

Commodity Futures Trading Commission  
CEA CASES

**NAME:** RAYMOND G. BROWN, SR.

**CITATION:** 5 Agric. Dec. 745

**DOCKET NUMBER:** 40

**DATE:** OCTOBER 16, 1946

**DOCUMENT TYPE:** DECISION AND ORDER

(A. D. 1336)

*In re* RAYMOND G. BROWN, SR., *et al.* CEA Doc. No. 40. Decided October 16, 1946.

**Suspension of Trading Privileges at all Contract Markets -- Failure to File Reports**

Order suspending respondents' trading privileges for 90 days at all contract markets for failure to file reports concerning their egg futures trading.

*Mr. Benj. M. Holstein* for Production and Marketing Administration. *Mr. L. Pearce Bowlus*, of Mount Airy, Maryland, for respondents. *Mr. John J. Curry*, Referee.

*Decision by Thomas J. Flavin, Judicial Officer.*

**PRELIMINARY STATEMENT**

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C., Chapter 1), instituted by a complaint issued by the Secretary of Agriculture on June 10, 1946. The respondents, Raymond G. Brown, Sr., Raymond G. Brown, Jr., Preston Brown, Harry C. Clower, Jr., and R. Bond Baker, of Mt. Airy, Maryland, were charged with violating the reporting requirements of the act in connection with egg futures holdings on the Chicago Mercantile Exchange in 1945 and 1946, and a hearing was set for July 23, 1946, in Washington, D. C. Through their attorney, L. Pearce Bowlus, of Mt. Airy, respondents filed an answer on June 25, 1946. They admitted the allegations of the complaint, stated that their violations were due to unfamiliarity with the reporting requirements and to assurances of their brokers that they were in compliance, and waived oral hearing. On July 8, John J. Curry, Office of the Solicitor, was assigned to act as referee by an Associate Solicitor. On July 24, the Production and Marketing Administration, the complainant, through its attorney, Benjamin M. Holstein, Office of the Solicitor, filed a recommendation that respondents' trading privileges on contract markets be suspended until January 1, 1947, pointing out that

the reports which they admitted filing showed that they were familiar with the reporting requirements.

Without further investigation or hearing, as is authorized by section 0.9(c) of the rules of practice (17 CFR, Cum. and 1945 Supps., Part 0), the referee issued his report on August 28, 1946, proposing substantially the findings of fact set out below and the suspension recommended by complainant. Respondents filed exceptions on September 30, claiming that the proposed order might result in financial loss to them and was too harsh. They requested oral argument, which was set for October 16, 1946, before me in Washington. When respondents

withdrew their request on October 9, the setting was cancelled, and the record was submitted to this office, where this decision has been prepared.

#### **FINDINGS OF FACT**

1. Respondents are Raymond G. Brown, Sr., Raymond G. Brown, Jr., Preston Brown, Harry C. Clower, Jr., and R. Bond Baker, whose address is Mt. Airy, Maryland.

2. From April 2 through May 9 and from June 20 through July 9, 1945, Respondent Raymond G. Brown, Sr., was long 25 or more carlots, the number varying from 25 to 34 on different days, in the October 1945 egg future on the Chicago Mercantile Exchange, a contract market, but did not report his egg futures holdings to the Commodity Exchange Authority, except that he filed one incorrect report on May 15, 1945. These holdings were carried through three different futures commission merchants registered under the act, J. S. Bache and Company (and its successor, Bache and Company), Fahnestock and Company, and Orvis Brothers and Company. On some of the days involved, the account with Fahnestock alone was over 25 carlots long in the October future.

3. From March 17 through August 21, 1945, Respondent Raymond G. Brown, Jr., was long 25 or more carlots, the number varying from 30 to 61 on different days, in the October 1945 egg future; from October 24 through November 3, 1945, he was long 26 and 28 carlots in the November 1945 egg future; and from January 25 through February 19, 1946, he was long 25 or more carlots, the figure varying from 25 to 81 on different days, in the October 1946 egg future, all on the Chicago Mercantile Exchange. Except for two reports, filed April 15 and May 15, 1945, he did not report his egg futures holdings to the Commodity Exchange Authority. These holdings were carried through four registered futures commission merchants, the three mentioned in Finding 2 and Becker, Stone and Company. On many of the days involved he was long more than 25 carlots in one future with Fahnestock alone, and similarly for Becker, Stone alone.

4. From December 3 through December 11 Respondent Preston Brown was long 26 carlots in the December 1945 egg future on the Chicago Mercantile Exchange through Fahnestock and Company and Becker, Stone and Company, and from February 4 through February 15, 1946, he was long 25 and 27 carlots in the October 1946 egg future on such Exchange through Becker, Stone and Company, but he filed no reports with the Commodity Exchange Authority.

5. Respondent Harry C. Clower, Jr., was long 25 carlots on February 15, 30 carlots on February 19, and 32 carlots on February 28, 1946, in the October 1946 egg future on such Exchange through Orvis Brothers and Company, but filed no reports with the Commodity Exchange Authority.

6. On October 29, 30 and 31, 1945, Respondent R. Bond Baker was long 26, 28 and 27 carlots, respectively, in the Chicago Mercantile Exchange November 1945 egg future, but filed no reports with the Commodity Exchange Authority. These holdings were carried with three different commission merchants.

7. The respondents were aware of the reporting requirements relating to egg futures transactions and positions as evidenced by correspondence between certain of the respondents and officials engaged in the enforcement of the Commodity Exchange Act.

8. Respondents are all related, either by blood or marriage. Concerning their egg futures trading, some of them gave powers of attorney to others, some were authorized to trade in and withdraw funds from accounts of others, some guaranteed the accounts of others, there were frequent transfers of funds between their accounts, checks payable to some were endorsed by others, and some transactions by one were distributed, after execution, to accounts of others.

#### **CONCLUSIONS**

Section 4i of the act (7 U.S.C. 6i) requires a person to file reports in accordance with the rules and regulations when he has a long or short position in any future of any commodity equalling or exceeding an amount fixed by the

Secretary of Agriculture. In 17 CFR 5.10, 5.11, and 5.21, regulations under the act, the Secretary has fixed 25 carlots as this amount for eggs and has prescribed the method of reporting. The findings show that respondents violated these provisions, authorizing suspension of their trading privileges on contract markets.

Finding 7 is copied word for word from Paragraph 10 of the complaint, which respondents specifically admitted in their answer; so their claims of ignorance and advice of their brokers are not well taken. Even if proved, such claims would not excuse the violations, but would only lessen the sanction to be imposed, for when respondents

choose to trade on commodity markets, they must do so in accordance with all valid regulations applicable to such trading. That a sanction here might cause them financial loss does not change nor stay the law which authorizes the sanction. Indeed, any sanction may be considered as tending to involve some inconvenience to the person against whom it is invoked.

We are at somewhat of a loss as to just what sanction has been recommended. Considering the dates on which they were filed, we might construe the complainant's suggestion as a suspension of about 150 days, and the proposal of the referee as one of about 120 days. But as we like to give 30 days from the date of suspension orders under the act for respondents to arrange their affairs and for complainant to notify contract markets and futures commission merchants, the recommended suspension until January 1, 1947, if now ordered, would be for a period of less than 50 days. On facts somewhat similar to those here, a suspension of 90 days was recommended and ordered recently in *In re A. Feldstein and Company*, 5 Agric. Dec. 337 (5 A.D. 337). In an effort to apply similar sanctions under similar circumstances, we prefer the period of suspension here to be what we ordered there.

#### **SANCTIONS**

Beginning on the 30th day after this date, all contract markets shall refuse respondents, and each of them, all trading privileges thereon for a period of 90 days. Copies of this decision shall be served on the parties or their counsel of record, and on each contract market.

**LOAD-DATE:** March 12, 2008