

Commodity Futures Trading Commission
CEA CASES

NAME: CHARLES KEESHIN, INC., CHARLES KEESHIN, SEYMOUR M. KEESHIN, AND HAROLD VISION

CITATION: 17 Agric. Dec. 1193

DOCKET NUMBER: 89

DATE: DECEMBER 23, 1958

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(No. 5725)

In re CHARLES KEESHIN, INC., CHARLES KEESHIN, SEYMOUR M. KEESHIN, AND HAROLD VISION. CEA Docket No. 89. Decided December 23, 1958.

Customers' Funds -- Revocation of Registration -- Denial of Trading Privileges

The petition of respondents Charles Keeshin and Harold Vision to reopen after default is granted and the matter is remanded to the hearing examiner for the purpose of hearing with respect to these respondents. It is concluded that the remaining respondents violated provisions of the act and regulations thereunder with respect to customers' funds. The registration of respondent Charles Keeshin, Inc., as a futures commission merchant is revoked and trading privileges denied until further order of the Secretary and trading privileges to respondent Seymour M. Keeshin are denied for a period of six months.

Mr. Benj. M. Holstein, for Commodity Exchange Authority. *Mr. Richard A. Griffin*, of Chicago, Illinois, for respondents. *Mr. Clarence H. Girard*, Hearing Examiner.

Decision by Thomas J. Flavin, Judicial Officer

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. 1952 ed. Chapter 1), instituted by a

complaint and notice of hearing issued under section 6(b) of the act (7 U.S.C. 1952 ed. § 9) November 6, 1958, by the Acting Secretary of Agriculture. The complaint names as respondents Charles Keeshin, Inc., an Illinois corporation, and three individuals, Charles Keeshin, Seymour M. Keeshin and Harold Vision, who are, respectively, Chairman of the Board of Directors and Treasurer, President, and Secretary of said corporation.

It is alleged in the complaint that the corporate respondent 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 customers other than those for whom such funds were held, commingled customers' funds with funds belonging to it and prepared and kept false records with respect to customers' funds, all in violation of sections 4d(2) and 4g of the act (7 U.S.C. 1952 ed. §§ 6d(2), 6g), and sections 1.20, 1.21 and 1.22 of the rules and regulations issued thereunder (17 CFR 1.20, 1.21 and 1.22). The complaint further charges that such violations were initiated and carried out under the supervision and direction of the individual respondents acting in their capacities as officers of the respondent corporation.

At the time of service of the complaint, each 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, none of the respondents filed an answer. The matter was referred to Clarence H. Girard, 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. The hearing examiner filed a report December 4, 1958, recommending that the corporate respondent's registration as a futures commission merchant be revoked, that the registrations of Charles Keeshin and Harold Vision as floor brokers be suspended for a period of six months and that all contract markets be directed to refuse all trading privileges to the corporate respondent until further order of the Secretary

and to each of the individual respondents for a period of six months.

On December 17, 1958, the attorney for all the respondents filed, in effect, a petition to reopen after default or to rehear with respect to respondents Charles Keeshin and Harold Vision only and submitted answers to the complaint on behalf of such respondents. Respondents' attorney states that these two respondents failed to file timely answers due, in effect, to a misunderstanding with respect to procedure and complainant does not object to the relief requested in the petition to reopen. The petition of respondents Charles Keeshin and Harold Vision to reopen after default is hereby granted, the answers submitted in their behalf are hereby filed in this proceeding and the matter is remanded to the hearing examiner for the purpose of hearing with respect to these respondents. However, the issuance of an order as to the remaining respondents is appropriate without further procedure.

FINDINGS OF FACT

1. Respondent Charles Keeshin, Inc., a corporation organized under the laws of the State of Illinois with its principal office and place of business at 1019 West Fulton Street, Chicago, Illinois, was at all times material herein a registered futures commission merchant under the Commodity Exchange Act, a clearing member of the Chicago Mercantile Exchange, and a member of the New York Mercantile Exchange.

2. Respondent Seymour M. Keeshin, an individual, whose address is 4300 Marine Drive, Chicago, Illinois, was at all times involved herein President of the respondent corporation.

3. The acts hereinafter described were initiated and carried out in part at least under the supervision and direction of respondent Seymour M. Keeshin acting in his capacity as President of the respondent corporation.

4. At all times between August 1 and September 9, 1958, inclusive, the respondent corporation had on its books accounts of customers who were trading in commodity futures subject to the Commodity Exchange Act and the rules and regulations issued thereunder, and had to its credit with a bank or with the Clearing House of the Chicago Mercantile Exchange varying sums of money held in segregated accounts and identified

as customers' funds, representing deposits of margin by and trading profits belonging to such customers.

5. On 25 business days during the period August 1 through September 9, 1958, inclusive, the respondent corporation was undersegregated in amounts ranging from \$ 6,822 to \$ 62,530.40, that is, on the 25 days mentioned the total amount of customers' funds held in segregation as above described was from \$ 6,822 to \$ 62,530.40 less than the amount necessary to pay all credits and equities due to such customers.

6. On each business day during the above period, except August 7 and September 9, 1958, the respondent corporation prepared and kept a record purporting to show the amount required to be held in segregation, and the amount segregated, which record indicated that the respondent corporation had excess funds in segregation in amounts ranging from \$ 473.60 to \$ 24,029.10, whereas the said corporation was undersegregated as specified above. On August 9, 1958, no record of funds in segregation was prepared.

CONCLUSIONS

The facts set forth in the Findings of Fact clearly show that the corporate respondent, under the supervision and direction in part of Seymour M. Keeshin, 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 trades and secure and extend the credit of customers other than those for whom such funds were held, commingled customers' funds with funds belonging to the respondent corporation, and prepared and kept false records with respect to customers' funds, all in wilful violation of Sections 4d(2) and 4g of the Commodity Exchange Act (7 U.S.C. 1952 ed. §§ 6d(2), 6g) and sections 1.20, 1.21 and 1.22 of the rules and regulations issued thereunder (17 CFR 1.20, 1.21, 1.22).

The offenses are serious. They violate provisions of the act in which Congress provided, among other purposes, for the protection of customers of registered futures commission merchants against a complete disregard of the trust relationship between such a merchant and his customers. On the undisputed facts before us, the wrongful acts are admittedly wilful. Under the circumstances, we conclude that the registration

of respondent Charles Keeshin, Inc., as a futures commission merchant should be revoked and that all contract markets should be directed to refuse all trading privileges to the corporate respondent until further order of the Secretary and to Seymour M. Keeshin for a period of six months.

ORDER

Effective December 29, 1958, the registration of respondent Charles Keeshin, Inc., as a futures commission merchant is revoked.

Effective on the 30th day after the date of this order all contract markets shall refuse all trading privileges, direct or indirect, to Charles Keeshin, Inc., until further order of the Secretary of Agriculture and to Seymour M. Keeshin for a period of six months.

Copies hereof shall be served on the parties and on each contract market.

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