

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. 97

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(No. 9609)

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 4, 1965.

Fictitious or wash sales -- Records -- Suspension or registration--Denial of trading privileges -- Consent -- Willard E. Platt

The registration of Willard E. Platt as floor broker is suspended for 20 days and his trading privileges on the contract markets are denied for a like period for engaging in fictitious or wash sales and for violation of the records requirements of the act and the regulations issued thereunder.

Mr. Earl L. Saunders for Commodity Exchange Authority. *Mr. J. R. Blomquist*, of Chicago, Ill., for respondent Willard E. Platt.

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 (7 U.S.C. 9) by the Assistant Secretary of Agriculture.

The complaint names seven respondents and charges them with violating certain provisions of the Commodity Exchange Act and the regulations issued thereunder. Willard E. Platt, one of the respondents, is a registered floor broker under the act, a member of the Chicago Board of Trade and a partner in respondent Ralph N. Peters & Co. He is charged with offering to enter into and entering into transactions which were of the character of and which constituted wash sales and fictitious sales, and failing to keep full and complete records of futures transactions, in wilful violation of sections 4c and 4g of the act (7 U.S.C. 6c, 6g), and section 1.35 of the regulations (17 CFR 1.35).

No hearing has been held with respect to any of the respondents. On January 25, 1965, respondent Willard E. Platt 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, waives hearing on the charges, and consents to the entry of the order contained herein. Respondent Platt 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 herein a duly designated contract market under the Commodity Exchange Act.

2. Respondent Willard E. Platt, an individual whose address is Room 770, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material

herein a registered floor broker under the Commodity Exchange Act, a member of the Chicago Board of Trade and a partner in respondent Ralph N. Peters & Co.

3. The transactions referred to in the complaint in this proceeding relate to contracts for the purchase or sale of May 1963 soybean oil or 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 oil or soybean meal or the products or by-products thereof, or (b) determining the price basis of transactions in interstate commerce in soybean oil or soybean meal, or (c) delivering soybean oil or soybean meal sold, shipped, or received in interstate commerce for the fulfillment of such futures contracts.

4. On December 18, 1962, respondent Willard E. Platt in his capacity as floor broker received from respondent F & G Commodities an order or orders to purchase and to sell for the same account 19 tank cars of the May 1963 soybean oil futures on the Chicago Board of Trade. Acting with knowledge that respondent Oliver M. Hibberd had purchased 17 tank cars of May 1963 soybean oil futures at 8.94 cents per pound from respondent Patrick M. Shea, respondent Platt filled part of the order (17 cars) by means of purported transactions with respondents Hibberd and Shea. In so filling such order or orders, respondent Platt, with the consent of respondents Hibberd and Shea, made entries on trading cards, which he turned in to respondent F & G Commodities purporting to show a sale of 12 tank cars of May 1963 soybean oil futures at 8.94 cents per pound to A. E. Staley Manufacturing Co. as opposite clearing member and a sale of five tank cars of May 1963 soybean oil futures at 8.94 cents per pound to John E. Brennan & Co. as opposite clearing member, the names of such opposite clearing members having been

given to him by respondent Hibberd, the purchase of 17 tank cars of May 1963 soybean oil futures at 8.94 cents per pound from Hayden, Stone & Co., Inc., as opposite clearing member, such name having been given to him by respondent Shea. At the time respondent Platt so filled the order or orders it was understood by respondent Platt that respondents Hibberd and Shea would alter, or cause to be altered, the records pertaining to the transaction between respondents Hibberd and Shea so as to reflect that respondents Hibberd and Shea traded with respondent Platt rather than with each other. The remainder of the order or orders received by respondent Platt from respondent F & G Commodities was filled by respondent Platt by a purchase of one tank car of the May 1963 soybean oil future at 8.96 cents per pound from William E. Casselman, a sale of one tank car of the same future at the same price to Joseph J. Drowinski, a purchase of one tank car of such future at 8.95 cents per pound from Oliver M. Hibberd, and a sale of one tank car of the same future at the same price to Lawler J. Joyce.

5. On December 19, 1962, respondent Platt, acting for respondent Ralph N. Peters & Co., purchased 23 contracts of May 1963 soybean meal futures from Donald R. Ryan who was acting for his own account carried by Lawrence J. Ryan & Company.

6. On December 19, 1962, respondent Willard E. Platt in his capacity as a floor broker received from respondent F & G Commodities an order or orders to purchase and to sell for the same account 24 contracts (2400 tons) of the May 1963 soybean meal future on the Chicago Board of Trade. Respondent Platt participated in the filling of 23 contracts of the order or orders by means of a purported transaction between respondent Platt and the said Donald R. Ryan and a purported transaction between respondents Platt and Frey. Respondent Platt so participated in filling the order or orders by the following acts: (1) turning in to F & G Commodities his trading card relating to the transaction referred to in paragraph 5 above; (2) by causing the said Donald R. Ryan to show on his trading card that respondent Platt had acted for respondent F & G Commodities in this transaction; and (3) by preparing and turning in to respondent Ralph N. Peters & Co. a trading card purporting to show the purchase of 23 contracts of May 1963 soybean meal futures from F & G Commodities as opposite clearing member. Respondent Platt so acted with the understanding that respondent Frey

would participate in so filling the order or orders by preparing and turning in to F & G Commodities a trading card purporting to show a sale of 23 contracts of May 1963 soybean meal futures by respondent Frey to respondent Ralph N. Peters & Co. as opposite clearing member.

7. On December 19, 1962, respondent Platt, acting as floor broker for respondent Ralph N. Peters & Co., sold 10 contracts (1,000 tons) of May 1963 soybean meal futures at \$ 65.10 per ton to David B. Wrisley, who was acting for his own account carried at the firm of Weinberg, Shanley and Wrisley.

8. On December 19, 1962, respondent Willard E. Platt participated in the filling of the remaining one contract of the order or orders referred to in paragraph 6 by means of a purported transaction between respondent Platt and David B. Wrisley and a purported transaction between respondents Platt and Frey. Respondent Platt so participated in filling the order or orders by the following acts: (1) causing David B. Wrisley to change his trading card with respect to the transaction referred to in paragraph 7 above so as to indicate that respondent Platt had acted for F & G Commodities; (2) by preparing and turning in to respondent F & G Commodities trading cards which purported to show the sale of 10 contracts of May 1963 soybean meal futures to Weinberg, Shanley & Wrisley as opposite clearing member; and (3) by altering the trading card which he turned in to respondent Ralph N. Peters & Co. relating to the transaction referred to in paragraph 7 so as to indicate that he had sold the 10 contracts of May 1963 soybean meal futures to respondent F & G Commodities as opposite clearing member. Respondent Platt so acted with the understanding that respondent Frey would participate in so filling the order or orders by preparing and turning in to F & G Commodities trading cards purporting to show the purchase of 10 contracts of the May 1963 soybean meal future from Ralph N. Peters & Co. as opposite clearing member. Respondent Platt entered into such purported purchases and sales with the understanding that one of the 10 contracts of May 1963 soybean meal futures so purchased and sold was in partial fulfillment of the order or orders referred to in paragraph 6 above and that the remaining 9 contracts so purchased and sold would be placed in 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 described in Finding of Fact 4 demonstrate that respondent Platt simultaneously bought and

sold for the same account the same quantities of the same future and at the same prices. The facts described in Findings of Fact 6 and 8 demonstrate that respondent Platt made the trades referred to therein 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 Platt was acting and in the same quantities of the same future and at the same prices as respondent Platt'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 wilfully violated section 4c of the act as charged in the complaint.

Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) requires a registered floor broker to keep records of customers' transactions in the form and manner specified by the Secretary. Section 1.35 of the regulations (17 CFR 1.35) sets forth certain details with respect to the keeping of records by members of contract markets and others. It provides, in pertinent part, that "each member of a contract market shall keep full, complete, and systematic records of all commodity futures transactions . . . made by or through him, on or subject to

the rules of a board of trade." As described in Findings of Fact 6 and 8, respondent Platt prepared his trading cards in such a manner that they failed to show the true opposite clearing members. It is concluded, therefore, that respondent Platt violated the foregoing requirements of section 4g of the act and section 1.35 of the regulations, and that such violations were knowing and wilful.

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 Platt, 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 Willard E. Platt 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 Willard E. Platt 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

