

Commodity Futures Trading Commission
CEA CASES

NAME: INTERNATIONAL COMMODITIES CORPORATION AND RICHARD B. OTTENS

CITATION: 33 Agric. Dec. 1237

DOCKET NUMBER: 227

DATE: SEPTEMBER 26, 1974

DOCUMENT TYPE: DECISION AND ORDER

(No. 16,018)

In re INTERNATIONAL COMMODITIES CORPORATION and RICHARD B. OTTENS. CEA Docket No. 227. Decided September 26, 1974.

Floor broker and futures commission merchant -- Financial requirements -- failure to meet -- Reports and records -- failure to prepare and to keep in accordance with regulations -- Sanctions

Where respondents violated the Act and regulations in failing to meet the minimum financial requirements of the Act and in failing to prepare and to keep reports and records in accordance with the regulations, respondents are ordered to cease and desist from such violations. The individual respondent is suspended as a registrant under the Act for a period of 30 days. The corporate respondent is suspended as a registrant under the Act for a period of 60 days.

Michael D. Weiner, for complainant.

William B. Richards, Chicago, Ill., for respondent.

Decision by William J. Weber, Administrative Law Judge.

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act, referred to herein as "the Act" (7 U.S.C. § 1 *et seq.*), instituted by a Complaint and Notice of Hearing, alleging that the respondent International Commodities Corporation was at all times material a registered futures commission merchant

and that the respondent Richard B. Ottens was at all times material a registered floor broker under the Act and president and majority stockholder of respondent International Commodities Corporation. The Complaint charges that the respondents failed to meet the minimum financial requirements under section 4f of the Commodity Exchange Act. The Complaint further charges that the respondent failed to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers. The Complaint further charges that respondents failed to prepare a written computation of its net worth and failed in its obligations to keep "full, complete, and systematic records." Such acts were alleged to have been willful and in violation of sections 4d, 4f, and 4g of the Act (7 U.S.C. 6d, 6f, and 6g) and sections 1.17, 1.20, and 1.35 of the regulations issued thereunder (17 CFR 1.17, 1.20, and 1.35).

Prior to hearing the respondents agreed to a stipulation under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)) in which they (1) admit the facts hereunder as set forth in paragraphs 1 through 8 of the Findings of Fact, (2) waive oral hearing on the charges in the Complaint and (3) consent to the entry,

without further proceedings, of a Decision and Order containing the facts admitted in such stipulation as the Findings of Fact for the purposes of this proceeding only, conclusions of law based on such findings, and the Order contained herein.

FINDINGS OF FACT

1. Respondent International Commodities Corporation, an Illinois corporation with its principal place of business at 343 South Dearborn, Chicago, Illinois 60604, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act, engaged in trading in commodities for future delivery. At all such times, respondent International Commodities Corporation held membership privileges on the MidAmerica Commodity Exchange, a duly designated contract market under the Commodity Exchange Act.

2. Respondent Richard B. Ottens, an individual whose business address is the same as that of respondent International Commodities Corporation, is now, and was at all times material herein, president and majority stockholder of International Commodities Corporation and registered as a floor broker under the Commodity Exchange Act. At all such times, respondent

Ottens had responsibility for the operation and management of the corporate respondent.

3. As of October 31, 1973, respondent corporation was engaged in business as a registered futures commission merchant under the Commodity Exchange Act, notwithstanding that on that date it failed to meet the minimum financial requirements under section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17). As of October 31, 1973, respondent corporation lacked approximately \$ 173,300 of having sufficient capital to meet such financial requirements under the Commodity Exchange Act.

4. At all times material herein, the respondents International Commodities Corporation and Richard B. Ottens were required to separately account for and segregate all money, securities, and property received to margin, guarantee, or secure the trades or contracts of commodity customers in accordance with the requirements of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d) and section 1.20 of the regulations issued thereunder (17 CFR 1.20).

5. The segregation records of the respondent International Commodities Corporation disclose that the corporate respondent failed to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers as follows:

Date	Amount of Undersegregation
January 23, 1974	\$ 29,666.32
January 24, 1974	16,333.87
January 25, 1974	46,416.42
January 28, 1974	63,079.51
January 29, 1974	66,707.17
January 30, 1974	40,269.49
January 31, 1974	38,827.42
March 5, 1974	831.66
March 6, 1974	51,222.38
March 7, 1974	26,546.33
March 8, 1974	20,289.78
March 21, 1974	7,284.48

6. An audit of respondent corporation's records further disclosed that on February 28, 1974, respondent International Commodities Corporation failed, by \$ 5,146.54, to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers.

7. Under the regulations issued pursuant to the Commodity Exchange Act (17 CFR 1.10), the respondent corporation was obligated at all times material herein to prepare a written computation of its net worth at least once a month. Examination of records of the corporate respondent indicate that International Commodities Corporation failed to prepare such computations for the months of July, August, and September, 1973.

8. Section 1.35 of the regulations issued pursuant to the Commodity Exchange Act (17 CFR 1.35) obligated the respondent corporation to keep "full, complete, and systematic records . . . Included among such records shall be all . . . ledgers." An examination of the general ledger of International Commodities Corporation as of October 31, 1973, indicates a failure to systematically maintain such records, resulting in numerous errors causing the general ledger to be out of balance in excess of \$ 60,000 as of October 31, 1973.

CONCLUSIONS

By reason of the facts set forth above, International Commodities Corporation and Richard B. Ottens violated section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17) by failing to meet the minimum financial requirements of the Act. The respondents violated section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and sections 1.20 of the regulations issued thereunder (17 CFR 1.20) by failing to segregate funds sufficient to pay the equities due all regulated commodity customers on thirteen specified dates. Respondents violated section 1.10 of the regulations (17 CFR 1.10) by failing to prepare a written computation of its net worth for the months of July, August, and September, 1973, and violated section 1.35 of the regulations (17 CFR 1.35) by failing to keep full, complete, and systematic records relating to its commodities futures business.

The complainant states that Administrative Officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by the respondent. The Administrative Officials believe that the prompt entry of the proposed Order would constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation be accepted and the proposed Order be issued.

ORDER

1. Effective on the date of service of this Order upon the respondent International Commodities Corporation and the respondent Richard B. Ottens, the respondents shall cease and desist from:

(a) Engaging in business as a futures commission merchant within the meaning of the Commodity Exchange Act without meeting the financial requirements prescribed by section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17), and

(b) Failing to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers, and

(c) Failing to prepare a written computation of its net worth at least once each month, and

(d) Failing to keep full, complete, and systematic records as required by section 1.35 of the regulations promulgated under the Commodity Exchange Act (17 CFR 1.35).

2. Effective upon the date of service of this Order,

(a) The registration of respondent Ottens as floor broker is hereby suspended for a period of 30 days, and

(b) Respondent Ottens is prohibited from trading on or subject to the rules of any contract market for a period of 30 days, and all contract markets shall refuse all trading privileges to the respondent during this period, such

prohibition and refusal to apply to all trading done and all positions held by respondent Ottens, directly or indirectly.

3. Effective upon the date of service of this Order,

(a) The registration of respondent International Commodities Corporation as futures commission merchant under the Commodity Exchange Act is hereby suspended for a period of 60 days, and

(b) Respondent International Commodities Corporation is prohibited from trading on or subject to the rules of any contract market for a period of 60 days, and all contract markets shall refuse all trading privileges to the respondent during this period, such prohibition and refusal to apply to all trading done and all positions held by respondent International Commodities Corporation, directly or indirectly.

A copy of this Decision and Order shall be served on the respondents and on each contract market.

LOAD-DATE: June 9, 2008

