

Commodity Futures Trading Commission  
CEA CASES

**NAME:** WILLARD E. PLATT, GEORGE F. FREY, JR., OLIVER M. HIBBERD, PATRICK M. SHEA,  
HENRY C. GATLIN, F & G COMMODITIES, AND RALPH N. PETERS & CO.

**DOCKET NUMBER:** 112

**DATE:** OCTOBER 3, 1963

**DOCUMENT TYPE:** RULING AND NOTICE OF HEARING

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re Willard E. Platt et al., Respondents

CEA Docket No. 112

Ruling and Notice of Hearing

On September 6, 1963 Respondent Ralph N. Peters & Co. submitted a motion for summary judgment in its favor on the ground that Respondent Willard E. Platt did not make a trade [ILLEGIBLE TEXT] alleged in the complaint to have made, because it did not fail to keep the required records, and because it should not be charged with violations even if a floor broker failed to present proper records to it. On September 26, 1963 complainant answered the motion, asserting that summary judgment is not contemplated by Department rules of practice, that whether an alleged trade was made is a matter of fact which should be determined on the basis of evidence submitted at a hearing, and that Respondent Platt was a partner in Respondent Peters & Co., not merely a floor broker for it.

The rules of practice of the Department of Agriculture do not provide for summary judgment or discovery. The Federal Rules of Civil Procedure do not make summary judgment applicable to this administrative proceeding.

No adequate reason has been presented why this matter should not proceed in the usual way, getting the facts by stipulation of the parties or by evidence regularly received at an oral hearing, and getting the arguments of the parties thereafter as to what conclusions should be drawn from the facts then of record. Accordingly, respondent's motion seeking to dispose of the matter as to it without a hearing on the facts is denied.

Since setting the hearing for October 29, 1963, the examiner has learned that his son, age 17, will have his final review after boot training in the Marine Corps at Parris Island, South Carolina, on October 31. The examiner very much dislikes to postpone a hearing for his personal convenience, especially where the schedule of this office requires a long postponement, as here. However, the examiner would dislike even more to miss the Marine Corps ceremonies. Consequently, the hearing is postponed to 10 a.m. on Tuesday, December 3, 1963, in Chicago, Illinois. Notice will be given later of the location of [ILLEGIBLE TEXT] hearing room.

[SEE SIGNATURE IN ORIGINAL]

Jack W. Bain, Hearing Examiner, Referee

October 3, 1963

**LOAD-DATE:** June 16, 2008

