

Commodity Futures Trading Commission
CEA CASES

NAME: DEAN WITTER & CO., INCORPORATED

DOCKET NUMBER: 178

DATE: AUGUST 20, 1971

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Dean Witter & Co., Incorporated, Respondent

CEA Docket No. 178

Complaint and Notice of Hearing Under the Commodity Exchange Act

There is reason to believe that the respondent has violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the regulations made pursuant thereto, and this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent, Dean Witter & Co., Incorporated, a Delaware Corporation with offices at 45 Montgomery Street, San Francisco, California 94104, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act and so engaged in business.

II

(a) At the times hereinafter stated, respondent Dean Witter & Co., Incorporated, in the regular course of its business as futures commission merchant, carried accounts of customers who traded in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act and the regulations thereunder.

Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the said act and regulations. At all such times, the respondent corporation had to its credit with banks or other depositories, money and securities in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers.

(b) During the period between June 5 and June 11, 1970, both inclusive, the respondent corporation was continuously under-segregated in amounts ranging from \$ 137,014 on June 10, 1970, to \$ 260,134 on June 11, 1970, that is, throughout the period mentioned the total amount of customers' funds held in segregation as above described, was from \$ 137,014 to \$ 260,134 less than the amount necessary to pay all credits and equities due to such customers.

(c) Under the regulations issued pursuant to the Commodity Exchange Act the respondent corporation was obligated at all times material herein to prepare and maintain a daily computation and record setting forth the amount of money, securities and property of its customers required to be held, and held, in segregated accounts in accordance with the requirements of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)). On numerous days during the period between August 13 and December 31, 1970, both inclusive, the daily computation and record that was prepared and

kept by the respondent corporation to meet the requirements of the regulations contained errors which resulted in gross misstatements of the amount of customers' money, securities and property held in segregation.

III

Examination of the records of respondent Dean Witter & Co., Incorporated, by the Commodity Exchange Authority as of November 30, 1968, and examinations of the records of Dean Witter & Co., the respondent corporation's predecessor partnership, as of March 31, 1966 and February 27, 1967, disclosed that the corporation and its predecessor partnership had not satisfactorily complied with the requirements of the Commodity Exchange Act and the regulations thereunder relating to the handling of customers' funds and to the preparation and maintenance of records in connection thereto. These matters were called to the attention of the corporation and to its predecessor partnership in writing by T. Reed McMinn, Director of the Commodity Exchange Authority's Eastern Region, on July 18, 1966, May 2, 1967 and April 24, 1969.

IV

By reason of the facts alleged in this complaint, respondent Dean Witter & Co., Incorporated, willfully violated sections 4d(2) and 4g of the Commodity Exchange Act (7 U.S.C. 6d(2), 6g), and sections 1.20, 1.21, 1.22, 1.23, 1.32 and 1.35 of the regulations thereunder (17 CFR 1.20, 1.21, 1.22, 1.23, 1.32, 1.35).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the respondent and this proceeding shall be governed by sections 0.1, 0.2, 0.4(b), 0.5 through 0.22 and 0.28 of the rules of practice under the Commodity Exchange Act (17 CFR 0.1, 0.2, 0.4(b), 0.5 through 0.22, 0.28). The respondent 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 three 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 purposes 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 filing of an answer in which all of the material allegations of fact contained in the complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondent is hereby notified that unless hearing is waived, a hearing will be held at 10:00 a.m., local time, on October 13, 1971, in San Francisco, California, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing, the respondent will have the right to appear and show cause, if any there be, why an appropriate order should not be issued in accordance with the Commodity Exchange Act,

(1) suspending or revoking the registration of the respondent as futures commission merchant, (2) prohibiting the respondent from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to the respondent for such period of time as may be determined and (3) directing that the respondent shall cease and desist from violating the Act and regulations in the manner alleged herein.

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

Done at Washington, D. C.

August 20, 1971

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

LOAD-DATE: June 16, 2008

