



U.S. COMMODITY FUTURES TRADING COMMISSION

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RUTH C. TAYLOR
Complainant,

v.

ROSENTHAL COLLINS GROUP, L. P.
d/b/a FOX INVESTMENTS DIVISION,
Respondent.

CFTC Docket No. 98-R194

INITIAL DECISION

Ruth Taylor asserts four claims. First, she claims \$8,700 in damages based on alleged delays in reporting fills on numerous trades. Second, she claims \$450 in damages based on the alleged mishandling of an order to buy a corn contract. Third, she claims \$350 in damages based on the alleged mishandling of an order to buy a soybean contract. Fourth, she claims \$5,250 in damages based on an allegedly improper forced liquidation. Rosenthal-Collins denies any violations.

The findings and conclusions below are based on the parties submissions. As explained below, Taylor has failed to show any violations by respondent.

Background

Ruth C. Taylor was 68 years old at the relevant time. During discovery, she declined to describe her employment history, but stated that she has a college degree in

music, and that she has "recently completed a book on right brain/left brain usage." She had no previous experience trading commodity futures.

Taylor opened a non-discretionary account with the Fox Investment Division of Rosenthal Collins Group, on October 22, 1997. Taylor's account at Rosenthal remained open until August 5, 1998. She deposited \$5,000 in the account on October 22, 1997. Taylor followed the weekly and monthly recommendations generated by Jake Bernstein. Unfortunately, her trading was unsuccessful. On August 5, 1998, she withdrew the \$165.27 account balance. Thus, she lost a total of \$4,834.73.

Taylor's \$8,700 Claim

Taylor claims \$8,700 in damages, based on the assertion that the fills on 87 trades, which she does not identify, were each \$100 worse than they should have been. Taylor's only basis for this claim is her statement that she did not receive confirmations of fills until one to three hours after she placed the orders. However, Rosenthal has produced phone records that show that she was in regular contact with Rosenthal. More importantly, Taylor has failed to produce any reliable or convincing evidence that either supports her assertion about the timing of calls or that otherwise shows any negligent or improper conduct by respondents in connection with the fills.¹ Therefore, Taylor has failed to produce sufficient evidence in support of this claim, and this claim must be dismissed.

¹ Even if Taylor had actually shown delays in reporting fills, such delays alone would not have been a basis for recovering damages, in the absence of any evidence that Rosenthal failed to execute diligently the orders in a timely manner.

Taylor's \$450 Claim

Taylor claims \$450 in damages based on a purchase of a corn contract. She claims the difference between the 261.50 market price quoted to her when she placed the order and the fill price of 270.50. Taylor could not specifically identify this trade.

Despite Taylor's failure to identify this disputed trade, Rosenthal produced evidence of trades that most closely corresponded to Taylor's description of the disputed trade. Rosenthal's evidence indicates that Taylor is confusing two corn contracts which she bought on March 30, 1998. Taylor bought one May corn contract for 263 ½, which was filled close to the 261.50 quote which she claims to have received. Taylor also bought a July corn contract for 270 ¼, which was close to the 270.50 fill which she claims to have received.

The order tickets indicate that both orders were promptly executed and reported back to Taylor. The order for the May contract was placed at 9:59 a.m., and called to the floor at 10:00 a.m. During this time, the May contract was trading between 263 and 263½. The order was reported to the desk as filled at 263 ½ at 10:08 a.m. Taylor received a call back reporting the fill at 10:18 a.m. The order for July corn was similarly executed and reported filled in a timely manner. The order was placed at 9:59 a.m. and called to the floor at 10:00 a.m. During this time, the July contract was trading between 269 ¾ and 270. The order was reported to the desks as filled at 270 ¼ at 10:08 a.m. Taylor received a call back reporting the fill at 10:18 a.m. Therefore, Taylor has failed to produce any evidence in support of her claim that Rosenthal acted improperly in the handling of these orders, and this claim must be dismissed.

Taylor's \$350 claim

Taylor claims \$350 in damages based on the purchase of a soybean contract. Taylor also could not specifically identify this trade. She claims there was a difference of \$350 from the time she placed the order to the time that she received a fill. Taylor's failure to identify this trade obviously precludes determining when this order was placed, executed and reported back. Even if the market had moved adversely to her between the time she placed the order and the time it was executed, that alone would not constitute a violation. Therefore, Taylor has failed to produce any evidence in support of her claim, which must be dismissed.

Taylor's \$5,250 claim

Taylor seeks speculative lost profits of \$5,250 that she claims she would have made on a silver contract, if Rosenthal had not raised the margin on this contract and thus caused her to liquidate for lack of sufficient margin. Taylor made a \$725 profit on the trade.

At the close of business on Friday, January 30, 1998, she had a margin deficiency of \$2,182.73. On Monday, May February 2, Taylor liquidated a gold contract, but at the close of business that day her account still had a margin deficiency of \$347.18. On February 3, she chose to liquidate the silver contract, rather than post additional funds, to meet the margin deficiency.

Under the terms of the customer contract, Rosenthal was entitled to call for additional margin, and request that Taylor either post additional funds or liquidate the silver position. Taylor has produced no evidence that Rosenthal misrepresented its margin policy or otherwise acted improperly in demanding that Taylor post additional margin or

liquidate her position. Therefore, her claim for additional speculative profits must be dismissed.

ORDER

No violations having been shown, the complaint is DISMISSED.

Dated July 2, 1999.


Philip V. McGuire,
Judgment Officer