

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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MARKET PROCEEDINGS
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In the Matter of

COMPETITIVE STRATEGIES FOR
AGRICULTURE, LTD.; LEE DONALD
AMUNDSON; TERRY ALLEN DIRKSEN;
JEFFREY JAMES WICHMAN; WILLIAM
EUGENE ARNOLD; GREAT PLAINS
CO-OP; and HERMAN GERDES

CFTC Docket No. 98-4

ORDER GRANTING
RECONSIDERATION

In November 2003, we issued an Opinion in this matter finding respondents Great Plains Co-op (“Great Plains”) and Herman Gerdes (“Gerdes”) liable for violating Section 4(a) of the Commodity Exchange Act (“Act”) by engaging in off-exchange futures transactions. We imposed a cease and desist order on Great Plains, and both a cease and desist order and a ten-year trading prohibition on respondent Gerdes. *In re Competitive Strategies for Agriculture, Inc.*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,635 (CFTC Nov. 25, 2003). We declined the Division of Enforcement’s (“Division”) request that we impose a civil money penalty on Great Plains and Gerdes, noting that such relief would necessitate the additional delay attendant on a remand “to permit the Division to develop the record on net worth and ability to remain in business.” *Id.* at 55,735.

The Division has submitted a timely petition for reconsideration noting that, because the conduct at issue in this matter took place after October 28, 1992, the Commission is only statutorily required to consider whether a proposed civil money penalty is appropriate to the gravity of Great Plains’s and Gerdes’s wrongdoing.

Consequently, the delay attendant on a remand is not a barrier to the imposition of a civil money penalty.

Given these circumstances, we grant reconsideration, and substitute the following language for the current Section V of the Discussion portion of our November 25, 2003 decision:

V

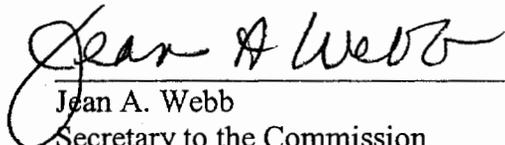
We agree with the Division that a civil money penalty would generally be appropriate to deter the type of off-exchange activity committed by Great Plains and Gerdes. In this case, however, there is evidence that the elevator lost money, rather than profited, from its CSA-related HTA business, and then ceased doing active business in 1996. By the time of the hearing, Gerdes was semi-retired, and had suffered from health problems that affected his ability to work. Given these particular circumstances, we believe that orders directing both respondents to cease and desist from committing further violations of Section 4(a) of the Act, and imposing a ten-year trading ban on Gerdes, will be sufficient to deter them from repeating their wrongful, off-exchange conduct. We recognize that one of the purposes of imposing civil money penalties is to deter not only the respondents in a particular case from engaging in further wrongful activity, but to deter others who might contemplate violating the Act or regulations. In this regard, we emphasize that we will not hesitate to impose monetary sanctions in other cases where such mitigating circumstances are absent.

CONCLUSION

The Division's motion for reconsideration is granted and our November 25, 2003 decision is amended, as specified.

IT IS SO ORDERED.

By the Commission (Chairman NEWSOME and Commissioners LUKKEN and BROWN-HRUSKA).



Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission

Dated: March 15, 2004