

Commodity Futures Trading Commission
CEA CASES

NAME: GARNAC GRAIN COMPANY, INC., FRED HEDIGER, JEAN JACQUES PASCHE, H. R. SCHMID, GEORGE LULIE, AND ERWIN MINDER

DOCKET NUMBER: 45

DATE: MARCH 24, 1948

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re Garnac Grain Company, Inc., Fred Hediger, Jean Jacques Pasche, H. R. Schmid, George Lulie, and Erwin Minder, Respondents

CE-A Docket No. 45

Complaint and notice of hearing under Section 6(b) of the Commodity Exchange Act

The Secretary of Agriculture has reason to believe that the respondents, Garnac Grain Company, Inc., Fred Hediger, Jean Jacques Pasche, H. R. Schmid, George Lulie, and Erwin Minder have violated the provisions of the Commodity Exchange Act (7 U.S.C. 1-17a), and the rules and regulations promulgated thereunder. In accordance with the provisions of Section 6(b) of the said Act, this complaint is issued alleging as follows:

1.

Respondent Garnac Grain Company, Inc. is a corporation organized under the laws of the State of New York, with its principal place of business at No. 2, Broadway, New York, New York. The said respondent enjoys membership trading privileges on the Board of Trade of the City of Chicago. During the calendar year 1942, the said respondent was registered as a futures commission merchant under the provisions of the Commodity Exchange Act. In accordance with the requirements of Section 4f(1) of the said Act, such registration expired on December 31, 1942, and during the period from January 1, 1943, to February 17, 1948,

which includes all times material to this complaint, the said respondent did not apply for registration and was not registered as a futures commission merchant under the provisions of the said Act. On February 17, 1948, the said respondent again applied for registration, was again registered as a futures commission merchant under the provisions of the Commodity Exchange Act, and is now so registered.

2.

The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, was, prior to the time of the transactions mentioned in this complaint, duly designated as a contract market under the provisions of the Commodity Exchange Act, and has been a contract market continuously since that time.

3.

Fred Hediger, an individual residing at No. 10, Montague Terrace, Brooklyn, New York, was at all times material to this complaint and is now President of respondent Garnac Grain Company, Inc., and a member of the Chicago Board of Trade.

4.

Jean Jacques Pasche, an individual residing at 68 Montague street, Brooklyn, New York, was at all times material to this complaint and is now Vice President of respondent Garnac Grain Company, Inc.

5.

H. R. Schmid, an individual residing at 225 Cumberland Street, Brooklyn, New York, was at all times material to this complaint and is now Treasurer of respondent Garnac Grain Company, Inc.

6.

George Lulie, an individual residing at 147-30 15th Drive, Whitestone, Long Island, was at all times material to this complaint and is now secretary of respondent Garnac Grain Company, Inc.

7.

Erwin Minder, an individual residing at 469 Washington Avenue, Brooklyn, New York, was at all times material to this complaint and is now an officer of and attorney for respondent Garnac Grain Company, Inc.

8.

Andre et Cie, Societe Anonyme, a foreign corporation located at Lausanne, Switzerland, Evera, S.A.C., a foreign corporation located at Montevideo, Uruguay, and the Range Grain Company, Ltd., a foreign corporation located at Winnipeg, Canada, were, at all times material to this complaint, customers of respondent Garnac Grain Company, Inc.

9.

On or about May 23, 1947, respondent Garnac Grain Company, Inc. sold 35,000 bushels of July 1947 corn futures contracts on the Chicago Board of Trade for the account of the said Andre et Cie, but made entries in its books showing the sale on that date of 60,000 bushels of July 1947 corn futures contracts for the account of the said Andre et Cie, and reported such sale to the said Andre et Cie. On or about September 8, 1947, the said respondent confirmed to the said Andre et Cie that 60,000 bushels of July 1947 corn futures contracts had been sold on the Chicago Board of Trade on

May 23, 1947, and rendered an account to the said Andre et Cie based upon such sale. The said entries, confirmation, and account included 25,000 bushels of July 1947 corn futures contracts shown as sold on May 23, 1947, at the price of \$ 1.67 3/4 per bushel whereas, in truth and in fact, no such sale had been made. The said transaction, to the extent of 25,000 bushels of July 1947 corn futures contracts, constituted the bucketing of an order in violation of Section 4b(D) of the Commodity Exchange Act.

10.

On or about July 23, 1947, respondent Garnac Grain Company, Inc. made entries in its books showing the sale on that date of 90,000 bushels of September 1947 corn futures contracts on the Chicago Board of Trade at \$ 2.09 3/4 per bushel for the account of said Andre et Cie, and reported such sale to the said Andre et Cie. On or about September 8, 1947, the said respondent confirmed to the said Andre et Cie that 90,000 bushels of September 1947 corn futures contracts had been sold on the Chicago Board of Trade on July 23, 1947, at \$ 2.09 3/4 per bushel, and rendered an account to the said Andre et Cie based upon such sale whereas, in truth and in fact, no such sale had been made. The said transaction constituted the bucketing of an order in violation of Section 4b(d) of the Commodity Exchange Act.

11.

On or about October 29, 1947, respondent Garnac Grain Company, Inc. received an order from the said Andre et Cie to sell 5,000 bushels of December 1947 wheat futures contracts on the Chicago Board of Trade

at \$ 2.95 per bushel for the account of said Andre et Cie. On or about October 31, 1947, the said respondent confirmed to the said Andre et Cie the sale of 5,000 bushels of December 1947 wheat futures contracts on the Chicago Board of Trade at \$ 2.85 per bushel, and rendered an account to the said Andre et Cie based upon such sale whereas, in truth and in fact, no such sale had been made, the said respondent having taken the opposite side of the said transaction into its own account. The said transaction constituted the bucketing of an order in violation of Section 4b(D) of the Commodity Exchange Act.

12.

The transactions in corn futures and wheat futures described in paragraphs 9, 10, and 11, above, were capable of being used for hedging a transaction in interstate commerce in corn or wheat, respectively, or the products or by-products thereof, or for determining the price basis of a transaction in interstate commerce in corn or wheat, respectively, or for delivering corn or wheat sold, shipped or received in interstate commerce.

13.

By reason of the transactions described in paragraphs 9 and 10, above, the respondents defrauded the said Andre et Cie, wilfully made false reports to the said Andre et Cie, wilfully entered false records of such transactions, and wilfully deceived the said Andre et Cie with respect to the execution of such contracts, all in violation of Sections 4b(A), 4b(B) and 4b(C) of the Commodity Exchange Act.

14.

On or about March 26, June 3, July 23, August 3, September 21, and September 24, 1946, March 8, 10, 14, 18, 21, 22, 24, 25, 26, 27, May 2, 8, 16, 22, 24, 27, 28, June 2, 4, 5, 6, 10, 11, 18, 20, 23, 24, 25, 27, July 12, 16, 17, 18, 23, 28, 29, 31, August 4, 5, 11, 12, 13, 15, September 20, 22, 27, and October 15, 1947, respondent Garnac Grain Company, Inc., acting in the capacity of a futures commission merchant on behalf of Andre et Cie, transmitted orders to other brokers for the purchase or sale of commodities for future delivery on the Chicago Board of Trade, received confirmation from such brokers that such orders had been executed, reported such execution to the said Andre et Cie, and entered the said transactions in its books in the account of the said Andre et Cie. On the dates above set forth, the said respondent was not registered as a futures commission merchant as required by Section 4d of the Commodity Exchange Act.

15.

On or about July 17, August 5, 7, 11, September 4, October 10, 17, 23, November 3, 7, 13, 15, 17 and 18, 1947, respondent Garnac Grain Company, Inc., acting in the capacity of a futures commission merchant on behalf of Evera, S.A.C., transmitted orders to other brokers for the purchase or sale of commodities for future delivery on the Chicago Board of Trade, received confirmation from such brokers that such orders had been executed, reported such execution to the said Evera, S.A.C., and entered the resulting transactions in its books in

the account of the said Ever, S.A.C. On the dates above set forth, the said respondent was not registered as a futures commission merchant as required by Section 4d of the Commodity Exchange Act.

16.

On or about August 14, 20 and 29, September 5, 8, 11 and 12, 1947, respondent Garnac Grain Company, Inc., acting in the capacity of a futures commission merchant on behalf of the Range Grain Company, Ltd., transmitted orders to other brokers for the purchase or sale of commodities for future delivery on the Chicago Board of Trade, received confirmation from such brokers that such orders had been executed, reported such execution to the said Range Grain Company, Ltd., and entered the resulting transactions in its books in the account of the said Range Grain Company, Ltd. On the dates above set forth, the said respondent was not registered as a futures commission merchant as required by Section 4d of the Commodity Exchange Act.

17.

On August 28 and 29, September 23, 24, October 1, 2, 4, 7, 10, 14, 20, 24, 29, November 1, 4, 6, 7, 8, 12, 13, and 14, 1947, as a result of purchases or sales of corn or wheat for future delivery executed for its own account on the Chicago Board of Trade, the respondent Garnac Grain Company, Inc. had increased its long or short position in corn futures contracts or wheat futures contracts, respectively, from an amount less than 200,000 bushels to an amount in excess thereof, or, having a long

or short position in corn futures contracts or wheat futures contracts in excess of 200,000 bushels, had increased or decreased such position. The said respondent thereupon failed to report such changes in position to the Commodity Exchange Authority, in violation of section 41 of the Commodity Exchange Act and Section 2.10 of the Rules and Regulations thereunder.

18.

At the time of the transactions described in paragraphs 9, 10, 11, 14, 15, 16, and 17, above, respondents Fred Hediger, Jean Jacques Pasche, H. R. Schmid, George Lulie, and Erwin Minder were officers of the corporate respondent Garnac Grain Company, Inc., and the said transactions were consummated and carried out through and by means of the acts of the said respondents in their official capacity as officers of the said corporate respondent.

Therefore, the said respondents, Garnac Grain Company, Inc., Fred Hediger, Jean Jacques Pasche, H. R. Schmid, George Lulie, and Erwin Minder are hereby notified to be and appear at a hearing to be held at 10:00 o'clock, a.m., e.s.t., on the 12th day of May, 1948, in Room 602, 60 Beaver Street, New York, New York, before a referee designated to conduct such hearing and there show cause, if any there be, why an order should not be made suspending or revoking the registration of the said Garnac Grain Company, Inc., as a futures commission merchant under the Commodity Exchange Act, and directing that all contract markets

refuse all trading privileges to the said respondents for such period of time as the Secretary of Agriculture may determine.

The respondents will have 20 days after the receipt of this notice of hearing in which to file with the Secretary of Agriculture, in triplicate, an answer fully and completely stating the nature of the defense and admitting or denying specifically and in detail each material and relevant allegation of this complaint. Allegations that are not answered will be deemed admitted for the purpose of this proceeding.

It is ordered that this complaint and notice of hearing be served on the respondents by delivery of a true copy thereof by an employee of the Department of Agriculture, or by registered mail, at least 20 days prior to the date set for hearing.

Done at Washington, D. C., this 24 day of March, 1948.

/s/ Clinton P. Anderson
Secretary of Agriculture

LOAD-DATE: June 16, 2008

