

Commodity Futures Trading Commission
CEA CASES

NAME: KROLL, DALON & CO., INC. AND STANLEY KROLL

CITATION: 29 Agric. Dec. 877

DOCKET NUMBER: 173

DATE: AUGUST 12, 1970

DOCUMENT TYPE: DECISION AND ORDER

(No. 13,337)

In re KROLL, DALON & CO., INC. and STANLEY KROLL. CEA Docket No. 173. Decided August 12, 1970.

Financial requirements -- Segregation of funds -- Cease and desist -- Stipulation

Respondents consented to the issuance of an order requiring them to cease and desist from failing to meet the minimum financial requirements of the act and failing to segregate customers' funds.

Earl L. Saunders for Commodity Exchange Authority.

Respondents *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 May 14, 1970, under section 6(c) of the Act (7 U.S.C. Supp. IV, 13b). The respondents are charged with violating sections 4d and 4f of the Act (7 U.S.C. Supp. IV, 6d, 6f), and sections 1.17 (34 F.R. 599), 1.20 and 1.21 of the regulations thereunder (17 CFR 1.20, 1.21).

No hearing has been held in this proceeding. The respondents have filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)) in which they (1) withdraw their answer

previously filed, (2) admit the facts hereinafter set forth in paragraphs 1 and 2 of the Findings of Fact, (3) admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraphs 3 and 4 of the Findings of Fact, (4) waive the report of the Hearing Examiner, and (5) consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent Kroll, Dalon & Co., Inc., is now, and was at all times material herein, a corporation organized and existing under the laws of the State of New York, with offices at 25 Broad Street, New York, New York. At all times material herein up to on or about October 15, 1969, the said corporation engaged as futures commission merchant within the meaning of the term "futures commission merchant" as used in the Commodity Exchange Act. Throughout the year 1969, the said corporation was registered as futures commission merchant under the Commodity Exchange Act. In accordance with the provisions of section 4f of the said Act (7 U.S.C. 4f, Supp. IV, 1969) and section 1.16 of the regulations thereunder (17 CFR 1.16), such registration expired on December 31, 1969, and the said corporation is no longer registered under the Commodity Exchange Act.

2. Respondent Stanley Kroll, an individual whose business address is the same as that of the corporate respondent, is now, and was at all times material herein, president of the corporate respondent. At all such times, the operations of the corporate respondent were under the direction and control of respondent Stanley Kroll.

3. (a) At the times hereinafter stated, the respondent corporation, in the regular course of its business as futures commission merchant, carried accounts of customers who traded in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act and regulations. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the said Act and regulations. At all such times, the corporate respondent had to its credit with banks or other depositories sums of money in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers.

(b) On 21 business days between July 14 and August 26, 1969, both inclusive, the respondent corporation was undersegregated in amounts ranging from \$ 282.62 on August 12 to \$ 20,505.67 on August 15 -- that is, the total amount of customers' funds held in segregation as above described, was insufficient, by the aforesaid sums, to pay all credits and equities due to such customers.

4. As of August 31, 1969, the respondent corporation, while engaged as a registered futures commission merchant under the Commodity Exchange Act, failed to meet the minimum financial requirements prescribed by section 1.17 of the regulations (34 F.R. 599) issued by the Secretary of Agriculture under the said Act. According to the report of the respondent corporation's financial condition (Form 1-FR) which it filed with the Commodity Exchange Authority as of August 31, 1969, the respondent corporation lacked approximately \$ 265,000 of having enough working capital to meet such minimum financial requirements.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, the respondents violated sections 4d and 4f of the Commodity Exchange Act and sections 1.17, 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 respondents. 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

Respondent Kroll, Dalon & Co., shall cease and desist from: (1) failing to treat and deal with customers' funds as belonging to such customers as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and the regulations thereunder; (2) failing to hold customers' funds in segregated accounts as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and the regulations thereunder; and (3) engaging as futures commission merchant within the

meaning of the Commodity Exchange Act without meeting the minimum financial requirements prescribed by section 1.17 of the regulations (34 F.R. 559) issued under the Commodity Exchange Act.

Respondent Stanley Kroll shall cease and desist from wilfully causing, aiding, counselling, commanding or inducing respondent Kroll, Dalon & Co., Inc., or any other futures commission merchant, to engage in any act or practice from

which the said respondent corporation is directed to cease and desist by this order.

This order shall become effective on the date of service of a copy thereof upon respondents.

LOAD-DATE: June 10, 2008

