

Commodity Futures Trading Commission
CEA CASES

NAME: RICHARD D. LUPORI AND ALAN R. COYNE

CITATION: 34 Agric. Dec. 54

DOCKET NUMBER: 221

DATE: JANUARY 2, 1975

DOCUMENT TYPE: DECISION AND ORDER

(No. 16,211)

In re RICHARD D. LUPORI and ALAN R. COYNE. CEA Docket No. 221. Decided January 2, 1975, with respect to *Richard D. Lupori*.

Hedging transactions -- wilful violations -- Customers' orders -- crossing of -- Trading cards -- false and incorrect -- Sanction

The stipulation of respondent Richard D. Lupori herein has been accepted and the order herein is issued against him for wilful violations of the Act and regulations in connection with his operations as a floor broker with respect to hedging transactions as found herein. The registration of respondent Lupori as a floor broker under the Act is revoked and said respondent is denied trading privileges on all contract markets for a period of one year.

Herbert R. Bader, for complainant.

Donald Dreyfus, Chicago, Ill., for respondent.

Decision by Dorothea A. Baker, Administrative Law Judge.

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act, "the Act" (7 U.S.C. §§ 1 through 17), instituted by a Complaint and Notice of Hearing alleging as to respondent Lupori that he is now and was at all times material a registered floor broker under the Act and a member of the Chicago Board of Trade, a duly designated contract market under the Act. 54

On October 22, 1974 a Decision and Order as to Respondent Alan R. Coyne was issued in this proceeding.

The complaint charges as to respondent Lupori that he made trades on or subject to the rules of a contract market otherwise than by open and competitive methods; that he traded on or subject to the rules of a contract market in a noncompetitive manner which trades resulted in a crossing of customer orders; that he took the opposite side of customers orders without the prior consent of such customer; that he "carded" transactions; and that he submitted trading cards which were endorsed to show an opposite executing floor broker, whereas, in fact, there was no such opposite executing floor broker. Such acts were alleged to have been wilful and in violation of sections 4b and 4c of the Act (7 U.S.C. §§ 6b and 6c), and sections 1.35, 1.38 and 1.39 of the regulations thereunder (17 CFR §§ 1.35, 1.38 and 1.39).

Prior to hearing respondent Lupori agreed to a stipulation under section 0.4(b) of the Rules of Practice (17 CFR § 0.4(b)) in which he (1) admits the facts hereunder as set forth in paragraphs 1 through 8 of the Findings of Fact, (2) waives oral hearing on the charges in the complaint and (3) consents to the entry, without further proceedings, of a Decision and Order containing the facts

admitted in such stipulation as the findings of fact, conclusions of law based on such findings and the order contained herein.

FINDINGS OF FACT

1. Respondent Richard D. Lupori is now, as was at all times material herein, a member of the Board of Trade of the City of Chicago (Chicago Board of Trade) and a registered floor broker under the Act.

2. At all times material herein respondent Lupori was employed by and carried his personal trading account with Kelly Grain Company of Chicago, Illinois, a registered futures commission merchant under the Act and a clearing member of the Chicago Board of Trade.

3. The transactions referred to herein relate to contracts for the purchase or sale of July 1972 soybean futures on the Chicago Board of Trade, a duly designated contract market under the Act. The soybean contracts resulting from the execution of the orders herein described were capable of being used for hedging transactions in interstate commerce in such commodity or the products or byproducts thereof, or determining the price basis of

any such transaction in interstate commerce in such commodity, or delivering any such commodity sold, shipped or received in interstate commerce.

4. In May of 1972 respondent Lupori, in his capacity as floor broker, had received for execution orders to sell and orders to buy July 1972 soybean futures for the accounts of various customers. Respondent Coyne accommodated respondent Lupori by executing transactions, as listed below, in a noncompetitive manner with respondent Lupori, which resulted in respondent Lupori's crossing these customer's orders.

Date	Quantity		Price	Customer	
	Bought	Sold			
(1)	(2)	(3)	(4)	(5)	
5-1-72	5		3.50	Continental Customer	60308
5-1-72		5	3.50	Continental Customer	26341
5-2-72	5		3.47-3/4	Continental Customer	24515
5-2-72		5	3.47-3/4	Continental Customer	12103
5-2-72	5		3.48-5/8	Continental Customer	24919
5-2-72		5	3.48-5/8	Continental Customer	12103
5-8-72	10		3.55-1/2	Continental Customer	22458
5-8-72		10	3.55-1/2	Continental Customer	24919
5-15-72		5	3.52-1/2	Continental Customer	16909
5-15-72	5		3.52-1/2	Continental Customer	35927
5-16-72		5	3.55-7/8	Continental Customer	24522
5-16-72		5	3.55-7/8	Continental Customer	13499
5-16-72		5	3.57	Continental Customer	23902
5-16-72		5	3.57	duPont Customer	5045483922
5-16-72	10		3.58-1/4	Continental Customer	20048
5-16-72		10	3.58-1/4	duPont Customer	42404889
5-16-72	5		3.60-3/4	Kelly Grain -- Mary O'Hara	
5-16-72		5	3.60-3/4	duPont House	
5-16-72	30		3.61	Kelly Grain -- Mary O'Hara	
5-16-72		30	3.61	duPont Customer	140-7855-9-70
					140-7158-9-70
					140-6073-9-70
					140-8501-9-70
					140-3878-9-70
					180-8346-9-39
5-17-72	10		3.59-1/2	Continental Customer	21014
5-17-72		10	3.59-1/2	duPont Customer	521153909
5-17-72	10		3.60	Continental Customer	95815
3-17-72		10	3.60	Continental Customer	31854 & 35927

Date	Quantity		(In thousands of bushels)		Customer	
	Bought	Sold	Price			
(1)	(2)	(3)	(4)		(5)	
5-17-72	5		3.60		Continental Customer	23353
5-17-72		5	3.60		duPont Customer	4186005908
5-17-72	10		3.62		Continental Customer	36817
5-17-72		10	3.62		duPont Customer	256631903 & 4128749902
5-17-72	5		3.62		Continental Customer	36817

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Date	Quantity		(In thousands of bushels)		Customer	
	Bought	Sold	Price			
(1)	(2)	(3)	(4)		(5)	
5-17-72		5	3.62		Kelly Grain Customer	596
5-18-72	15		3.58-1/2		Continental Customer	56103
5-18-72		15	3.58-1/2		duPont Customer	125-95159-81 & 4816450910
5-18-72	15		3.59		Continental Customer	20350
5-18-72		15	3.59		Continental Customer	56102 & 20701
5-18-72	5		3.59-1/2		Continental Customer	16664
5-18-72		5	3.59-1/2		duPont Customer	8655852805
5-19-72	5		3.60		Continental Customer	24004
5-19-72		5	3.60		Continental Customer	27874
5-22-72	5		3.55-5/8		Continental Customer	11211
5-22-72		5	3.55-5/8		duPont Customer	4181532908
5-22-72	10		3.58		Continental Customer	56913
5-22-72		10	3.58		Continental Customer	28408
5-24-72	10		3.50		Continental Customer	28114
5-24-72		10	3.50		duPont Customer	4884586921
5-24-72	5		3.52		Continental Customer	31502
5-24-72		5	3.52		duPont Customer	448338190

5. In May of 1972 respondent Lupori, in his capacity as floor broker, had received for execution orders to sell and orders to buy July 1972 soybean futures for the accounts of various customers. Respondent Coyne accommodated respondent Lupori by executing the transactions, listed below, in a noncompetitive manner with respondent Lupori, which resulted in respondent Lupori taking the opposite side of customers' orders for his (Lupori's) own account, without prior consent of such customers.

Date	Quantity		Price	(In thousands of bushels)		
	Bought	Sold		Account for Whom	Lupori Traded	
(1)	(2)	(3)	(4)		(5)	
5-2-72	5		3.47-5/8		Lupori error account	
5-2-72		5	3.47-5/8		Continental Customer	12103
5-8-72	5		3.54		Continental Customer	13325
5-8-72		5	3.54		Lupori	
5-9-72	5		3.52-1/8		Lupori	
5-9-72		5	3.52-1/8		Continental Customer	12103
5-17-72	5		3.59-1/4		Lupori error account	
5-17-72		5	3.59-1/4		Continental Customer	1150
5-17-72	5		3.60		Lupori	
5-17-72		5	3.60		duPont Customer	418600590
5-18-72	10		3.59		Continental Customer	20350
5-18-72		10	3.59		Lupori	
5-22-72	10		3.56-7/8		Continental Customer	31546 & 33912
5-22-72		10	3.56-7/8		Lupori	

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Date	Quantity		Price	Customer	
	Bought	Sold			
(1)	(2)	(3)	(4)	(5)	
5-22-72	10		3.57-1/4	Lupori	
5-22-72		10	3.57-1/4	duPont Customer	634410997
5-22-72	5		3.56-1/4	Lupori	
5-22-72		5	3.56-1/4	Continental Customer	33912

6. On May 18 and 19, 1972, respondent Lupori gave to respondent Coyne orders for the sale of July 1972 soybean futures to be made for respondent Lupori's account. Thereafter, respondent Lupori acting for customers bought from respondent Coyne July 1972 soybean futures, as listed below, with the result that respondent Lupori was able to take the opposite side of his customers' orders without the prior consent of such customers.

Date	Quantity		Price	Customer	
	Bought	Sold			
(1)	(2)	(3)	(4)	(5)	
5-18-72	10		3.60	Continental Customer	18567
5-18-72	5		3.60-1/2	Continental Customer	27832
5-19-72	15		3.60-3/8	Continental Customer	24540

7. On May 17 and 22, 1972, respondent Lupori prepared and turned in trading cards, to various futures commission merchants, purporting to show that he had executed the transactions in July 1972 soybean futures, as listed below, for the customers of such futures commission merchants, whereas, in fact, no such transactions actually had taken place, but, rather, respondent Lupori merely "carded" such transactions and took the opposite side thereof into his own account.

Date	Quantity		Price	Customer	Opposite Broker & Customer
	Bought	Sold			
(1)	(2)	(3)	(4)	(5)	(6)
5-17-72	5		3.61-1/8	Continental 16311	Lupori
5-17-72	5		3.61-1/8	duPont 48845869-21	Lupori
5-22-72	10		3.58	Continental 28408	Lupori

8. On May 17 and 22, 1972, respondent Lupori prepared and turned in several trading cards, to various futures commission merchants, which cards were endorsed by respondent Lupori to show the initials "AL" for the opposite executing floor broker, whereas, in fact, there was no such opposite executing floor broker, and respondent Lupori merely "carded" such transaction.

CONCLUSIONS

By reason of the facts set forth above, Richard D. Lupori wilfully violated sections 4b and 4c of the Act (7 U.S.C. §§ 6b and 6c) and sections 1.35, 1.38 and 1.39 of the regulations thereunder (17 CFR §§ 1.35, 1.38 and 1.39).

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 as to respondent Lupori, 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

Effective twenty days from the date of service of this Order:

1. The registration of respondent Richard D. Lupori as floor broker under the Commodity Exchange Act is hereby revoked, and

2. The respondent Richard D. Lupori is prohibited from trading in commodities as defined in section 2 of the Commodity Exchange Act (7 U.S.C. § 2) on or subject to the rules of any contract market for a period of one year and all contract markets shall refuse all such trading privileges to respondent Lupori during this period. Such prohibition and refusal shall apply to all such trading done and positions held directly by the respondent, Richard D. Lupori, either for his own account or as the agent or representative of any other person or firm, and also to all such trading done through, and to all positions held indirectly by persons or firms owned wholly or in substantial amount by said respondent, or in any way subject to his discretion or control, wholly or substantially.

Effective upon the date of service of this order the respondent. Richard D. Lupori, shall cease and desist from:

1. Making trades on or subject to the rules of a contract market otherwise than by open and competitive methods;

2. Trading on or subject to the rules of a contract market in a noncompetitive manner, which trades result in the crossing of customer's order;

3. Taking the opposite side of customer orders without the prior consent of such customer; and

4. "Carding transactions" and submitting trading cards which are endorsed to show an opposite executing floor broker, when, in fact, there is no such opposite executory floor broker.

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

LOAD-DATE: June 16, 2008

