

Commodity Futures Trading Commission
CEA CASES

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

CITATION: 25 Agric. Dec. 15

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(No. 10,311)

In re WALSTON & Co., INC., PAT G. NOEL, AND CARLTON M. SMITH. CEA Docket No. 130. Decided January 24, 1966.

Stipulation as to Pat G. Noel -- Denial of trading privileges -- Dismissal of remaining party

Respondent Pat G. Noel consented to the issuance of an order denying trading privileges to him on the contract markets for 30 days for his actions in connection with deceiving customers by selectively closing out offsetting long and short positions of such customers. As this respondent admitted that he is the individual responsible for these actions the complaint against Carlton M. Smith is dismissed.

Mr. Earl L. Saunders for Commodity Exchange Authority. *Mr. Thomas Brennan*, of Houston, Tex., for respondent Pat G. Noel.

Decision by Thomas J. Flavin, Judicial Officer.

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint and notice of hearing issued under section 6 (b) of the Act (7 U.S.C. 9) by the Assistant Secretary of Agriculture. The complaint names as respondents Walston & Co., Inc., a Delaware corporation, and two individuals, Pat G. Noel and Carlton M. Smith, who at the time of the matters involved herein were employed by the corporate respondent as account executives in its Houston, Texas, office. The complaint charges the respondents with deceiving certain customers of the corporate respondent in wilful violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b), and with applying and closing out offsetting long and short positions of such customers in wilful violation of section 1.46 of the regulations issued under the act (17 CFR 1.46).

No hearing has been held with respect to any of the respondents. On October 7, 1965, a consent order was issued against respondent Walston & Co., Inc., concluding the proceeding as against that respondent. On January 19, 1966, respondent Pat G. Noel submitted a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which he admits the facts hereinafter set forth, waives hearing on the charges, and consents to the entry of an order directing all contract markets to refuse all trading privileges to him for a period of 30 days, such refusal to apply

to all trading done and all positions held by him, directly or indirectly.

FINDINGS OF FACT

1. 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.

2. Respondent Pat G. Noel, an individual whose address is 202 Renoir Drive, Houston, Texas, was at all times material herein and until April 23, 1965, employed by the corporate respondent as an account executive in its Houston, Texas, office.

3. Respondent Carlton M. Smith, an individual whose address is 7900 Westheimer Street, Houston, Texas, was at all times material herein and until July 15, 1964, employed by the corporate respondent as an account executive in its Houston, Texas, office.

4. The contracts referred to herein 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 delivery of such commodity sold, shipped or received in interstate commerce.

5. During the period from on or about September 16, 1963, through on or about May 5, 1964, respondent Walston & Co., Inc., selectively closed out certain offsetting long and short soybean futures contracts for the accounts of certain customers (Accounts number 76-01-865, 76-01-756, 76-02-131 and 76-02-079) with the effect of causing larger profits or smaller losses than actually existed to be reported to such customers, and thereby for a period of time concealing from each of such customers the actual amount of his losses. Respondent Walston & Co., Inc., selectively closed out

such offsetting long and short soybean futures contracts by reason of the instruction of the respondent Pat G. Noel, acting in his capacity as account executive of respondent Walston & Co., Inc., in its Houston, Texas, office.

CONCLUSIONS

The facts admitted by respondent Pat G. Noel in his stipulation have been adopted as the findings herein. By reason of these findings, it is concluded that respondent Noel wilfully violated section 4b of the Commodity Exchange Act (7 U.S.C. 6b), and section 1.46 of the regulations (17 CFR 1.46), as charged in the complaint.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the order to which respondent Noel proposes to consent. It is the opinion of the complainant that the proposed sanction would be adequate, and that the prompt entry of such an order would constitute a satisfactory disposition of the case as against respondent Noel. The complainant recommends, therefore, that the stipulation and waiver be accepted and that the proposed order be issued. The complainant points out that, as stated in Finding of Fact numbered 5, respondent Noel admits that the selective closing out of the offsetting long and short soybean futures contracts in question occurred by reason of his instruction to respondent Walston & Co., Inc. The complaint alleges that these acts were ordered or carried out by respondents Noel and Smith. In view of the admission of respondent Noel that he is the individual responsible for these acts, the complainant recommends that the complaint be dismissed as against respondent Carlton M. Smith. It is concluded that the recommendations of the complainant should be adopted.

ORDER

Effective February 21, 1966, all contract markets shall refuse all trading privileges to respondent Pat G. Noel for a period of thirty (30) days, such refusal to apply to all trading done and all positions held by him, directly or indirectly.

The proceeding is dismissed as against respondent Carlton M. Smith.

A copy of this decision and order shall be served upon each of the parties and upon each contract market.

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