

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.

DOCKET NUMBER: 112

DATE: JUNE 28, 1963

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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., Respondents

CEA Docket No. 112

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents, Willard E. Platt, George F. Frey, Jr., Oliver M. Hibberd, Patrick M. Shea, Henry C. Gatlin, F & G Commodities, and Ralph N. Peters & Co., have violated the Commodity Exchange Act (7 U.S.C. Chapter 1), hereinafter called the act, and the regulations made pursuant thereto (17 CFR, Part 1), hereinafter called the regulations, and in accordance with the provisions of section 6(b) of the act (7 U.S.C. §9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, is now and was at all times material to this complaint a duly designated contract market under the act.

II

Respondent Willard E. Platt, an individual whose address is Room 770, 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times material to this complaint a registered floor broker under the act, a member of the Chicago Board of Trade and a partner in respondent Ralph N. Peters & Co.

III

Respondent George F. Frey, Jr., an individual whose address is care of F & G Commodities, 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times material to this complaint a registered floor broker under the act, a member of the Chicago Board of Trade and a partner in respondent F & G Commodities.

IV

Respondent Oliver M. Hibberd, an individual whose address is care of Simeral Commodities, Inc., 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times material to this complaint a registered floor broker under the act and a member of the Chicago Board of Trade.

V

Respondent Patrick M. Shea, an individual whose address is care of David E. Newman & Company, 141 West Jackson Boulevard, Chicago 4, Illinois, is now and

was at all times material to this complaint a registered floor broker under the act and a member of the Chicago Board of Trade.

VI

Respondent Henry C. Gatlin, an individual whose address is 322 Greenwich Street, New York 13, New York, is now and was at all times material to this complaint a member of a duly designated contract market under the act.

VII

Respondent F & G Commodities, a partnership with offices at 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times material to this complaint a clearing member of the Chicago Board of Trade and a registered futures commission merchant under the act.

VIII

Respondent Ralph N. Peters & Co., a partnership with offices at 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times material to this complaint a clearing member of the Chicago Board of Trade and a registered futures commission merchant under the act.

IX

The transactions referred to in this complaint 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.

X

On December 18, 1962, respondent Oliver M. Hibberd, acting in part as floor broker for A. E. Staley Manufacturing Co., and in part for his own account, purchased 17 tank cars of May 1963 soybean oil futures at 8.94 cents per pound from respondent Patrick M. Shea who was acting in the capacity of floor broker for Hayden, Stone & Co. Incorporated. Respondent Hibberd reported the purchase of 12 of the tank cars to A. E. Staley Manufacturing Co. as having been purchased for its account and the purchase of 5 of the tank cars to John E. Brennan & Co. as having been purchased for respondent Hibberd's own account.

XI

On or about December 18, 1962, respondent Henry C. Gatlin placed an order with respondent F & G Commodities, in its capacity as futures commission merchant, to purchase and to sell for Gatlin's account 19 tank cars of the May 1963 soybean oil future on the Chicago Board of Trade, which order to buy and to sell constituted an order for a "wash sale."

XII

On December 18, 1962, respondent Willard E. Platt, in his capacity as floor broker, received from respondent F & G Commodities the order to purchase and to sell referred to in paragraph XI above. With respect to 17 tank cars, the order was filled by means of purported transactions with respondents Hibberd and Shea. In so filling the order, respondent Platt, with the consent of respondents Hibberd and Shea, made entries on trading cards, which he turned in to respondent F & G Commodities for the account of respondent Gatlin, purporting to show the 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; the sale of 5 tank cars of May 1963 soybean oil futures at 8.94 cents per pound to John E. Brennan & Co. as opposite clearing member; and the purchase of 17 tank cars of May 1963 soybean oil futures at 8.94 cents per pound from Hayden, Stone & Co. Incorporated as opposite clearing member. Respondent Shea, with the consent of respondent Hibberd, altered the entries on respondent Shea's trading card relating to the transaction referred to in paragraph X above so as to indicate that respondent Shea had sold the 17 tank cars of May 1963 soybean oil futures to respondent Platt acting for F & G Commodities, and respondent Shea reported or caused to be reported to Hayden, Stone & Co. Incorporated that the transaction referred to in paragraph X was made with F & G Commodities as opposite

clearing member instead of A. E. Staley Manufacturing Co. and John E. Brennan & Co. as opposite clearing members. Respondent Hibberd reported or caused to be reported to A. E. Staley Manufacturing Co. and John E. Brennan & Co. that the transaction referred to in paragraph X was made with F & G Commodities as opposite clearing member instead of Hayden, Stone & Co. Incorporated as opposite clearing member. Based upon the information so reported or caused to have been reported, Hayden, Stone & Co. Incorporated showed on its records that the transaction referred to in paragraph X was with F & G Commodities as opposite clearing member, and A. E. Staley Manufacturing Co. and John E. Brennan & Co. showed on their records that the transaction referred to in paragraph X was made with F & G Commodities as opposite clearing member. The remainder of the order referred to in paragraph XI 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.

XIII

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.

XIV

On or about December 19, 1962, respondent Henry C. Gatlin placed an order with respondent F & G Commodities, in its capacity as futures commission merchant, to purchase and to sell for Gatlin's account 24 contracts (2,400 tons) of May 1963 soybean meal futures on the Chicago Board of Trade, which order to buy and to sell constituted an order for a "wash sale."

XV

On December 19, 1962, respondents Platt and Frey partially filled the order referred to in paragraph XIV above by means of a purported transaction between respondent Platt and the said David B. Wrisley and a purported transaction between respondents Platt and Frey. Respondent Platt participated in so filling the order by altering a trading card which he turned in to respondent Ralph N. Peters & Co., relating to the transaction referred to in paragraph XIII, so as to indicate that respondent Platt had sold the 10 contracts of May 1963 soybean meal futures to respondent F & G Commodities as opposite clearing member; by causing David B. Wrisley to change his trading card with respect to such transaction so as to indicate that respondent Platt had acted for respondent F & G Commodities; and by preparing and turning in to respondent F & G Commodities trading cards which purported to show the sale of the

10 contracts to Weinberg, Shanley and Wrisley as opposite clearing member. Respondent Frey participated in so filling the order by preparing and turning in trading cards to respondent F & G Commodities purporting to show the purchase of 10 contracts of May 1963 soybean meal futures from Ralph N. Peters & Co., as opposite clearing member. Of the contracts so sold and purchased by respondents Platt and Frey for respondent F & G Commodities, one contract of sale and one contract of purchase were made for the account of respondent Henry C. Gatlin in partial fulfillment of the order referred to in paragraph XIV, and the remaining contracts were made for the personal account of respondent Frey.

XVI

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.

XVII

On December 19, 1962, respondents Platt and Frey filled 23 contracts of respondent Gatlin's order referred to in paragraph XIV above 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 participated in so filling the order by turning in his trading card relating to the

transactions referred to in paragraph XVI to F & G Commodities; 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 by preparing and turning in a trading card to respondent Ralph N. Peters & Co. purporting to show the purchase of 23 contracts of May 1963 soybean meal futures from F & G Commodities as opposite clearing member. Respondent Frey participated in so filling the order by preparing and turning in a trading card to respondent F & G Commodities purporting to show the sale of 23 contracts of May 1963 soybean meal futures to respondent Ralph N. Peters & Co. as opposite clearing member.

XVIII

By reason of the facts alleged in this complaint, respondents Henry C. Gatlin, Willard E. Platt, George F. Frey, Jr. and F & G Commodities offered to enter into and entered into transactions which were of the character of and which constituted "wash sales" and fictitious sales, in wilful violation of section 4c of the act (7 U.S.C. §6c); respondents Oliver M. Hibberd and Patrick M. Shea caused false records to be entered and made false reports in connection with the execution of commodity futures transactions and deceived the persons from whom the orders for such transactions had been received, in willful violation of section 4b of the act (7 U.S.C. §6b); and respondents Willard E. Platt, Ralph N. Peters & Co. and Patrick M. Shea failed to keep full and complete records of futures

transactions in willful violation of section 4g of the act (7 U.S.C. §6g) and section 1.35 of the regulations (17 CFR 1.35).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. The respondents will have twenty (20) days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., an answer with an original and eight copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material and relevant allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless

hearing is waived, either expressly or by failure to file an answer and request a hearing, a hearing will be held at 10:00 a.m., local time, on the 24th day of September 1963, in Chicago, Illinois, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing the respondents will have the right to appear and show cause, if any there be, why an order should not be made suspending or revoking the registrations of respondents Willard E. Platt, George F. Frey, Jr., Oliver M. Hibberd, Patrick M. Shea and Henry C. Gatlin as floor brokers, suspending or revoking the registrations of respondents

F & G Commodities and Ralph N. Peters & Co. as futures commission merchants, and directing that all contract markets refuse all trading privileges to each respondent for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on each of the said respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C., this

28th day of June 1963.

/s/ John P. Duncan, Jr.

John P. Duncan, Jr.

Assistant Secretary

LOAD-DATE: June 12, 2008

