

Commodity Futures Trading Commission  
CEA CASES

**NAME:** WILLARD E. PLATT, GEORGE F. FREY, JR., OLIVER M. HIBBERD, PATRICK M. SHEA, HENRY C. GATLIN, F & G COMMODITIES, AND RALPH N. PETERS & CO.

**CITATION:** 24 Agric. Dec. 93

**DOCKET NUMBER:** 112

**DATE:** FEBRUARY 2, 1965

**DOCUMENT TYPE:** DECISION AND ORDER

**AGRICULTURE DECISIONS**

**BEFORE THE SECRETARY OF AGRICULTURE**

**UNITED STATES DEPARTMENT OF AGRICULTURE**

(No. 9608)

*In re* WILLARD E. PLATT, GEORGE F. FREY, JR., OLIVER M. HIBBERD, PATRICK M. SHEA, HENRY C. GATLIN, F & G COMMODITIES, AND RALPH N. PETERS & CO. CEA Docket No. 112. Decided February 2, 1965.

**Fictitious or wash sales -- Suspension of registration -- Denial of trading privileges -- Consent -- George F. Frey, Jr.**

The registration of George F. Frey, Jr. as floor broker is suspended for a period of 20 days and his trading privileges on the contract markets are denied for a like period for engaging in fictitious or wash sales in violation of the act.

*Mr. Earl L. Saunders* for Commodity Exchange Authority. *Mr. Richard K. Decker*, of Chicago, Ill., for respondent George F. Frey, Jr.

*Decision by Thomas J. Flavin, Judicial Officer*

**PRELIMINARY STATEMENT**

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), instituted by a complaint and notice of hearing issued under section 6(b) of the act by the Assistant Secretary of Agriculture.

Respondent George F. Frey, Jr. is one of seven respondents in this proceeding. The complaint charges that the said respondent offered to enter into and entered into transactions which were of the character of and which constituted wash sales and fictitious sales, in wilful violation of section 4c of the act (7 U.S.C. 6c).

No hearing has been held with respect to any of the respondents. On January 19, 1965, respondent George F. Frey, Jr. submitted for filing in the record, under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)), a stipulation in which he admits the facts hereinafter set forth under the "Findings of Fact," waives hearing on the charges in the complaint, and consents to

the entry of the order contained herein. Respondent Frey has requested that such order be made effective as soon as possible.

**FINDINGS OF FACT**

1. The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, is now and was at all times material to the complaint a duly designated contract market under the Commodity Exchange Act.

2. Respondent George F. Frey, Jr., an individual whose address is 141 West Jackson Boulevard, Chicago, Illinois, was at all times material to the complaint a registered floor broker under the Commodity Exchange Act, a member of the Chicago Board of Trade and a partner in respondent F & G Commodities, and is now a registered floor broker under the act and a member of the Chicago Board of Trade.

3. The transactions referred to herein relate to contracts for the purchase or sale of May 1963 soybean meal futures on the Chicago Board of Trade. Such contracts could have been used for (a) hedging transactions in interstate commerce in soybean meal or the products or byproducts thereof, or (b) determining the price basis of transactions in interstate commerce in soybean meal, or (c) delivering soybean meal sold, shipped, or received in interstate commerce for the fulfillment of such futures contracts.

4. On December 19, 1962, respondent George F. Frey, Jr., acting with knowledge that respondent Willard E. Platt in his capacity as floor broker --

(a) held an order or orders to purchase and to sell for the same customer of respondent F & G Commodities 24 contracts (2,400 tons) of the May 1963 soybean meal future on the Chicago Board of Trade, which constituted an order for a "wash sale"; and

(b) had purchased 23 contracts of May 1963 soybean meal futures from Donald R. Ryan and had sold 10 contracts of May 1963 soybean meal futures to David B. Wrisley all for respondent Ralph N. Peters & Co.

participated in filling the aforesaid order or orders to buy and sell for the same customer of F & G Commodities by entering into purported transactions between himself and respondent Platt.

Respondent Frey participated in filling the said order or orders by the following acts:

(a) by preparing and turning in to respondent F & G Commodities a trading card purporting to show the sale of 23 contracts of May 1963 soybean meal futures to respondent Ralph N. Peters & Co. as opposite clearing member; and

(b) by preparing and turning in trading cards to respondent F & G Commodities purporting to show the purchase of 10 contracts of May 1963 soybean meal futures from respondent Ralph N. Peters & Co. as opposite clearing member. Of the contracts so purported purchased, one was in partial fulfillment of the aforesaid order or orders and, the remaining contracts were taken into the personal account of respondent Frey.

Respondent Frey so acted with the understanding that respondent Platt would participate in so filling the order or orders by turning in his trading card relating to the aforesaid purchase from Donald R. Ryan to F & G Commodities, rather than to respondent Ralph N. Peters & Co.; by causing the said Donald R. Ryan to show on his trading card that respondent Platt had acted for respondent F & G Commodities in such transaction; by preparing and turning in a trading card to respondent Ralph N. Peters & Co. purporting to show that purchase of 23 contracts of May 1963 soybean meal futures had been from F & G Commodities as opposite clearing member; by altering a trading card which respondent Platt turned in to respondent Ralph N. Peters & Co. relating to the aforesaid sale to David B. Wrisley so as to indicate that respondent Platt had sold the 10 contracts of May 1963 soybean meal futures to respondent F & G Commodities as opposite clearing member rather than to Weinberg, Shanley & Wrisley; by causing David B. Wrisley to change his trading card with respect to such transaction so as to indicate that respondent Platt had acted for respondent F & G Commodities; and by preparing and turning in to respondent F & G Commodities trading cards which purported to show the sale of the 10 contracts to Weinberg, Shanley and Wrisley as opposite clearing member. Of the contracts so purported sold, one

was in partial fulfillment of the aforesaid order or orders, and the remaining contracts were for the personal account of respondent Frey.

#### **CONCLUSIONS**

Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) makes it unlawful for any person to offer to enter into, or enter into, any transaction "(A) if such transaction is, is of the character of, or is commonly known to the trade as, a 'wash sale' . . . or is a fictitious sale." The facts admitted by respondent Frey clearly show that he made the trades in question knowing that they were offset or washed out by other trades which were made by another floor broker for the same accounts for which respondent Frey was acting and in the same quantities of the same future and at the same prices as respondent Frey's trades. Such transactions which give the appearance of being purchases and sales but which avoid any actual change in ownership are wash sales or fictitious sales within the meaning of section 4c of the act. *In re Jean Goldwurm, et al.* 7 Agric. Dec. 265 (7 A.D. 265) (1948). It is concluded, therefore, that the said respondent violated the act as charged in the complaint.

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and order, and that they believe that the proposed sanctions are adequate and that the prompt entry of such an order would constitute a satisfactory disposition of this case as against respondent Frey, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant recommends, therefore, that the stipulation and waiver be accepted and that the proposed order be issued. It is so concluded.

#### **ORDER**

The registration of respondent George F. Frey, Jr. as a floor broker is hereby suspended for a period of twenty (20) days, effective on the fifteenth day after the date of entry of this order, and all contract markets shall refuse all trading privileges to the said George F. Frey, Jr. for the said period of twenty days, such refusal to apply to all trading done and positions held by him directly or indirectly.

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

**LOAD-DATE:** June 8, 2008

