Commodity Futures Trading Commission
CEA CASES

NAME: JOSEPH A. FRIEDMAN AND JOSEPH A. FRIEDMAN CO.

CITATION: 23 Agric. Dec. 293

DOCKET NUMBER: 115

DATE: MARCH 24, 1964

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(No. 8970)

In re JOSEPH A. FRIEDMAN AND JOSEPH A. FRIEDMAN CO. CEA Docket No. 115. Decided March 24, 1964.

Potato Futures -- Suspension of Trading Privileges and Registrations -- Consent

The registrations of respondents and their trading privileges are suspended for a period of 30 days for, among other things, noncompetitively filling orders with respect to potato futures transactions on the New York Mercantile Exchange.

Mr. Earl L. Saunders, for Commodity Exchange Authority. *Mr. Morris J. Ezra,* of New York, New York, for respondents.

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 issued under section 6(b) of the Act (7 U.S.C. § 9) by the Assistant Secretary of Agriculture. The complaint alleges that the respondents violated sections 4b(A) and 4b(D) of the Act (7 U.S.C. §§ 6b(A) (D)), and section 1.38 of the regulations under the Act (17 CFR 1.38).

No hearing has been held. On March 2, 1964, the respondents withdrew the answer which they had previously filed and submitted a stipulation under section 0.4 (b) of the rules of practice (17 CFR 0.4(b)), in which they admit the facts hereinafter set forth, waive hearing, and consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent Joseph A. Friedman, an individual, whose business address is 6 Harrison Street, New York, New York, is now and was at all times material herein a member of the New York Mercantile Exchange and a registered floor broker under the Commodity Exchange Act.

2. Respondent Joseph A. Friedman Co., a partnership composed of respondent Joseph A. Friedman and his wife, whose business address is 6 Harrison Street, New York, New York, is now and was at all times material herein a clearing member of the New York Mercantile Exchange and a registered futures commission merchant under the Commodity Exchange Act.

3. The New York Mercantile Exchange was at all times material herein and is now a duly designated contract market under the Commodity Exchange Act.

4. The transactions referred to herein relate to the purchase and sale of May 1963 potato futures contracts on the New York Mercantile Exchange. Such contracts could have been used for hedging transactions in interstate commerce

in potatoes or the products or byproducts thereof, or for determining the price basis

of transactions in interstate commerce in potatoes, or for delivering potatoes sold, shipped, or received in interstate commerce.

5. Respondents, in filling orders received from Shearson, Ham-mill & Co. and from D. R. Comenzo & Co., Inc., registered futures commission merchants under the Commodity Exchange Act, made the following trades in May 1963 potato futures on the New York Mercantile Exchange:

Trades Made by Respondents for Shearson, Hammill & Co. and D. R. Comenzo & Co., Inc.>100> >101>

Date 1963	Quantity (carlots) Bought	Sold	Price (Dollars per cwt.)	Clearing Member	Floor Broker
January					
18	1		2.56	Shearson, Hammill & Co.	Joseph A. Friedman
18	1		2.58	"	H. Fisher
23		2	2.71	"	R. Leeds
24	4		2.87	"	"
25	2		2.81	"	Joseph A. Friedman
25	1		2.81	"	"
25	2		2.79	"	R. Leeds
25		5	2.80	"	Max Friedman
28	5		2.83	"	Joseph A. Friedman
29		1	2.78	"	I. Freundlich
31	3		2.92	D. R. Comenzo & Co., Inc.	Joseph A. Friedman
February					
8	2		2.88	Shearson, Hammill & Co.	Joseph A. Friedman
15		1	2.89	D. R. Comenzo & Co., Inc.	"
18	1		2.97	Shearson, Hammill & Co.	N. Faye
20	1		2.89	D. R. Comenzo & Co., Inc.	Joseph A. Friedman
21		1	2.94	Shearson Hammill & Co.	D. Laiken
25	1		2.83	"	Joseph A. Friedman
27		1	2.75	"	D. Weinberger
27		1	2.76	"	"

Date 1963	Opposite Side of the Trade Floor Broker	Clearing Member and Account
January		
18	D. Laiken	Joseph A. Friedman Co.
18	Joseph A. Friedman	"
23	"	"
24	"	"
25	Max Friedman	"
25	"	"

Date 1963	Quantity (carlots) Bought	Sold	Price (Dollars per cwt.)	Clearing Member	Floor Broker
25	Joseph A. Friedman	"			
25	"	"			
28	Max Friedman	"			
29	Joseph A. Friedman	"			
31	Max Friedman	"			
February					
8	Max Friedman	Joseph A. Friedman Co.			
15	"	"			
18	Joseph A. Friedman	"			
20	D. Laiken	"			
21	Joseph A. Friedman	"			
25	H. Fisher	"			
27	Joseph A. Friedman	"			
27	"	"			

In the transactions set forth above respondents without the prior consent of their principals filled orders received from such principals by taking the opposite side thereof for respondents' own account.

6. On January 25, 1963, respondents received for execution three orders to purchase at the market a total of 14 carlots of May 1963 potato futures on behalf of customers of Shearson, Hammill & Co. Thereafter, on January 25, 1963, respondents purchased 10 carlots of such futures at $ 2.80 per hundred pounds, and took these purchases into their own account, notwithstanding that at such time respondents had in their possession for execution the said market orders of Shearson, Hammill & Co. Later, on the same day, respondents purchased 14 carlots of May 1963 potato futures at $ 2.82 per hundred pounds, and allocated these purchases to fill the said market orders of Shearson, Hammill & Co.

7. On January 25, 1963, respondents received for execution an order to sell two carlots of May 1963 potato futures for the account of Shearson, Hammill & Co. Respondents noncompetitively filled such order with two carlots of May 1963 potato futures which respondents had previously purchased for their own account.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that respondents violated section 4b(A) and 4b(D) of the Commodity Exchange Act (7 U.S.C. 6b(A)(D)), and section 1.38 of the regulations under the Act (17 CFR 1.38).

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

ORDER

Effective 30 days after the issuance of this order, the registration of respondent Joseph A. Friedman as a floor broker and the registration of respondent Joseph A. Friedman Co. as a futures commission merchant are suspended for a period of 30 days.

Effective 30 days after the issuance of this order, all contract markets shall refuse all trading privileges to respondents, Joseph A. Friedman and Joseph A. Friedman Co., for a period of 30 days, such refusal to apply to all trading done and positions held by them, directly or indirectly.

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

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