

Commodity Futures Trading Commission  
CEA CASES

**NAME:** JULIAN M. MARKS, STUART A. NEWMAN, MARSHALL K. SMITH, IRWIN M. EISEN, AND JAMES S. SCHONBERG

**CITATION:** 22 Agric. Dec. 1068

**DOCKET NUMBER:** 98

**DATE:** OCTOBER 4, 1963

**DOCUMENT TYPE:** ORDER DISMISSING PETITION FOR RECONSIDERATION

(No. 8686)

*In re* JULIAN M. MARKS, STUART A. NEWMAN, MARSHALL K. SMITH, IRWIN M. EISEN, AND JAMES S. SCHONBERG. CEA Docket No. 98. Decided October 4, 1963.

**Petition for Reconsideration -- Dismissal**

The order of July 16, 1963, is supported by the evidence and the law applicable thereto and the petition of respondent Marshall K. Smith is dismissed.

*Decision by Thomas J. Flavin, Judicial Officer*

**ORDER DISMISSING PETITION FOR RECONSIDERATION**

In this proceeding under the Commodity Exchange Act (7 U.S.C. Chapter I), respondent Marshall K. Smith filed a petition for reconsideration of the decision and order entered July 16, 1963 (22 Agric. Dec. 761 (22 A.D. 761)), insofar as they affected respondent Smith. Complainant filed a reply to the petition for reconsideration. An order was entered August 6, 1963, staying the order of July 16, 1963, in its application to respondent Smith.

We found in the decision of July 16, 1963, that respondent Smith in trading May 19, 1960, on the close of trading in the May 1960 wheat future on the Chicago Board of Trade by direct and noncompetitive negotiation with respondent Eisen, bought 25,000 bushels of May 1960 wheat futures from Eisen at \$ 1.98-1/2 a bushel and sold Eisen 25,000 bushels at \$ 1.98 a bushel, that these were reciprocal transactions and that Smith "gave a half" to Eisen on the purchase in order to get off his selling orders for 25,000 bushels. We concluded that Smith thereby violated section 4c(A) of the act, section 1.38 of the regulations under the act (17 CFR 1.38) and section 4b(A) of the act.

Respondent Smith does not convince us that we were wrong in the decision and order of July 16, 1963. We believe that the evidence amply supports the charge in the complaint and the findings and conclusions in the decision. Accordingly the petition for reconsideration is dismissed and the stay order of August 6, 1963, is vacated.

Effective November 1, 1963, the registration of Marshall K. Smith as a floor broker under the Commodity Exchange Act is suspended for a period of 20 days and during such period all contract markets shall refuse all trading privileges to Marshall K. Smith, such refusal to apply to all trading done and positions held by said Smith directly or indirectly.

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