

Commodity Futures Trading Commission
CEA CASES

NAME: JAMES E. BAGGOT, JR., DONALD W. MORRISON, AND BAGGOT AND MORRISON

CITATION: 19 Agric. Dec. 472

DOCKET NUMBER: 93

DATE: MAY 26, 1960

DOCUMENT TYPE: DECISION AND ORDER

Effective July 1, 1960, all contract markets shall refuse all trading privileges to Consolidated Growers Exchange, Inc., and to Harvey A. Baum for a period of thirty (30) days, such refusal to apply to all trading done and positions held by Consolidated Growers Exchange, Inc., or Harvey A. Baum, directly or indirectly.

A copy of this decision and order shall be served on the respondents and on each contract market.

(No. 6517)

In re JAMES E. BAGGOT, JR., DONALD W. MORRISON, AND BAGGOT AND MORRISON. CEA Docket No. 93. Decided May 26, 1960.

Customers' Funds -- Suspension of Registration -- Denial of Trading Privileges -- Consent Order

Respondents admitted the violations charged, waived hearing, and consented to the sanctions imposed.

Mr. Benj. M. Holstein, for Commodity Exchange Authority. *Messrs. Joseph Borenstein and Richard A. Griffin*, of Chicago, Illinois, for respondents.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

The respondents in this administrative proceeding are a partnership registered as a futures commission merchant and two individuals comprising the partnership. The complaint (paragraph V) charges the respondents with wilful violation of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 1958 ed., § 6d (2)) and the pertinent sections of the rules and regulations (17 CFR 1.20, 1.21, 1.22), because of their failure to handle customers' funds as required by these sections.

These charges are based upon allegations that on various dates between October 31, 1958, and February 29, 1960, the respondent firm was in an undersegregated condition, i.e., the total amount of customers' funds which it held in segregation was insufficient to pay all credits and equities due to such customers; that the deficits ranged from approximately \$ 291 to approximately \$ 37,416; and that the respondents were aware of such deficits.

No hearing has been held. The respondents have filed a document

under section 0.4(b) of the rules of practice (17 CFR 0.4 (b)), in which they admit the facts alleged in the complaint, waive hearing, and consent to entry of the order hereinafter set forth.

FINDINGS OF FACT

1. Respondents James E. Baggot, Jr., and Donald W. Morrison, individuals, are now and were at all times material herein partners, doing business under the firm name of Baggot and Morrison, with offices and a place of business at 141 West Jackson Boulevard, Chicago, Illinois. The said partnership is now and was at all such times a registered futures commission merchant under the Commodity Exchange Act. Each of the said individual respondents is now and was at all such times a member of the Board of Trade of the City of Chicago, and since June 29, 1959, respondent James E. Baggot, Jr., has been a registered floor broker under the Commodity Exchange Act.

2. 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.

3. At the times hereinafter stated, respondent Baggot and Morrison, in the regular course of the partnership business, had on its books accounts of customers who were trading in commodities for future delivery on or subject to the rules of the Chicago Board of Trade. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Commodity Exchange Act and the rules and regulations issued thereunder. At all such times, respondent Baggot and Morrison had to its credit with a bank and with the Board of Trade Clearing Corporation, money and securities in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits belonging to such customers.

4. On the following days, respondent Baggot and Morrison was in an undersegregated condition, that is, the total amount of customers' funds held in segregation by the firm, as described in paragraph 3, was insufficient to pay all credits and equities due to such customers:

(a) On October 31, 1958, respondent Baggot and Morrison

was undersegregated in the amount of approximately \$ 5,620. The said deficit was called to the attention of respondents James E. Baggot, Jr., and Donald W. Morrison by the Commodity Exchange Authority and the matter was discussed with the said respondents.

(b) On each business day between March 30, 1959, and April 9, 1959, both inclusive, respondent Baggot and Morrison was undersegregated in amounts ranging from approximately \$ 736 to approximately \$ 5,281. The said deficits were called to the attention of respondents James E. Baggot, Jr., and Donald W. Morrison by a representative of the Commodity Exchange Authority, who again discussed with the said respondents the necessity for maintaining sufficient funds in segregation to meet the requirements of the Commodity Exchange Act and the pertinent regulations.

(c) On forty (40) business days between October 27, 1959, and December 31, 1959, both inclusive, respondent Baggot and Morrison was undersegregated in amounts ranging from approximately \$ 291 to approximately \$ 37,416. Within this period, the firm was continuously undersegregated from October 27 through December 1, 1959, and on each day during November, 1959, the amount of under-segregation exceeded \$ 19,000. Respondents James E. Baggot, Jr., and Donald W. Morrison were aware of such undersegregated conditions at all times during such periods.

(d) On February 29, 1960, respondent Baggot and Morrison was undersegregated in the amount of approximately \$ 498.

CONCLUSIONS

The respondents have admitted the facts alleged in the complaint, which have been adopted as the finding of fact in this proceeding.

Section 4d(2) of the Act (7 U.S.C. 1958 ed., § 6d(2)) requires each futures commission merchant to treat and deal with the funds of a customer "as belonging

to such customer" and to account separately for such funds, and prohibits the commingling of such funds with funds of the futures commission merchant, or the use of such funds "to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held." Sections

1.20, 1.21 and 1.22 of the regulations (17 CFR 1.20, 1.21, 1.22) contain additional detailed requirements with respect to customers' funds.

It appears that within a 17 month period Baggot and Morrison was in an undersegregated condition on numerous occasions involving a total of 51 business days; that on one occasion this condition existed during nine consecutive business days and on another occasion during at least 23 consecutive business days; and that the deficits were substantial, reaching a maximum of more than \$ 37,000. These undersegregations were clear violations of the provisions of the Act and the regulations.

The frequency and the continuing nature of the infractions, and the fact that most of them occurred after similar infractions had been called to the attention of the respondents and they had been informed of the necessity for corrective action, justify the conclusion that the violations were wilful as alleged in the complaint.

The complainant states that it has carefully considered the proposed order. It is of the opinion that the proposed sanction is sufficient, and that the prompt entry of such an order without further proceedings would serve the public interest and effectuate the purposes of the Commodity Exchange Act. The complainant therefore recommends that the respondents' waiver and consent be accepted and that the proposed order be issued, to become effective as soon as possible. It is so concluded.

ORDER

Effective ten days after the entry of this order, the registration of Baggot and Morrison as a futures commission merchant is suspended for a period of three (3) months, and the registration of James E. Baggot, Jr., as a floor broker is suspended for a period of thirty (30) days.

Effective ten days after the entry of this order, all contract markets shall refuse all trading privileges to Baggot and Morrison for a period of three (3) months, and to James E. Baggot, Jr., and Donald W. Morrison for a period of thirty (30) days, such refusal to apply to all trading done and positions held by the said Baggot and Morrison, James E. Baggot, Jr., or Donald W. Morrison, directly or indirectly.

A copy of this decision and order shall be served on the respondents and on each contract market.

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