17 CFR 1.46).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, 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 allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless hearing is waived, either expressly or by failure to file an answer, or by filing an answer in which all of the material allegations of fact contained in the complaint are admitted and a hearing is not requested, a hearing will be held at 10:00 a.m., local time, on the 17th day of November 1965, in Houston, Texas, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing the respondents will have the right to appear and show cause, if any there be, why an order should not be made revoking or suspending the registration of respondent Walston & Co., Inc., as futures commission merchant, and directing that all contract markets refuse all trading privileges to each respondent for such period of time as may be determined.

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., on
September 13, 1965.

[SEE SIGNATURE IN ORIGINAL]

Assistant Secretary

LOAD-DATE: June 12, 2008

