

Commodity Futures Trading Commission
CEA CASES

NAME: LANDON V. BUTLER, BLACK GIN COMPANY, BUTLER-FOSTER MILLING COMPANY, AND ALABAMA GRAIN ELEVATOR COMPANY

CITATION: 14 Agric. Dec. 429

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AGRICULTURE DECISIONS

BEFORE THE SECRETARY OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE

(No. 4283)

In re LANDON V. BUTLER, BLACK GIN COMPANY, BUTLER-FOSTER MILLING COMPANY, AND ALABAMA GRAIN ELEVATOR COMPANY. CEA Docket No. 65 -- Decided June 20, 1955.

Suspension of Trading Privileges -- Control of Soybean Market -- Transmission of False, Misleading or Inaccurate Reports -- Default

Where the complaint alleged that respondents attempted to manipulate the price of soybeans and soybean futures and disseminated false or misleading market information with respect to such commodity in violation of the act, and respondents failed to file an answer, *held*, respondents' failure to file an answer constitutes, under the rules of practice, an admission of the allegations in the complaint and a waiver of hearing, and, as the violations admitted appear to be deliberate, flagrant, and serious, all contract market trading privileges shall be refused to respondents until further order of the Secretary of Agriculture.

Mr. Benjamin M. Holstein for the complainant. *Mr. John Curry*, Referee.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a quasi-judicial 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 Commodity Exchange Act. (7 U.S.C., 1952 ed. § 9) on February 4, 1955, by the Assistant Secretary of Agriculture, hereinafter called the complainant.

The complaint names four respondents: one individual and three corporations. Landon V. Butler, the individual respondent, is the president and managing officer and a substantial shareholder in each of the respondent corporations.

The complaint charges that the respondents attempted to manipulate the price of soybeans and soybean futures and disseminated false and misleading market information with respect to such commodities, in violation of Sections 6 (b) and 9 of the Commodity

Exchange Act (7 U.S.C., 1952 ed. §§ 9,13). These charges are based upon allegations that respondent Butler, acting for himself and the corporate respondents, acquired possession or control of large quantities of cash soybeans and soybean futures, withheld deliverable cash soybeans from sale and entered

into contracts or sales which were intended to remove large quantities of cash soybeans from delivery channels, caused the execution of soybean futures transactions on the Chicago Board of Trade at a time and under circumstances designed to result and which did result in artificial price increases, and circulated false and misleading information with respect to the movement of cash soybeans from Chicago and with respect to the ability of elevator operators to honor warehouse receipts issued by them covering soybeans in store in Chicago (Complaint, paragraphs IV-IX, inclusive). It is further alleged that such acts were done for the purpose and with the intent of manipulating the price of cash soybeans and soybean futures (Complaint, paragraph X).

On February 23, 1955, counsel for the respondents requested a 45-day extension of the answer and hearing dates, and the referee accordingly extended these dates to April 16, 1955 and May 18, 1955, respectively. By letter dated March 4, 1955, counsel for the respondents informed the hearing clerk of the Department of Agriculture that he no longer represented the respondents, and a copy of the hearing clerk's acknowledgment of such withdrawal was mailed directly to the respondents. That acknowledgment recites as follows: "It is assumed that the order extending date for filing answer and changing date of hearing in this proceeding has been turned over to the respondents."

No answer has been filed. Section 0.9 (b) of the rules of practice (17 CFR 0.9 (b)) provides as follows:

"Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation."

Section 0.9 (c) of the rules of practice (17 CFR 0.9 (c)) provides as follows:

"The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the referee without further investigation or hearing, shall prepare his report, in which he shall adopt

as his proposed findings of fact the material facts alleged in the complaint."

The complainant filed proposed findings and conclusions so that the referee and the Judicial Officer might have the benefit of the complainant's recommendations with respect to the sanction to be imposed. The referee issued a report recommending that the respondents be found to have violated the act as charged. Copies of the report were served upon the respondents who did not file exceptions. The referee's report is adopted herein.

FINDINGS OF FACT

1. Respondent Landon V. Butler, an individual whose address is 60 South Front Street, Memphis, Tennessee, was at all times material herein a trader in commodity futures and engaged in various business enterprises through respondents Black Gin Company, Butler-Foster Milling Company, and Alabama Grain Elevator Company, more particularly described hereinafter. At all such times the said Landon V. Butler was also a partner in F. M. Crump and Company, Memphis, Tennessee, a registered futures commission merchant under the Commodity Exchange Act. Respondent Landon V. Butler and the said Crump and Company were at all such times members of the Board of Trade of the City of Chicago.

2. Respondent Black Gin Company, a Missouri corporation, is engaged in the business of ginning and merchandising cotton and trading in commodity futures. Respondent Butler-Foster Milling Company, a Missouri corporation, and respondent Alabama Grain Elevator Company, a corporation operating in Alabama, are engaged in the business of milling and merchandising grain and trading in commodity futures. Each of the said corporations maintains an office at 60 South Front Street, Memphis, Tennessee, and respondent Landon V. Butler is the president and managing officer of each of such corporations. All the stock in respondents Black Gin Company and Butler-Foster Milling Company is held, in equal amounts,

by respondent Landon V. Butler, Sydney J. Butler, his wife, not a respondent herein, and Robert Foster and his wife, not respondents herein. Respondent Landon V. Butler is also a substantial stockholder in respondent Alagama Grain Elevator Company.

3. The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, was at all times material

herein a duly designated contract market under the Commodity Exchange Act.

4. During the calendar year 1954, respondent Landon V. Butler and each of the corporate respondents had commodity trading accounts with F. M. Crump and Company, and the said F. M. Crump and Company also carried commodity trading accounts for certain other persons and firms, hereinafter called Crump accounts or Crump customers, including the following:

Allen-Davis Company
Sydney J. Butler
Dabney Crump
Frank Crump
Jackson Davis
Virginia Emmert
Robert Foster
Hunter S. George
Walter Regnery
Rodgers, Fay & Brown
Alexander Sprunt & Son, Inc.
J. K. Willey

5. During the period from January 1, 1954 through November 30, 1954, respondent Landon V. Butler, acting for himself or on behalf of the corporate respondents, traded actively and extensively in soybeans and soybean futures contracts on the Chicago Board of Trade, and during this period there was also active trading in the Crump accounts. In the course of such trading the respondents and the Crump customers purchased and sold substantial quantities of March, May, July, and September, 1954, soybean futures, established large long positions in each of the said futures, stood for delivery thereon, received large quantities of deliverable cash soybeans in satisfaction thereof, and purchased and received, and entered into contracts to purchase and receive, additional large quantities of cash soybeans in store in Chicago grain elevators and available for delivery in satisfaction of such futures contracts. In connection with such trading, respondent Landon V. Butler purchased and received from various Crump customers, and the said customers sold and delivered to respondent Landon V. Butler, large quantities of deliverable cash soybeans which such customers had received in satisfaction of soybean futures contracts which they held. As a result of such trading activities, the combined futures and cash holdings of the respondents and the Crump customers represented a substantial portion of the deliverable stocks of soybeans in Chicago during most of 1954. These holdings were approximately 21 percent on the last day of trading in the March 1954 future, approximately

46 percent on the last day of trading in the May 1954 future, and approximately 94 percent on the last day of trading in the July 1954 future.

6. During the period from January 1, 1954 through November 30, 1954, and as part of and in connection with the activities described in paragraph 5, respondent Landon V. Butler, acting for himself or on behalf of the corporate respondents:

(a) Sold and entered into contracts to sell large quantities of deliverable soybeans under terms and conditions which made them unavailable for delivery in satisfaction of soybean futures contracts on the Chicago Board of Trade;

(b) Withheld deliverable cash soybeans from sale except under terms and conditions which made them unavailable for delivery in satisfaction of soybean futures contracts on the Chicago Board of Trade;

(c) Shipped large quantities of deliverable soybeans out of Chicago under conditions which made these shipments economically unjustified, in order to make such soybeans unavailable for delivery in satisfaction of soybean futures contracts on the Chicago Board of Trade; and

(d) Entered into purported contracts for the purchase and sale of cash soybeans, or for the exchange of cash soybeans, which were not bona fide cash contracts but which, in effect, constituted transactions in futures under which respondent Landon V. Butler was able to control additional large quantities of soybean futures and determine the disposition thereof.

7. On or about March 12, 1954, May 24, 1954, and July 15, 1954, respondent Landon V. Butler transmitted in interstate commerce to members of the grain trade and other interested persons, information purporting to relate to impending large shipments of deliverable cash soybeans from Chicago. Such information was false, misleading, or knowingly inaccurate, and was transmitted by the said respondent with knowledge of the fact that it would be widely circulated or disseminated, and for the purpose and with the intent of causing a price movement in the soybean market.

8. On or about August 13, 1954, respondent Landon V. Butler transmitted in interstate commerce to the United States Department

of Agriculture and the Chicago Board of Trade, reports that a Chicago grain elevator containing large quantities of deliverable soybeans against which negotiable warehouse receipts had been issued was unable to comply with loading out orders given by the holder of such receipts. At the same time, the said respondent published or caused the publication of similar representations or information among members of the grain trade and other interested persons. Such information, reports, and representations were false, misleading, or knowingly inaccurate in that they were designed to indicate that such grain elevator did not have in its possession and could not deliver soybeans of the quality and in the quantity called for by such receipts, which was contrary to fact. Respondent Landon V. Butler transmitted such reports and published or caused the publication of such information with knowledge of the fact that such reports and information would be widely circulated or disseminated, and for the purpose and with the intent of causing a price movement in the soybean market.

9. On or about May 19, 1954, near the termination of trading in the May 1954 soybean futures contract, Jackson Davis, a Crump customer, ordered a floor broker on the Chicago Board of Trade to purchase 625,000 bushels of May 1954 soybean futures. The said Jackson Davis gave the order at a time and under circumstances designed to cause an increase in the price of soybean futures, and for that purpose and with that intent, and as a result of such order, the price of May 1954 soybean futures was increased substantially by rapid and successive bids on an ascending scale made on the floor of the Chicago Board of Trade by brokers attempting to execute the said order. The said brokers were able to purchase only 125,000 bushels of the 625,000 bushels ordered, prior to the close of trading. Such purchases were allocated and distributed among the accounts of various Crump customers, including accounts influenced or controlled by respondent Landon V. Butler.

10. Respondent Landon V. Butler, in his capacity as president and managing officer of the respondent corporations, initiated, supervised, directed and controlled the above-described corporate transactions and was responsible for their execution. The said respondent also advised with respect to and influenced the trading in the Crump accounts, and the above-described

transactions by the Crump customers were undertaken and carried out pursuant to his recommendations and guidance. Respondent Landon V. Butler and the corporate respondents acted for the purpose and with the intent of manipulating the price of deliverable cash soybeans in Chicago and soybean futures on the Chicago Board of Trade in order to enable them to realize larger profits on their cash and futures holdings.

CONCLUSIONS

The soybean futures contracts and cash soybeans which the respondents owned or controlled represented 21 percent of the available deliverable stocks of soybeans in Chicago on the last trading day in March 1954, and increased to 46 percent and 94 percent at the close of trading in May and July, 1954, respectively. These figures justify the conclusion that the respondents controlled the soybean market in Chicago, particularly during June and July, 1954.

The fact that the Crump customers stood for and received delivery of cash soybeans which they then sold to respondent Butler supports the complainant's allegation that these accounts were influenced or controlled by Butler. This allegation is further supported by the fact that a block of 125,000 bushels of May soybean futures, purchased through orders given by one of these customers, was distributed among the accounts of various other Crump customers.

Control of the market, together with the sale of deliverable soybeans under terms and conditions which made them unavailable for delivery on futures, the withholding of deliverable soybeans except under such terms and conditions, the shipment of large quantities of soybeans out of Chicago under conditions which made such shipments uneconomic, and the entry of an order designed to increase and which did substantially increase futures prices on the Chicago Board of Trade, all indicate an intent to manipulate prices as alleged in the complaint. The circulation of false information concerning large shipments of deliverable soybeans out of Chicago, and the transmission of similarly false reports that warehouse receipts calling for large quantities of soybeans in Chicago could not be honored, lend further support to the allegation that the purpose and intent were to cause a rise in the price of soybeans and soybean futures.

The transmission in interstate commerce of "false or misleading or knowingly inaccurate reports concerning crop or market

information or conditions that affect or tend to affect the price of any commodity in interstate commerce," is, in itself, a violation of the act regardless of its connection with any manipulation or attempt to manipulate prices (7 U.S.C., 1952 ed. § 13). *In re Ralph W. Moore*, 9 Agric. Dec. 1299 (9 A.D. 1299), affirmed, 191 F. 2d 775 (C.A. D.C.), certiorari denied, 342 U.S. 860.

These violations are extremely flagrant and serious. They were obviously planned and deliberate and they involved large quantities of the commodity and continued over a long period of time. The Chicago soybean futures market is an important, active, and sensitive market, and is widely used by producers, dealers, manufacturers, and other processors of soybeans and related products, and the disturbance of that market by artificial influences disrupts the orderly flow of soybeans and soybean products in interstate commerce and operates to the detriment of producers and consumers. It is the primary purpose of the Commodity Exchange Act to prevent such disturbances (7 U.S.C., 1952 ed. § 5).

When the introduction of artificial influences is deliberate and is designed for the personal profit of the parties responsible, as is the case here, the sanction should be commensurate with the offense in order to afford the fullest measure of protection to producers, merchandisers, processors and other users of the market.

The recommendation of the Commodity Exchange Authority that trading privileges on all contract markets be denied to the respondents until further order of the Secretary of Agriculture is adopted in this case.

ORDER

Effective thirty (30) days after the date of this order, all contract markets shall refuse all trading privileges to Landon V. Butler, Black Gin Company, Butler-Foster Milling Company, and Alabama Grain Elevator Company, until further order of the Secretary of Agriculture, such refusal to apply to all trading done and positions held directly by Landon V. Butler or by any of the said firms, and also to all trading done and positions held indirectly through persons owned or controlled by them, or any of them, or otherwise.

A copy of this decision and order shall be served upon each of the parties by registered mail or in person and upon each contract market.

LOAD-DATE: June 8, 2008

