

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of: :

CRAIG J. LACROSSE, :
Respondent. :

CFTC Dockets 90-20 and SD 91-6

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Appearances:

On Behalf of Petitioner, Craig J. LaCrosse:

James A. McGurk, Esq.
140 South Dearborn Street
Suite 411
Chicago, Illinois

On behalf of the Division of Enforcement:

Ava M. Gould, Esq.
Rosemary Hollinger, Esq.
300 South Riverside Plaza
Suite 1600 North
Chicago, Illinois

Before: Painter, ALJ

INITIAL DECISION

Preliminary Statement:

By Order issued August 28, 2000 the Commission directed that an administrative law judge conduct a hearing on whether a trading ban against Petitioner LaCrosse may be terminated. The Commission noted in its Order that "The record shows that sufficient time has now passed to warrant consideration of LaCrosse's petition." A hearing was held in Chicago, Illinois, on November 17, 2000. The entire evidentiary record will be

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considered in reaching a decision on LaCrosse's petition, with careful attention to the four factors set forth on page 3 of the Commission's Order of August 28, 2000. Official notice is taken of the Initial Decisions, Commission Orders, and the Seventh Circuit's opinion concerning Docket Numbers 90-20 and SD 91-16.

Findings of Fact:

1. During 1987 and 1988 the Federal Bureau of Investigation conducted a sting operation on the Chicago Board of Trade. Two agents, wearing wires, successfully posed as traders in various pits of the exchange. A number of brokers and traders who stood within recording range of the wired agents, including LaCrosse, were criminally prosecuted. On August 25, 1989 LaCrosse pled guilty to one felony violation of Section 4b of the Act, and one misdemeanor violation of Section 4c(a)(A) of the Act. The violations occurred in August 1988. LaCrosse was sentenced to three years probation, ordered to pay \$4,625 in restitution and fined \$5,000. It is undisputed that LaCrosse successfully completed his term of probation on June 11, 1994.
2. The Chicago Board of Trade suspended LaCrosse's trading privileges for a period of seventeen months by reason of his guilty plea in the federal court. LaCrosse did not violate the suspension order.
3. LaCrosse traded for his own account at the Chicago Board of Trade from January 1991 to February 20, 1997, and during that time was never charged with any wrongdoing. Notice is taken that LaCrosse was not required to be registered during this period to trade for his own account, and thus the absence of any bad conduct during this time is highly significant.
4. The Initial Decision of June 30, 1992 found specifically that LaCrosse had cooperated with authorities in connection with the investigation of the wrongdoing uncovered by the FBI sting operation, and that he was genuinely remorseful for the harm his wrongdoing had caused. The Initial Decision ordered revocation of his registration, prohibited him from trading for five years, and ordered that he cease and desist from violating the act as charged in the Commission's complaint.

5. On August 13, 1993 the Commission reviewed the Initial Decision of June 30, 1992 and remarked in its opinion that "Mitigation evidence tends to show that the weight that would ordinarily be accorded the presumption in favor of a five year prohibition should be lessened." The Commission continued: "Thus, on remand, to rebut the presumption of a five year trading prohibition, LaCrosse has to establish by the weight of the evidence, that his continued access to the markets regulated by the Commission will pose no substantial threat to their integrity." (In re LaCrosse [19921-1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) at page 40,756) The case was remanded for a second hearing to take evidence on mitigation or aggravation. The majority opinion made it clear that the related violative conduct of a respondent would ordinarily favor a five-year prohibition, and should not be used to extend the length of a trading prohibition. The majority opinion also emphasized the importance of rehabilitation evidence, and of the role the petitioner intends to play in the market place.

6. At a second hearing conducted on January 19, 1994, LaCrosse had several credible witnesses testify as to his character and reputation for honesty. The testimony adduced at trial persuaded the court to hold that he had successfully rebutted the presumption that he should be denied access to the futures market for five years. The Initial Decision, issued May 26, 1994, reduced the trading ban from five years to three years, effective the date the decision became final.

7. On January 21, 1997, three years after the Initial Decision was issued, the Commission by unanimous vote determined that LaCrosse should be banned from access to the futures market for five years, effective the date of the Commission's order.

8. By Order issued August 28, 2000 the Commission directed that an administrative law judge conduct a hearing to determine whether LaCrosse's petition to terminate the remainder of the trading ban imposed by the Commission's Order of January 21, 1997. The hearing on this matter took place in Chicago, Illinois on November 14, 2000.

9. LaCrosse testified on his own behalf at the November 14, 2000 hearing, and his testimony was very sincere, credible and persuasive. He and his wife have been married since 1972, and they are the parents of four children, one in high school. The other three are in college or college graduates. LaCrosse has not been involved in any unlawful activity since the sting operation of 1988. He has been gainfully employed at all times,

and has successfully supported his family. This court is persuaded, by reason of his testimony and testimony of other persons who have testified on his behalf, and the affidavits submitted by Patrick H. Arbor and Thomas R. Donovan, that LaCrosse is a rehabilitated individual, trustworthy and reliable. Terminating the remainder of the trading prohibition would in no manner pose a threat to the integrity of the futures market or place the public interest at risk.

DISCUSSION:

The Federal Bureau of Investigation conducted a highly successful sting operation at the two major Chicago futures exchanges in 1987 and 1988. Two agents, equipped with wires, posed as traders at the Chicago Board of Trade. Many of the brokers and traders, including LaCrosse, who stood within recording distance of the agents were later criminally prosecuted. Following sentencing in the district court, the Chicago Board of Trade banned LaCrosse from trading for seventeen months. This agency then issued two complaints against LaCrosse for the same offenses dealt with in the district court and in the exchange action. LaCrosse's bad acts of 1988 have resulted in multiple prosecutions for his misconduct in August 1988 and a dozen years of litigation.

It is an obvious truth that the two wired agents did not serve as a magnet to attract only persons with a proclivity for unlawful conduct. The hammer fell on those whose unlawful conduct was recorded. Brokers and traders in pits where there was no wired agent may well have engaged in the same conduct with impunity. The problem was institutional in nature, and not limited to the relatively small number caught up in the sting. An action against the institution, i.e., the exchange, for failure to enforce its own rules may well have produced better results than repeated prosecutions of those who were criminally charged by reason of the sting. That does not alter the fact that the FBI sting operation greatly enhanced the integrity and dignity of the exchanges involved.

To his credit, LaCrosse has worked diligently at rehabilitating himself over the years, and he has successfully managed to support his family and educate his children. Anyone hearing his live testimony at the November 17, 2000 hearing would find it difficult to question his genuine remorse over his past bad acts, and his commitment to avoid any repetition of those acts. He is cogently aware that he alone is responsible for the twelve long years of litigation. His willingness to shoulder the blame for his own

wrongdoing is to his credit. Permitting LaCrosse to trade for his own account would not pose a threat to market integrity, or to the public interest.

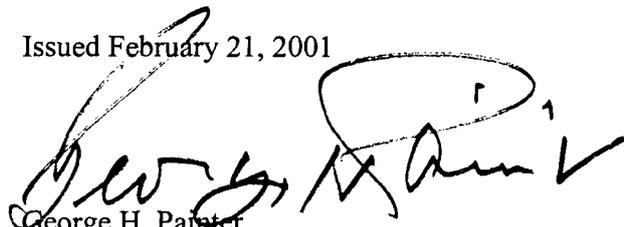
ORDER

Petitioner has established by the weight of the evidence that terminating the remainder of the trading prohibition will not pose a threat to market integrity or to the public interest. Accordingly, it is hereby ORDERED that:

1. Respondent Craig LaCrosse shall be permitted to trade off the floor of any designated futures exchange, through a registered futures commission merchant, and solely for his own account, effective the date this Initial Decision becomes final.

2. In all other respects the Commission's Opinion and Order of January 21, 1997 remains in effect.

Issued February 21, 2001



George H. Painter
Administrative Law Judge