

Commodity Futures Trading Commission
CEA CASES

NAME: JACK C. FLORA

CITATION: 29 Agric. Dec. 1015

DOCKET NUMBER: 174

DATE: SEPTEMBER 14, 1970

DOCUMENT TYPE: DECISION AND ORDER

(No. 13,395)

In re JACK C. FLORA. CEA Docket No. 174. Decided September 14, 1970.

Misuse of customer's funds -- Cease and desist -- Denial of trading privileges -- Stipulation

Respondent is ordered to cease and desist from (1) using any funds held by any futures commission merchant for any customer, as belonging to any person other than the customer for whom such funds are held and (2) causing any futures commission merchant or depository to use any such funds as belonging to any person other than the customer for whom such funds are held. All the contract markets shall deny all trading privileges to respondent for a period of two years.

Earl L. Saunders for Commodity Exchange Authority.

Sidney C. Hamper, Chicago, Ill., for respondent.

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 July 9, 1970, under sections 6(b) and 6(c) of the Act (7 U.S.C. 9 and 13b, Supp. IV, 1969). The respondent is charged with violating sections 4d and 9 of the Act (7 U.S.C. 6d and 13, Supp. IV, 1969), and sections 1.20 and 1.21 of the regulations thereunder (17 CFR 1.20 and 1.21).

No hearing has been held in this proceeding. The respondent has 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 and 2 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 3 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, Jack C. Flora, an individual, was at all times material herein up to on or about March 17, 1970, an agent or employee of Simeral Commodities, Inc., which at all such times, was a registered futures commission merchant under the Commodity

Exchange Act, trading in commodity futures on contract markets for the accounts of customers.

2. At all times material herein, N. E. Hess was a customer of Simeral Commodities, Inc., and the said firm held sums of money for him, representing deposits of margin by and trading profits accruing to him.

3. On March 2, 1970, the respondent, acting without the knowledge or consent of N. E. Hess, caused Simeral Commodities, Inc., to draw a check (numbered 1290) on the firm's segregated bank account for customers' funds, to the order of N. E. Hess in the sum of \$ 6,000.00, and to debit such check to said Hess' account at Simeral Commodities, Inc. Thereafter, the respondent forged the endorsement of N. E. Hess on such check, negotiated it, and used the proceeds for the respondent's own use and benefit.

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 sections 4d and 9 of the Commodity Exchange Act, and sections 1.20 and 1.21 of the regulations thereunder. The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by the 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.

ORDER

(a) The respondent, Jack C. Flora, shall cease and desist from (1) using any funds held by any futures commission merchant for any customer, as belonging to any person other than the customer for whom such funds are held, and (2) causing any futures commission merchant or depository to use any such funds as belonging to any person other than the customer for whom such funds are held.

(b) The respondent, Jack C. Flora, is prohibited from trading on or subject to the rules of any contract market for a period of two years, and all contract markets shall refuse all trading privileges

to the respondent during this period, such prohibition and refusal to apply to all trading done and all positions held by the respondent, directly or indirectly.

The cease and desist provisions of this order set forth in paragraph (a) above shall become effective upon the date of service of this order upon the respondent.

The period of the denial of trading privileges to the respondent specified in paragraph (b) above shall become effective on the thirtieth day after the date of entry of this order.

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

LOAD-DATE: June 10, 2008

