

Commodity Futures Trading Commission  
CEA CASES

**NAME:** J. MORONI STOOF AND M-S COMMODITIES, INC.

**CITATION:** 31 Agric. Dec. 1358

**DOCKET NUMBER:** 187

**DATE:** NOVEMBER 3, 1972

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 14,845)

*In re* J. MORONI STOOF and M-S COMMODITIES, INC. CEA Docket No. 187. Decided November 3, 1972.

**Customers' funds -- Conversion and commingling of -- Undersegregation of -- Stipulation -- Cease and desist as to M-S -- Dismissed as to Stoof**

Where the stipulation of M-S Commodities, Inc. has been accepted, said respondent is ordered to cease and desist from violating the Act and regulations as found herein. The proceeding is dismissed as to respondent J. Moroni Stoof.

*Darrold A. Dandy*, for complainant.

*W. Brent Wilcox*, Salt Lake City, Utah, for respondent J. Moroni Stoof.

*L. W. Alberts*, Chicago, Illinois, for respondent M-S Commodities, Inc.

Decision by *Donald A. Campbell*, Judicial Officer

**DECISION AND ORDER**

**PRELIMINARY STATEMENT**

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1), instituted by a complaint and notice of hearing issued on November 17, 1971. It is alleged in the complaint that respondent J. Moroni Stoof, while co-manager of the Salt Lake City, Utah, branch office of respondent M-S Commodities, Inc., converted to his own use funds totaling approximately \$ 50,000 which has been received by respondent M-S Commodities, Inc., from its customers to margin their transactions in commodities for future delivery, or accrued to such customers as the result of such transactions; and that as a result of such conversion and the commingling by the respondent corporation of the trades and funds pertaining thereto, of respondent Stoof with those of ordinary customers of the firm, the respondent corporation was under-segregated, that is, the total amount of customers' funds held in segregation was insufficient to pay all credits and equities due to such customers.

On the basis of such allegations, it is charged in the complaint that respondent J. Moroni Stoof violated sections 4b and 9 of the Commodity Exchange Act (7 U.S.C. 6b and 13), and respondents Stoof and M-S Commodities, Inc., violated section 4d of the Act and sections 1.20, 1.21, and 1.22 of the regulations thereunder (17 CFR 1.20, 1.21, and 1.22).

No hearing has been held in this proceeding. Respondent M-S Commodities, Inc., has filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)) in which it (1) withdraws its answer previously filed, (2) admits the facts hereinafter set forth in paragraphs 1 through 3 of the Findings of Fact, (3) admits for the purposes of this proceeding and for such purposes only the facts hereinafter set forth in paragraph 4 of the Findings of Fact, (4)

waives the report of the Referee and (5) consents to the entry of a specified order.

Respondent J. Moroni Stoof is presently serving a six-year sentence in federal prison which began in December, 1971. The Commodity Exchange Authority does not feel that any useful purpose could be served by continuing this proceeding against respondent Stoof and recommends that it be dismissed as to him.

#### **FINDINGS OF FACT**

1. Respondent J. Moroni Stoof was, during the relevant period of this case, co-manager of the Salt Lake City, Utah, branch office of respondent M-S Commodities.

2. Respondent M-S Commodities, Inc., a corporation with its principal offices at 110 North Franklin Street, Chicago, Illinois, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act.

3. At all times herein specified, respondent M-S Commodities, Inc., in connection with its business as a futures commission merchant, had to its credit with a bank or other depository sums of money in varying amounts, held in segregated account and identified as customers' funds. Such funds represented deposits by customers to margin their transactions in commodities for future delivery, or funds accrued to such customers as the result of such transactions.

4. The respondent corporation was under-segregated in the amounts of \$ 4,223.70 and \$ 37,448.50 on March 15 and 17, 1971, respectively, that is, the total amount of customers' funds held in segregation was insufficient, by the aforesaid sums, to pay all credits and equities due to such customers.

#### **CONCLUSIONS**

By reason of the facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, the respondent M-S Commodities, Inc., violated section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and sections 1.20, 1.21 and 1.22 of the regulations thereunder (17 CFR 1.20, 1.21 and 1.22). The administrative officials of the Commodity Exchange Authority state that according to its investigation in this matter, the respondent corporation's undersegregated condition originated in respondent Stoof's conversion of customers' funds. This was made possible by the commingling of trades and funds of respondent Stoof with those of ordinary customers of respondent M-S Commodities, Inc. In the circumstances, the administrative officials believe that the prompt entry of the proposed order, to which the respondent M-S Commodities, Inc., has consented, and the dismissal of this case as to the respondent Stoof would constitute a satisfactory disposition of this case, serve the public interest and effectuate the purposes of the Act. The complainant recommends that the stipulation be accepted, the proposed order be issued, and the

proceeding be dismissed insofar as it relates to respondent Stoof. It is concluded that the complainant's recommendation should be adopted.

#### **ORDER**

Effective upon the date of service of this order upon the respondent M-S Commodities, Inc., it shall cease and desist from 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. 6f) and the regulations thereunder.

The proceeding is dismissed insofar as it relates to respondent J. Moroni Stoof.

A copy of this Decision and Order shall be served on each of the parties.

**LOAD-DATE:** June 9, 2008

