

Commodity Futures Trading Commission
CEA CASES

NAME: BECKER BROKERAGE CO., SAMUEL H. BECKER, AND PHILIP D. BECKER

CITATION: 23 Agric. Dec. 290

DOCKET NUMBER: 111

DATE: MARCH 23, 1964

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(No. 8969)

In re BECKER BROKERAGE CO., SAMUEL H. BECKER, AND PHILIP D. BECKER. CEA Docket No. 111. Decided March 23, 1964.

Egg Futures -- Suspension of Trading Privileges and Registration -- Consent

The registration of Philip D. Becker as a floor broker and his trading privileges are suspended for a period of 15 days for permitting a customer of respondent futures commission merchant to place orders in egg futures without identifying accounts for which orders placed and to allocate orders to advantage of such customer and to the disadvantage of others.

The registration of Becker Brokerage Co., as a futures commission merchant and the firm's trading privileges are ordered suspended for 15 days, but these sanctions are not to become effective unless firm should be found in violation of the act within a one-year period.

The complaint against Samuel H. Becker is dismissed.

Mr. Earl L. Saunders for Commodity Exchange Authority. *Mr. Lee A. Freeman*, of Chicago, Illinois, 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 § 6 (b) of the Act (7 U.S.C. § 9) by the Assistant Secretary of Agriculture. The complaint alleges that the respondents violated § 4b(A) of the Act (7 U.S.C. § 6b(A)), and § 1.35 of the regulations issued under the Act (17 CFR 1.35).

No hearing has been held with respect to this proceeding. On March 2, 1964, respondents Becker Brokerage Co. and Philip D. Becker withdrew the answer which they had previously filed and submitted a stipulation under § 0.4 (b) of the rules of practice (17 CFR 0.4(b)), in which they admit the facts hereinafter set forth, propose that the complaint be dismissed as to respondent Samuel H. Becker, waive hearing, and consent to the entry of the order contained herein. Also in such stipulation respondents Becker Brokerage Co. and Philip D. Becker state that subsequent to the issuance of the complaint in this proceeding, they paid the total sum of \$ 13,244 to the customers hereinafter referred to in Finding of Fact 7, and that the said respondents believe that such sum is sufficient to reimburse such customers for any losses they

may have suffered by reason of the allocation of trades as described in Finding of Fact 7.

FINDINGS OF FACT

1. Respondent Becker Brokerage Co. is an Illinois corporation with its principal office and place of business at 1008 Randolph Street, Chicago 7, Illinois. The said corporation is now and was at all times material herein a clearing member of the Chicago Mercantile Exchange, and a registered futures commission merchant under the Commodity Exchange Act.

2. Respondent Philip D. Becker, an individual, whose business address is 1008 West Randolph Street, Chicago 7, Illinois, is now and was at all times material herein a member of the Chicago Mercantile Exchange, a registered floor broker under the Commodity Exchange Act, and vice-president of respondent Becker Brokerage Co.

3. The acts and transactions on the part of respondent Becker Brokerage Co. hereinafter described were carried out under the direction, supervision and control of respondent Philip D. Becker in his capacity as an officer of the respondent corporation.

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

5. The orders and the futures transactions referred to herein relate to frozen whole egg futures and to shell egg futures on the Chicago Mercantile Exchange. Such contracts could have been used for (a) hedging transactions in interstate commerce in eggs or the products or byproducts thereof, (b) determining the price basis of transactions in interstate commerce in eggs, and (c) delivering eggs sold, shipped, or received in interstate commerce for the fulfillment of such futures contracts.

6. During the period June 22 through October 4, 1962, respondent Becker Brokerage Co., in its capacity as futures commission merchant, carried 40 customers' accounts which were controlled under powers of attorney by one Irving Eisenberg, who during the period August 30 through October 4, 1962, also carried a personal trading account with Becker Brokerage Co.

7. During the period August 30 through October 4, 1962, respondent Philip D. Becker permitted Irving Eisenberg to place

orders for the execution of transactions in egg futures on the Chicago Mercantile Exchange without in each instance securing the identity of the account or accounts for which such orders were placed, and in some instances after the orders were executed permitted Irving Eisenberg to allocate the resulting transactions between his own account and the controlled accounts. Such allocations were to the detriment of the customers and to the advantage of Eisenberg.

CONCLUSIONS

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR 0.4(b)) provides as follows:

(b) *Consent Order.* At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

The facts admitted by respondents Becker Brokerage Co., and Philip D. Becker, and set forth in the findings of fact, are sufficient to subject each of them to the jurisdiction of the Secretary of Agriculture.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the order to which the

said respondents propose to consent. It is the opinion of the complainant that under the circumstances the proposed sanctions would be adequate, and that the prompt entry of such an order without further proceedings would constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant, therefore, recommends that the stipulation and waiver be accepted, that the complaint be dismissed insofar as it relates to respondent Samuel H. Becker, and that the proposed order be issued. It is so concluded.

ORDER

The registration of respondent Philip D. Becker as a floor broker under the Commodity Exchange Act is hereby suspended for a period of 15 days, effective on the 30th day after the date of entry of this order, and all contract markets are hereby directed to refuse all trading privileges to the said Philip D. Becker for the said period of 15 days, such refusal to apply to all trading done and positions held by the said Philip D. Becker, directly or indirectly.

The registration of respondent Becker Brokerage Co. as a futures commission merchant under the Commodity Exchange Act is hereby suspended for a period of 15 days, and all contract markets are hereby directed to refuse all trading privileges to the said Becker Brokerage Co. for the said period of 15 days, *Provided, However,* that the aforesaid suspension of registration and refusal of trading privileges shall not become effective unless, after complaint, and hearing in accordance with established procedure, respondent Becker Brokerage Co. should be found to have violated the Commodity Exchange Act within one year from the date of entry of this order, in which event the Secretary of Agriculture may, without further notice to respondent Becker Brokerage Co., issue a supplemental order making effective forthwith the aforesaid suspension of registration and refusal of trading privileges.

The complaint is dismissed insofar as it relates to respondent Samuel H. Becker.

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

LOAD-DATE: June 8, 2008

