

Commodity Futures Trading Commission  
CEA CASES

**NAME:** IRVING WEIS AND COMPANY, IRNING WEIS, AND ALEXANDER CYCLEMAN

**CITATION:** 8 Agric. Dec. 151

**DOCKET NUMBER:** 39

**DATE:** FEBRUARY 3, 1949

**DOCUMENT TYPE:** SUPPLEMENTAL ORDER

(A. D. 1994)

*In re* Irving Weis and Company, Irving Weis, and Alexander Cycleman. CEA Doc. No. 39. Decided February 3, 1949.

**Motion Requesting for Modification of Prior Order, Granted**

Upon recommendation of the Commodity Exchange Authority under the Act the respondent's motion requesting that, in view of the losses already suffered as a result of this proceeding, there be some amelioration or remission of the sanction imposed under the order of March 5, 1948, to the end that respondent's firm may be in a position to retain those of its customers which it still has and continue to stay in business, granted, and the specific order recommended by the authority is adopted in substance, and the said order is hereby modified as herein ordered.

*Mr. Benj. M. Holstein* for Commodity Exchange Authority. *Mr. Irving Weis* and *Messrs. Corbin, Bennett & Delehanty*, of New York City, for respondents.

*Decision by Thomas J. Flavin, Judicial Officer*

**SUPPLEMENTAL ORDER**

In this disciplinary proceeding under the Commodity Exchange Act (7 U. S. C. Chapter 1), respondents appealed to the United States Court of Appeals for the Second Circuit a decision and order entered March 5, 1948, 7 Agric. Dec. 180 (7 A. D. 180), finding that respondents violated the act and ordering suspension for 10 days of the registrations of Irving Weis and Company as a futures commission merchant and Irving Weis as a floor broker and ordering denial of trading privileges on the contract markets for all respondents. The effectiveness of this order was stayed pending action by the court on the appeal 7 Agric. Dec. 193 (7 A. D. 193). On December 7, 1948, the court entered a decision affirming the order of March 5, 1948, and on January 11, 1949, entered its judgment setting 30 days thereafter as the effective date for the suspension of registrations and denial of trading privileges ordered on March 5, 1948.

On December 23, 1948, respondents filed a motion and supporting affidavit from Irving Weis alleging that the firm of Irving Weis and Company has suffered severe business losses by reason of this proceeding. It is stated that comparative figures for the years 1946 and 1948 show a loss of approximately two-thirds in the number of accounts carried, in gross commissions, and in net profits. It is further stated that under the terms of the order, the firm would be compelled to

notify its remaining customers to close or transfer their accounts to other brokers for the period of suspension, that these customers would probably not return, and that the effect would be completely destructive of the business. The affiant requests that, in view of the losses already suffered as a result of this proceeding, there be some amelioration or remission of the sanction imposed

under the order, to the end that the firm may be in a position to retain those customers which it still has and continue to stay in business.

On January 28, 1949, complainant filed an answer to the motion. The answer states in part:

"Information available to the Commodity Exchange Authority under the Act indicates that, as of December 31, 1948, commodity customers' margin funds held by the firm had declined approximately 69% since December 31, 1947. Accordingly, the affiant's claims as to the loss of business appear to be substantiated. The order of March 5, 1948, follows the recommendations made by the Commodity Exchange Authority. At that time there had been no representation or showing as to the loss of business already sustained as a result of this proceeding. The offense committed by these respondents is a serious one and requires an effective sanction. However, it is believed that this objective can be achieved without requiring the liquidation or transfer of all remaining accounts, and the possible destruction of the respondents' business. It is, accordingly, suggested that the order of the Judicial Officer be modified by providing that it should not be construed to prohibit the carrying or liquidation of customers' positions on the books of respondents as of the close of business on the last day preceding the effective date of the suspension."

The answer then proceeds to propose a specific order to accomplish the recommendations made. This specific order is adopted in substance and the order of March 5, 1948, is modified as follows:

Effective February 11, 1949, the registration of *Irving Weis and Company* as a futures commission merchant under the Commodity Exchange Act is suspended for a period of ten (10) days; Provided, however, that the suspension of registration shall not prohibit Irving Weis and Company from carrying open positions held for customers as of the close of business February 10, 1949, nor from accepting and causing to be executed orders for the liquidation, in whole or part, of any such position, provided that such orders are executed by persons other than *Irving Weis* or *Alexander Cycleman*.

Effective February 11, 1949, all contract markets shall deny to *Irving Weis and Company* all trading privileges for *its own account* for a period of ten (10) days.

Effective February 11, 1949, all contract markets shall deny to *Irving Weis and Company* all trading privileges for the accounts of customers for a period of ten (10) days. Such denial of trading privileges for customers' accounts shall be held in abeyance for a period of two years from the date of this order; Provided, however, that

if within such two-year period the said *Irving Weis and Company*, after notice and opportunity for hearing, should be found to have violated the terms of this order or the provisions of the Commodity Exchange Act, then, and in that event, and without further notice, the Secretary of Agriculture or his lawful delegatee may issue a supplemental order in this proceeding making effective forthwith the aforesaid denial of trading privileges for customers' accounts.

Effective February 11, 1949, the registration of *Irving Weis* as a floor broker under the Commodity Exchange Act is suspended for a period of ten (10) days.

Effective February 11, 1949, all contract markets shall deny all trading privileges to *Irving Weis* and *Alexander Cycleman* for a period of ten (10) days.

Copies hereof shall be served upon the parties by registered mail or in person and also upon the contract markets under the act.

**LOAD-DATE:** March 12, 2008

