

Commodity Futures Trading Commission
CEA CASES

NAME: HARRY KAY (ALSO KNOWN AS AARON D. SCHLECTER), AND HARRY KAY & ASSOCIATES, INC.

DOCKET NUMBER: 117

DATE: FEBRUARY 26, 1964

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Harry Kay (also known as Aaron D. Schlecter), and Harry Kay & Associates, Inc., Respondents

CEA Docket No. 117

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents named herein have violated the Commodity Exchange Act (7 U.S.C. § 1 et seq.), hereinafter called the act, and the regulations made pursuant thereto (17 CFR, Part 1), hereinafter called the regulations, and in accordance with the provisions of section 6(b) of the act (7 U.S.C. § 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

The respondent Harry Kay (also known as Aaron D. Schlecter) is an individual whose last known address is 3051 Arabian Road, Las Vegas, Nevada. At all times during the periods referred to in this complaint, the said respondent was a member of the Board of Trade of the City of Chicago.

II

The respondent Harry Kay & Associates, Inc., a Nevada corporation, was, at all times during the periods referred to in this complaint, a registered futures commission merchant under the act. At all such times, the respondent Harry Kay (also known as Aaron D. Schlecter) was in complete control of the said corporation, initiated and carried out the

acts, dealings and transactions of the corporation, and used the corporation as an instrument to conduct his own business.

III

The Board of Trade of the City of Chicago (hereinafter called the Chicago Board of Trade), the Chicago Mercantile Exchange and the New York Mercantile Exchange were, at all times during the periods referred to in this complaint, duly designated contract markets under the act.

IV

The respondents, during the period from November 16, 1962, through May 9, 1963, converted to their own use funds amounting to approximately \$ 60,000, which consisted of funds received by them in their capacity of futures commission merchant from their customers in connection with orders to make transactions in commodities for future delivery, and funds accrued to such customers in connection with dealings in commodity futures.

V

As a result of the conversion of funds as described in paragraph IV above, the respondents were undersegregated in the amount of approximately \$ 60,000 on May 9, 1963, that is, the total amount of customers' funds held in segregation was insufficient by the aforesaid sum to pay off all credits and equities due to such customers.

VI

The respondents, during the period from November 16, 1962, through May 8, 1963, accepted 71 orders from 23 different customers for the execution of transactions in commodity futures on the Chicago Board of Trade, the Chicago Mercantile Exchange and the New York Mercantile Exchange, and in connection therewith falsely reported to these customers that transactions in commodity futures had been executed on the said markets for such customers' accounts, whereas, in truth and in fact, no such transactions had been executed.

VII

The respondents, during the period from February 18 through May 7, 1963, made purchases and sales of commodity futures on the Chicago Board of Trade and the Chicago Mercantile Exchange for the respondents' own use and benefit, and placed 81 of such trades in their customers' accounts carried by clearing members, commingling the open contract positions and financial results of such trades with the open contract positions and financial results of the transactions of the respondents' customers.

VIII

The respondents, during the period from November 16, 1962, through May 9, 1963, did not make a daily computation nor maintain a permanent record of the amount of customers' money required to be held in segregated account, nor prepare nor maintain full, complete and systematic records of all commodity futures transactions made through them on or subject to the rules of contract markets.

IX

The futures transactions described in this complaint were capable of being used for hedging transactions in interstate commerce, or determining the price basis of transactions in interstate commerce, or for delivering commodities sold, shipped or received in interstate commerce.

X

By reason of the acts and omissions described in this complaint; (1) the respondents cheated and defrauded their customers, wilfully deceived such customers, wilfully made false reports to such customers, and bucketed orders received from such customers, in violation of section 4b of the act (7 U.S.C. § 6b); (2) the respondents knowingly confirmed to their customers fictitious trades, in violation of section 4c of the act (7 U.S.C. § 6c); (3) the respondents knowingly failed to treat and deal with customers' funds as belonging to such customers, failed to segregate and to account separately for such funds, used such funds to margin and guarantee the trades and secure and extend the credit of the respondents, commingled customers' funds with funds belonging to the respondents, and failed to keep records with respect to customers' funds, in violation of sections 4d(2) and 4g of the act (7 U.S.C. §§ 6d(2), 6g), and sections 1.20, 1.21, 1.22 and 1.32 of the regulations (17 CFR 1.20, 1.21, 1.22, 1.32); and (4) the respondents failed and refused to keep

books and records pertaining to futures transactions in the form and manner required by the Secretary of Agriculture, in violation of section 4g of the act (7 U.S.C. § 6g) and section 1.35 of the regulations (17 CFR 1.35).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer with an original and five copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless hearing is waived, either expressly or by failure to file an answer, or by filing an answer in which all of the material allegations of fact contained in the complaint are admitted and a hearing is not requested, a hearing will be held at 10:00 a.m., local time, on the 15th day of April 1964, in Las Vegas, Nevada, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing the respondents will have the right to appear and show cause, if any

there be, why an order should not be made directing that all contract markets refuse all trading privileges to the respondents for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.

February 26, 1964

/s/ George L. Mehren

Assistant Secretary

LOAD-DATE: June 12, 2008

