

Commodity Futures Trading Commission
CEA CASES

NAME: CONTINENTAL GRAIN COMPANY

CITATION: 33 Agric. Dec. 1057

DOCKET NUMBER: 214

DATE: AUGUST 7, 1974

DOCUMENT TYPE: DECISION AND ORDER

(No. 15,959)

In re CONTINENTAL GRAIN COMPANY. CEA Docket No. 214. Decided August 7, 1974.

Futures trading -- exceeding limits -- Reports -- incomplete or incorrect

The stipulation of respondent has been accepted and the cease and desist order herein is issued, with the provisions as set forth therein.

Darold A. Dandy, for complainant.

Arthur L. Liman, New York, N. Y., for respondent.

Decision by William J. Weber, Administrative Law Judge.

DECISION AND ORDER

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 on June 27, 1973. The respondent is charged with violating sections 4g, 4i and 6(b) of the Commodity Exchange Act (7 U.S.C. 6g, 6i, 9) and sections 1.35, 15.01, 15.02, 18.00, 18.03, 19.00, 19.01, 19.10 of the regulations thereunder (17 CFR 1.35, 15.01, 15.02, 18.00, 18.03, 19.00, 19.01, 19.10).

No hearing has been held in this proceeding. The respondent has filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)) in which it (1) admits the facts hereinafter set forth in paragraphs 1 through 6 of the Findings of Fact, (2) admits for the purpose of this proceeding and for such purposes only the remaining facts set forth in the Findings of Fact, and (3) waives oral hearing on the charges in the complaint and consents to the entry, without further proceedings, of the order contained herein.

Respondent also states in such stipulation that it admits no violation of any law, statute or regulation and any inaccuracies contained in the series 03 and 04 reports referred to in the complaint were inadvertent; clerical in nature or primarily attributable to a failure of communication within the respondent wholly unrelated to the preparation and submission of such reports, that such inaccuracies were brought to the attention of the Commodity Exchange Authority by the respondent and were voluntarily corrected by the respondent with the filing of amended reports. Respondent further states that, notwithstanding such inaccuracies, at no time did the position of the respondent exceed prescribed futures trading limits and at no time did the respondent engage in any improper trading activity.

FINDINGS OF FACT

1. The respondent, a Delaware corporation, with its principal office and place of business at Two Broadway, New York, New York, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act.

2. The Chicago Board of Trade is now, and was at all times material herein, a duly designated contract market under the Commodity Exchange Act.

3. During the period from July 24, 1972 through November 3, 1972, the respondent was a trader which held or controlled a reportable position in wheat, corn, oats, soybeans, soybean oil, and soybean meal futures.

4. The respondent was required, pursuant to the applicable provisions of the Commodity Exchange Act, and the regulations promulgated thereunder, to file the appropriate series 03 reports with the Commodity Exchange Authority showing all transactions executed, and all open contract positions held, for its account in all such futures on all contract markets.

5. During the period from June 2, 1972 through September 29, 1972, the respondent was engaged in merchandising, processing, or dealing in wheat, corn, oats, soybeans and the products and byproducts thereof and held or controlled a reportable position in wheat, corn, oats, and soybean futures.

6. The respondent was required, pursuant to the applicable provisions of the Commodity Exchange Act and the regulations

promulgated thereunder, to file the appropriate series 04 reports with the Commodity Exchange Authority showing, *inter alia*, the makeup of its fixed-price cash grain position including the stocks of such commodities and their products or byproducts owned, the quantity of fixed-price purchase commitments open in such commodities and their products and byproducts, and the quantity of fixed-price sales commitments open in such commodities and their products or byproducts.

7. During the period described in paragraph 3 above, respondent submitted incomplete and inaccurate series 03 reports with respect to transactions in wheat executed on the Chicago Board of Trade for the account of the respondent as alleged in paragraph III of the complaint.

8. During the period described in paragraph 5 above, respondent submitted incomplete and inaccurate series 04 reports with respect to its fixed-price cash position as alleged in paragraph IV of the complaint.

CONCLUSIONS

By reason of the facts as set forth in the Findings of Fact, it is concluded that the respondent violated sections 4g, 4i and 6(b) of the Commodity Exchange Act (7 U.S.C. 6g, 6i, 9) and sections 1.35, 15.01, 15.02, 18.00, 18.03, 19.00, 19.01, 19.10 of the regulations thereunder (17 CFR 1.35, 15.01, 15.02, 18.00, 18.03, 19.00, 19.01, 19.10). Inasmuch as the respondent has consented to the issuance of the order set forth below and complainant has recommended that such order be issued, the order will be issued.

ORDER

1. Respondent Continental Grain Company shall cease and desist from wilfully submitting any incomplete or inaccurate information in reports required under the Commodity Exchange Act.

2. Respondent Continental Grain Company is prohibited from trading on or subject to the rules of any contract market for a period of fifteen (15) days such prohibition to apply to all trading done and positions held directly by Continental Grain Company, either for its own account or as the agent or representative of any other person or firm, and also to all trading done and positions held indirectly through persons or firms owned or controlled by

the said respondent, or otherwise, but such prohibition shall not apply to or otherwise restrict in any way transactions or positions:

(a) which are bona fide hedging transactions or positions within the meaning of Section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)) entered into or held on behalf of or for the account or benefit of the respondent or of persons directly or indirectly controlled by the respondent; or

(b) which are transactions entered into or positions held by Conti-Commodity Services, Inc., a Delaware corporation (CCS), on behalf of or for the account or benefit of CCS or its customers exclusive of the respondent and of persons (other than CCS) directly or indirectly controlled by the respondent.

For the purpose of determining under clause (a) of this paragraph 2 the hedging character of such transactions and positions, the futures and cash or spot transactions and positions of the respondent shall include such transactions and positions of any persons directly or indirectly controlled by the respondent. However, such prohibition [in paragraph 2 of this order regarding trading] shall not become effective unless the respondent should, after complaint and hearing in accordance with established procedure, be found to have violated [within one year from the date of issuance of this order] the Commodity Exchange Act or regulations thereunder by reason of acts other than those constituting the basis for the charges brought in this proceeding, in which event a supplemental order in this proceeding may be issued, without further notice, making effective forthwith the aforesaid prohibition which shall be in addition to any sanction which may be imposed as a result of such subsequent violation.

3. References herein to the Commodity Exchange Act shall mean the Commodity Exchange Act as amended to the date hereof (7 U.S.C 1 *et seq.*).

This order shall have the same force and effect as if entered after full hearing. A copy of this decision and order shall be served on each of the parties and on each contract market.

This order shall become effective upon service upon the respondent.

LOAD-DATE: June 9, 2008

