

Commodity Futures Trading Commission
CEA CASES

NAME: ROCCO G. CANCELLARE

CITATION: 29 Agric. Dec. 539

DOCKET NUMBER: 169

DATE: MAY 21, 1970

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AGRICULTURE DECISIONS

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COURT DECISION

J. H. KENT et al. v. HARDIN et al. 5th Cir. May 14, 1970.

Affirming Judicial Officer's decision and order (28
A.D. 656) which held that where trades in
commodity futures were made pursuant to a common
trading plan or agreement and the total of such
trades exceeded the trading limits, there was a
wilful violation of the act for which the petitioners
should be denied all trading privileges on all the
contract markets for a period of 90 days. Voluntary
statements made to an investigator while petitioners
were not under restraint or in custody are
admissible in evidence and the Miranda doctrine
does not apply

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(No. 13,143)

In re ROCCO G. CANCELLARE. CEA Docket No. 169. Decided May 21, 1970.

Allocation of customers' purchases -- Suspension of registration --
Stipulation

Respondent is ordered to cease and desist from allocating commodity futures transactions to his own account when such transactions can be allocated to fill customers' orders which he has on hand, unless this is done with the prior knowledge and consent of such customers. Respondent's registration as a floor broker is suspended for a period of 20 days and all the contract markets are directed to refuse all trading privileges to him for a like period.

Earl L. Saunders for Commodity Exchange Authority.

Respondent *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1, 1964 ed., as amended, Supp. IV, 1969), instituted by a complaint and notice of hearing issued on March 10, 1970, under sections 6(b) and 6(c) of the Act (7 U.S.C. Supp. IV, 9 and 18b). The respondent is charged with violating section 4b of the Act (7 U.S.C. Supp. IV, 6b).

No hearing has been held in this proceeding. On May 19, 1970, the respondent filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which he (1) admits the facts hereinafter set forth in paragraphs 1 through 3 of the Findings of Fact, (2) admits, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraph 4 of the Findings of Fact, (3) waives the report of the Hearing Examiner, and (4) consents to the entry of the order contained herein.

FINDINGS OF FACT

1. The respondent, an individual whose business address is % New York Cotton Exchange, Inc., 37 Wall Street, New York, New York, is now and was at all times material herein a member of the Citrus Associates of the New York Cotton Exchange, Inc., and a registered floor broker under the Commodity Exchange Act.

2. The Citrus Associates of the New York Cotton Exchange, Inc., hereinafter called the exchange, is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act.

3. The futures transactions hereinafter referred to relate to the purchase of frozen concentrated orange juice futures contracts on the exchange. Each of such contracts called for the delivery of 15,000 pounds of frozen concentrated orange juice. Such contracts could have been used for hedging transactions in interstate commerce in frozen concentrated orange juice, or for determining the price basis of transactions in interstate commerce in frozen concentrated orange juice, or for delivering frozen concentrated orange juice sold, shipped, or received in interstate commerce.

4. During the period from December 17 through December 23, 1968, the quantities of the frozen concentrated orange juice futures, hereinafter referred to, available for purchase on the exchange, were insufficient to meet the demand for the purchase of

such futures at the maximum price permitted for each such future under the rules of the exchange. During such period, trading in such futures was conducted under a system wherein the exchange allocated sell orders to each floor broker seeking to buy such futures. On each day within such period, the respondent, in his capacity as floor broker, had accepted and had in his possession for execution on behalf of his principals, registered futures commission merchants, market orders to buy quantities of frozen concentrated orange juice futures, and the respondent made purchases of such futures in the quantities permitted by the sell orders allocated to the respondent by the exchange. However, instead of allocating all such purchases to the orders which he had received from his principals, the respondent, acting for his own advantage and without the knowledge or consent of his principals, allocated such purchases between his own account and his customers' accounts. The dates, the principals for whom the respondent acted, the futures purchased, and their allocation were as follows:

Date	Principal	Futures	Allocation	
			To Respondent	To Principal
1968				
December 17	Goodbody & Co.	July	4	4
December 18	Goodbody & Co.	July	1	4
December 18	Arnold D. Kamen & Co.	July	1	1
December 19	Goodbody & Co.	May	1	1
December 19	Francis I. Dupont & Co.	July	1	2
December 19	Harris Upham & Co.	July	2	2

Date	Principal	Futures	Allocation	
			(Number of Contracts)	
1968			To	To
			Respondent	Principal
December 20	Goodbody & Co.	May	3	3
December 23	Goodbody & Co.	May	1	1

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact it is concluded that, as charged in the complaint, the respondent violated section 4b of the Commodity Exchange Act. The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by respondent. The administrative officials believe that the prompt entry of the proposed order would constitute a satisfactory disposition of this case, serve the public interest and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation be accepted and the proposed order be issued. It is concluded that the complainant's recommendation should be adopted.

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