

Commodity Futures Trading Commission
CEA CASES

NAME: GEORGE SIROTA AND SONS, GEORGE SIROTA, NORMAN L. SIROTA, BENJAMIN SIROTA, HARRY A. ASPINWALL, AND DYKE CULLUM

CITATION: 12 Agric. Dec. 466

DOCKET NUMBER: 54

DATE: MAY 19, 1953

DOCUMENT TYPE: DENIAL OF PETITION TO REOPEN

(No. 3503)

In re GEORGE SIROTA AND SONS, GEORGE SIROTA, NORMAN L. SIROTA, BENJAMIN SIROTA, HARRY A. ASPINWALL, AND DYKE CULLUM. CEA Docket No. 54. Decided May 19, 1953.

Denial of Petition for Reopening of Proceedings

The petition by one of respondents to reopen the proceedings for the purpose of offering in evidence additional exhibits because they were misplaced at the beginning of the hearing and the remaining documents were written after the hearing, and also because these documents will substantiate the testimony of respondent who filed the petition, is denied, since the misplacing of the documents is not a sufficient reason to reopen the record now necessitating a remand to the referee for consideration of the additional material and, furthermore, most of the documents seem to relate to the charges against respondents other than the petitioner.

Mr. Benj. M. Holstein for Commodity Exchange Authority. *Mr. Donald Marks* of Baer, Marks, Friedman, Berliner & Klein, of New York, New York, for respondents Sirota and Sons *et als.* *Mr. Thomas A. Sully*, of New York, New York, for respondent Harry A. Aspinwall. *Mr. Roy St. Lewis*, of Washington, D. C., for respondent Dyke Cullum.

Decision by Thomas J. Flavin, Judicial Officer

DENIAL OF PETITION TO REOPEN

Subsequent to a lengthy hearing and the issuance of a referee's report in this disciplinary proceeding under the Commodity Exchange Act (7 U.S.C., Chapter 1), respondent Dyke Cullum filed a "Petition For Reopening For the Purpose of Offering in Evidence Additional Exhibits."

The petition seeks to have introduced in evidence exhibits consisting of letters, most of the letters being from respondent Dyke Cullum to the Sirota respondents and a telegram from Cullum to the Sirotas. The petition recites that most of the documents sought to be introduced were misplaced at the beginning of the hearing and that the remaining documents were written after the hearing. The petition recites also that these documents will substantiate the testimony of respondent Cullum at the hearing. The

petition to reopen was opposed by the complainant and by the other respondents.

Section 0.21 (2) of the rules of practice requires that petitions to reopen shall show that the evidence sought to be put in by reopening is not merely cumulative and shall set forth a good reason why the evidence was not adduced at the hearing.

The petition fails on both counts. The petition states only that the documents will substantiate Cullum's testimony. The misplacing of the documents at the beginning of a lengthy hearing, held at intervals, is not a sufficient reason to reopen the record now necessitating a remand to the referee for consideration of the additional material.

Furthermore, most of the documents seem to relate to the charges against the respondents other than Cullum. In this proceeding, Cullum is not the complainant but a respondent.

The petition to reopen is denied.

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