

Commodity Futures Trading Commission
CEA CASES

NAME: JOSEPH R. AWAD

CITATION: 17 Agric. Dec. 601

DOCKET NUMBER: 79

DATE: JULY 7, 1958

DOCUMENT TYPE: DECISION AND ORDER

(No. 5538)

In re JOSEPH R. AWAD. CEA Docket No. 79. Decided July 7, 1958.

Reporting Provisions -- Denial of Trading Privileges -- Default

Respondent failed to file an answer to the complaint and also failed to file exceptions to the hearing examiner's report. All contract markets are ordered to refuse all trading privileges to respondent for a 30-day period.

Mr. Benjamin M. Holstein, for Commodity Exchange Authority. *Mr. Will Rogers*, Hearing Examiner.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1), instituted by a complaint issued under section 6(b) of the act March 6, 1958, by the Assistant Secretary of Agriculture. Respondent is charged with knowingly and wilfully violating the reporting provisions of the act and the rules and regulations issued thereunder. A copy of the complaint and a copy of the rules of practice were served on respondent March 11, 1958.

At the time of service of the complaint, respondent was notified, in effect, that an answer thereto should be filed within 20 days after such service and that, in accordance with section 0.9 of the rules of practice (17 CFR 0.9), failure to file an answer would constitute an admission of the facts alleged in the complaint and a waiver of oral hearing. Notwithstanding such notice, respondent has not filed an answer. The matter was referred to Will Rogers, Hearing Examiner, Office of Hearing Examiners, United States Department of Agriculture, for the preparation of a report without further investigation or hearing pursuant to section 0.9(c) of the rules of practice (17 CFR 0.9(c)). The hearing examiner filed a report May 23, 1958, recommending that respondent be denied all trading privileges on all contract markets for a period of 30 days. No exceptions were filed to the hearing examiner's report.

FINDINGS OF FACT

1. Respondent, Joseph R. Awad, is an individual with an office and place of business at 507 Fifth Avenue, Suite 300, New York, New York, c/o J. R. A. International Company.

2. The Board of Trade of the City of Chicago, hereinafter referred to as the Chicago Board of Trade, was at all times material herein, a duly designated contract market under the act.

3. On July 9 and 10, 1957, respondent had a net long open contract position in September 1957 lard futures on the Chicago Board of Trade of 1,040,000 pounds and 1,600,000 pounds, respectively. Respondent was in reporting status during such period and was required to report to the Commodity Exchange Authority with

respect to all transactions executed and all open contract positions held for his account in all lard futures on all

boards of trade (exchanges) during such period, and with respect to all transactions by reason of which respondent's position was reduced below reporting levels.

4. On July 9 and 10, 1957, while respondent was in reporting status as described in Finding of Fact 3, and on the business day immediately thereafter, July 11, 1957, when respondent's position was reduced below reporting levels, transactions in lard futures on the Chicago Board of Trade were executed for his account, but respondent failed and refused to report to the Commodity Exchange Authority with respect to such transactions.

5. On June 19, 1957, an order was issued directing all contract markets to refuse to General Commerce Corporation all trading privileges for a period of 60 days, effective July 22, 1957, because of the corporation's failure and refusal to file required reports on ten occasions within a period of approximately three months. *In re General Commerce Corporation*, 16 Agric. Dec. 495 (16 A.D. 495) (1957). At the time of the violations alleged in such proceeding, respondent was general manager of said corporation, and, on one occasion prior to the filing of the formal complaint against said corporation, respondent appeared at the New York office of the Commodity Exchange Authority to discuss reporting requirements. Subsequently, between July 16 and August 14, 1957, the Commodity Exchange Authority addressed three letters to the respondent calling his attention to his delinquency in reporting the transactions described herein and requesting that reports be submitted, but no reply was received. On August 27, 1957, the respondent was reached by telephone and promised representatives of the Commodity Exchange Authority that the necessary reports would be filed, but no reports were received.

CONCLUSIONS

Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) provides as follows:

"It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market unless such person shall report or cause to be reported to the properly designated officer in accordance with the rules and regulations of the Secretary of Agriculture . . . (2)

whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Secretary of Agriculture"

During the period in question, the quantity of lard futures fixed by the Secretary for reporting purposes pursuant to section 4i was 1,000,000 pounds (17 CFR, 1957 Supp. 9.21).

Respondent failed and refused to file required reports on three consecutive days. Such failure constitutes a violation of section 4i of the act and sections 9.10, 9.11 and 9.12 of the rules and regulations issued thereunder (17 CFR 9.10, 9.11 and 9.12). The fact that respondent received ample notification of the reporting requirements and of his delinquency prior to the institution of this proceeding, and the fact that he was general manager of a corporation recently involved in similar violations, justify the conclusion that the violations herein were deliberate and wilful. Accordingly, all contract markets should be directed to refuse all trading privileges to respondent for a period of 30 days as recommended by complainant, such refusal to apply to all trading done and positions held by respondent directly or indirectly.

ORDER

Effective August 11, 1958, all contract markets shall refuse all trading privileges to respondent for a period of 30 days, such refusal to apply to all trading done and positions held by respondent directly or indirectly.

A copy of this decision and order shall be served on the respondent and on each contract market.

LOAD-DATE: June 8, 2008

