

Commodity Futures Trading Commission
CEA CASES

NAME: ROBERT E. WILLEY, EARLE M. COMBS III, RICHARD A. FRYMIRE, AND HOWARD S. FISHER

CITATION: 27 Agric. Dec. 40

DOCKET NUMBER: 144

DATE: JANUARY 4, 1968

DOCUMENT TYPE: DECISION AND ORDER

(No. 11,579)

In re ROBERT E. WILLEY, EARLE M. COMBS III, RICHARD A. FRYMIRE, and HOWARD S. FISHER. CEA Docket No. 144. Decided January 4, 1968.

Wash transactions -- Noncompetitive trades -- Suspension of registrations -- Denial of trading privileges -- Stipulation

Respondents consented to the issuance of an order suspending the registrations of the floor broker respondents and directing all contract markets to refuse trading privileges to all respondents for activities involving fictitious or wash transactions and noncompetitive trades.

Earl L. Saunders for Commodity Exchange Authority.

Robert P. Howington, Jr., of Pope, Ballard, Uriel, Kennedy, Shepard & Fowle, Chicago, Ill., for respondents Willey and Frymire.

Sidney C. Hamper and *Arthur A. Reiser, Jr.*, of Hamper & Reiser, Chicago, Ill., for respondents Combs and Fisher.

Jack W. Bain, Referee.

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.*), in which the respondents are charged with making wash trades and noncompetitive trades in wheat and soybean futures in violation of the act and the regulations thereunder. A hearing was had in Chicago before Jack W. Bain, Office of Hearing Examiners. On December 18, 1967, after

the complainant had presented evidence and while the hearing was in recess, the respondents filed separate stipulations in which they admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth insofar as such facts concern the particular respondent, and agree to the entry of the order contained herein, without further proceedings.

FINDINGS OF FACT

1. The Chicago Board of Trade is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act.

2. Respondent Robert E. Willey is an individual whose business address is Fourth Floor, 141 West Jackson Boulevard, Chicago, Illinois. He is now and was at all times material herein a registered floor broker under the Commodity Exchange Act and a member of the Chicago Board of Trade.

3. Respondent Earle M. Combs III is an individual whose business address is Room 1502, 141 West Jackson Boulevard, Chicago, Illinois. He is now and was at all times material herein a member of the Chicago Board of Trade.

4. Respondent Richard A. Frymire is an individual whose business address is Room 1388, 141 West Jackson Boulevard, Chicago, Illinois. He is now and was at all times material herein a registered floor broker under the Commodity Exchange Act and a member of the Chicago Board of Trade.

5. Respondent Howard S. Fisher is an individual whose business address is Room 1632, 141 West Jackson Boulevard, Chicago, Illinois. He is now and was at all times material herein a registered floor broker under the Commodity Exchange Act and a member of the Chicago Board of Trade.

6. The transactions specified herein were in wheat and soybean futures and were entered into on or subject to the rules of the Chicago Board of Trade. At all times material herein wheat and soybean futures on the Chicago Board of Trade were traded in job lot units of 1,000 bushels and in round lot units of 5,000 bushels.

7. During the period from May 21, 1965, through February 28, 1966, respondents Robert E. Willey, Earle M. Combs III and

Richard A. Frymire, entered into transactions as specified in the tabulation below. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at little or no price advantage or disadvantage to the respondents for whose accounts the purchases and sales were made.

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Date	Commodity and Future	Purchase		Unit
		Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	
5/21/65	March soybeans	Willey	Willey	Round
5/21/65	March soybeans	Combs	Combs	Job
8/27/65	March wheat	Combs	Combs	Job
8/27/65	March wheat	Willey	Willey	Round
11/23/65	March wheat	Willey	Willey	Round
11/23/65	March wheat	Combs	Combs	Job
11/23/65	March wheat	Willey	Wiley	Job
11/23/65	March wheat	Combs	Combs	Round
12/8/65	May wheat	Combs	Combs	Job
12/8/65	September wheat	Willey	Willey	Round
12/8/65	May wheat	Willey	Willey	Job
12/8/65	September wheat	Combs	Combs	Round
12/8/65	March soybeans	Frymire	Willey	Job
12/8/65	March soybeans	Combs	Combs	Job
12/8/65	May soybeans	Frymire	Willey	Job
12/8/65	May soybeans	Combs	Combs	Job
12/14/65	May wheat	Willey	Willey	Round
12/14/65	May wheat	Combs	Combs	Job

Purchase				
Date	Commodity and Future	Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	Unit
12/14/65	September wheat	Willey	Willey	Job
12/14/65	September wheat	Combs	Combs	Round
12/15/65	May wheat	Willey	Willey	Job
12/15/65	May wheat	Combs	Combs	Round
Sale				
Date	Quantity (In Thousands of Bushels)	Price	Respondent Acting As Floor Broker or Trader	Respondent for Whose Account Sale was Made
5/21/65	195	2.53-1/4	Combs	Combs
5/21/65	195	2.53-1/4	Willey	Willey
8/27/65	195	1.62-1/2	Willey	Willey
8/27/65	195	1.62-1/2	Combs	Combs
11/23/65	175	1.68	Combs	Combs
11/23/65	175	1.68	Willey	Willey
11/23/65	175	1.66-1/2	Combs	Combs
11/23/65	175	1.66-1/2	Willey	Willey
12/8/65	195	1.66-7/8	Willey	Willey
12/8/65	195	1.60	Combs	Combs
12/8/65	195	1.67	Combs	Combs
12/8/65	195	1.60	Willey	Willey
12/8/65	100	2.69-3/4	Combs	Combs
12/8/65	100	2.69-3/4	Willey	Frymire
12/8/65	100	2.72	Combs	Combs
12/8/65	100	2.72	Willey	Frymire
12/14/65	100	1.73	Combs	Combs
12/14/65	100	1.73	Willey	Willey
12/14/65	195	1.63-1/2	Combs	Combs
12/14/65	195	1.63-1/2	Willey	Willey
12/15/65	100	1.70	Combs	Combs
12/15/65	100	1.70	Willey	Willey

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Purchase				
Date	Commodity and Future	Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	Unit
12/15/65	September wheat	Willey	Willey	Round
12/15/65	September wheat	Willey	Willey	Round
12/15/65	September wheat	Combs	Combs	Job
12/15/65	September wheat	Combs	Combs	Job
1/10/66	March soybeans	Combs	Combs	Round
1/10/66	March soybeans	Willey	Willey	Job

		Purchase			
Date	Commodity and Future	Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	Unit	
2/28/66	March wheat	Willey	Willey	Job	
2/28/66	March wheat	Combs	_____ n1	Round	

n1. A person not a respondent herein.

		Sale			
Date	Quantity (In Thousands of Bushels)	Price	Respondent Acting As Floor Broker or Trader	Respondent for Whose Account Sale was Made	
12/15/65	100	1.62-3/4	Combs	Combs	
12/15/65	95	1.62-7/8	Combs	Combs	
12/15/65	100	1.62-3/4	Willey	Willey	
12/15/65	95	1.62-3/4	Willey	Willey	
1/10/66	195	2.78	Willey	Willey	
1/10/66	195	2.78	Combs	Combs	
2/28/66	195	1.63-1/4	_____ n1	Combs	
2/28/66	195	1.63-1/4	Willey	Willey	

n1. A person not a respondent herein.

8. During the period from November 8, 1965, through May 19, 1966, respondents Robert E. Willey and Richard A. Frymire, acting as principals, and respondent Howard S. Fisher, acting in his capacity of floor broker, entered into transactions as specified in the tabulation below. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at little or no price advantage or disadvantage to the respondents for whose accounts the purchases and sales were made.

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		Purchase			
Date	Commodity and Future	Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	Unit	
11/8/65	May wheat	Willey	Willey	Round	
11/8/65	May wheat	Frymire	Fisher	Job	
11/8/65	July wheat	Willey	Willey	Round	
11/8/65	September wheat	Frymire	Fisher	Round	
11/8/65	May soybeans	Willey	Willey	Job	
11/8/65	May soybeans	Frymire	Fisher	Round	
5/9/66	May soybeans	Willey	Willey	Round	
5/9/66	May soybeans	Frymire	Frymire	Job	
5/10/66	May wheat	Willey	Willey	Job	
5/10/66	May wheat	Frymire	Frymire	Round	
5/19/66	July wheat	Frymire	Fisher	Round	
5/19/66	July wheat	Frymire	Fisher	Round	
5/19/66	September wheat	Willey	Willey	Round	

Sale

Date	Commodity and Future	Quantity (In Thousands of Bushels)	Price	Purchase Respondent for Whose Account Purchase was Made	Respondent Acting As Floor Broker or Trader	Unit
11/8/65		100	1.65-1/2	Fisher	Frymire	
11/8/65		100	1.65-1/2	Willey	Willey	
11/8/65		195	1.53-1/4	Fisher	Frymire	
11/8/65		195	1.55	Willey	Willey	
11/8/65		100	2.58-1/2	Fisher	Frymire	
11/8/65		100	2.58-1/2	Willey	Willey	
5/9/66		100	3.00	Frymire	Frymire	
5/9/66		100	3.00	Willey	Willey	
5/10/66		100	1.60	Frymire	Frymire	
5/10/66		100	1.60	Willey	Willey	
5/19/66		125	1.62-1/4	Willey	Willey	
5/19/66		70	1.62-3/8	Willey	Willey	
5/19/66		195	1.64	Fisher	Frymire	

9. The transactions in wheat and soybean futures specified in Findings of Fact 7 and 8 above, were capable of being used for (1) hedging a transaction in interstate commerce in wheat or soybeans, respectively, or the products or by-products thereof, or (2) determining the price basis of a transaction in interstate commerce in wheat or soybeans, respectively, or (3) delivering wheat or soybeans, respectively, sold, shipped, or received in interstate commerce.

CONCLUSIONS

By reason of the findings set forth in the Findings of Fact, it is concluded that, as charged in the complaint, the respondents: (1) entered into transactions which were, or were of the character of, wash sales and fictitious sales, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c), and (2) executed purchases and sales of commodities for future delivery in a manner which was not open and competitive, in wilfull violation of section 1.38 of the regulations issued under the act (17 CFR 1.38).

Complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulations and order, and that they believe the proposed sanctions are adequate and that prompt entry, without further proceedings, of the order to which the respondents have consented will constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. Complainant recommends, therefore, that the stipulations and waivers submitted by the respondents be accepted and that the proposed order be issued. It is so concluded.

ORDER

Effective on the thirtieth day after the date of issuance of this order, (1) the registrations of respondents Robert E. Willey and Richard A. Frymire as floor brokers are suspended for a period of fifteen (15) days, (2) the registration of respondent Howard S. Fisher as floor broker is suspended for a period of seven (7) days, and (3) all contract markets shall refuse all trading privileges to respondents Robert E. Willey, Earle M. Combs III and Richard A. Frymire for a period of fifteen (15) days and to respondent Howard S. Fisher for a period of seven (7) days, such refusal to apply to all trading done and positions held by them directly or indirectly.

LOAD-DATE: June 8, 2008

