

Commodity Futures Trading Commission  
CEA CASES

**NAME:** FELDSTEIN PRODUCE COMPANY, FULTON PRODUCTS CORPORATION, ALBERT FELDSTEIN, MEYER GETZ OR MICHAEL GETZ, ARANESS CORPORATION, BECKER BROKERAGE COMPANY, AND WOODSTOCK, INC.

**CITATION:** 17 Agric. Dec. 721

**DOCKET NUMBER:** 83

**DATE:** AUGUST 29, 1958

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 5571)

*In re* FELDSTEIN PRODUCE COMPANY, FULTON PRODUCTS CORPORATION, ALBERT FELDSTEIN, MEYER GETZ OR MICHAEL GETZ, ARANESS CORPORATION, BECKER BROKERAGE COMPANY, AND WOODSTOCK, INC. CEA Docket No. 83. Decided August 29, 1958.

**Incorrect Records and Reports -- Suspension of Registration -- Denial of Trading Privileges -- Consent Order**

Respondent Woodstock, Inc., carried futures trades and positions on its books and records and entered into commodity futures transactions in the names of respondents Meyer Getz and Fulton Products Corporation when respondent Woodstock, Inc., knew that such transactions and positions were owned and controlled by respondent Albert Feldstein. Respondent Woodstock, Inc., consented to the entry of an order suspending its registration as a commission merchant and denying it trading privileges on all contract markets for a specified period.

*Mr. Benj. M. Holstein*, for Commodity Exchange Authority. *Mr. Lee A. Freeman*, of Chicago, Illinois, for respondent Woodstock, Inc.

*Decision by Thomas J. Flavin, Judicial Officer*

**PRELIMINARY STATEMENT**

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C., 1952 ed., Chapter 1) instituted by a complaint and notice of hearing under section 6(b) of the act (7 U.S.C., 1952 ed., § 9), by the Assistant Secretary of Agriculture on May 9, 1958.

Respondent Woodstock, Inc., a corporation, is a registered futures commission merchant under the Commodity Exchange Act. It is one of seven respondents in this proceeding. The complaint alleges that during the period from October 12, 1956, through June 21, 1957, the said respondent carried egg futures trades and positions on its books and records in the names of Meyer Getz and Fulton Products Corporation, also respondents herein, and that on specified occasions within this period respondent Woodstock, Inc., reported or caused such trades and positions to be reported to the Commodity Exchange Authority as owned and controlled by the said Meyer Getz or Fulton Products Corporation, whereas in truth and in fact and as respondent Woodstock, Inc., knew, such trades and positions were owned and controlled by one Albert Feldstein, who is also a respondent. Based upon these allegations, the complaint charges that respondent Woodstock, Inc., knowingly failed to evidence the said transactions and positions by a record in writing showing the true parties thereto, in wilful violation of section 4 of the act and section 1.37 of the regulations, and knowingly failed to keep books and records pertaining to such transactions in the form and manner required by the Secretary of Agriculture, and knowingly submitted false reports to the Commodity Exchange Authority, in wilful violation

of section 4g of the act and sections 1.35, 5.04, 5.05, 5.06, 5.07 and 5.08 of the regulations (Complaint, paragraph XVI).

No hearing has been held with respect to any of the seven respondents. Consent orders against all respondents except Woodstock, Inc., have heretofore been entered, concluding the proceeding as against such respondents.

On August 22, 1958, respondent Woodstock, Inc., withdrew the answer which it had previously filed and submitted a stipulation under section 0.4(b) of the rules of practice, in which it admits the allegations in the complaint, asserts that it was unaware that its handling of the accounts in question was contrary to the act and regulations or that the reports which it submitted to the Commodity Exchange Authority were false,

waives hearing, and consents to the entry of the order hereinafter set forth.

#### **FINDINGS OF FACT**

1. Respondent Woodstock, Inc., a corporation with offices and a place of business at 1139 West Fulton Market, Chicago, Illinois, is now and was at all times material herein a registered futures commission merchant under the Commodity Exchange Act, and a clearing member of the Chicago Mercantile Exchange, a duly designated contract market under that act.

2. During the period from October 12, 1956, through June 21, 1957, respondent Woodstock, Inc., carried egg futures positions on its books and records in the names of respondent Meyer Getz and Fulton Products Corporation, and entered into egg futures transactions on the Chicago Mercantile Exchange in the names of the said Meyer Getz and Fulton Products Corporation, whereas, as respondent Woodstock, Inc., knew, such trades and positions were owned and controlled by respondent Albert Feldstein.

3. On sixty-nine (69) business days during the period from March 11, 1957, through June 19, 1957, respondent Woodstock, Inc., reported the above-described trades and positions to the Commodity Exchange Authority as belonging to respondents Meyer Getz and Fulton Products Corporation.

#### **CONCLUSIONS**

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR 0.4(b)) provides as follows:

(b) Consent order. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

Respondent Woodstock, Inc., has admitted the facts alleged

against it in the complaint, and they have been adopted as the findings of fact in this proceeding. Such facts establish the Secretary's jurisdiction.

Under section 4 of the Commodity Exchange Act (7 U.S.C., 1952 ed., § 6), a futures commission merchant is required to maintain a written record showing the true parties to any futures contract which he executes or confirms on a customer's behalf. *In re Irving Weis & Co., et al*, 7 Agric. Dec. 180 (7 A.D. 180), affirmed, *Irving Weis & Co. v. Brannan*, 171 F. 2d 232 (C.A. 2, 1948).

Section 1.37 of the regulations under the act (17 CFR 1.37) spells out this requirement with particularity. It provides, in part:

§ 1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account. Each futures commission merchant and each member of a contract market shall keep a record in permanent form which shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried \* \* \*.

Section 4g of the act (7 U.S.C., 1952 ed., § 6g) subjects the registration of a futures commission merchant to suspension or revocation for failure on the part of such futures commission merchant "to make any report required by the Secretary of Agriculture regarding the . . . transactions of the customers" of such futures commission merchant, or for failure to keep the books and records pertaining to the transactions of customers "in the form and manner required by the Secretary of Agriculture . . ."

Section 1.35 of the regulations, as amended (17 CFR, 1957 Supp., 1.35), supplements the above requirement. It provides, in part, as follows:

§ 1.35 Records of cash commodity and futures transactions -- (a) Futures commission merchants and members of contract markets. Each futures commission merchant and each member of a contract market shall keep full, complete, and systematic records of all commodity futures transactions and cash commodity transactions, made by or through him, on or subject to the rules of a board of trade \* \* \*.

Sections 5.04, 5.05, 5.06, 5.07 and 5.08 of the regulations (17 CFR 5.04, 5.05, 5.06, 5.07, 5.08) describe the contents of

reports which a registered futures commission merchant is required to transmit to the Commodity Exchange Authority whenever the account of a customer reaches reporting status. Section 5.08 specifies that the futures commission merchant must furnish "the names and addresses of all . . . persons" who have control over or are known to have a participating financial interest in any customer's account.

When respondent Woodstock, Inc., carried accounts and entered into futures transactions in the names of Meyer Getz and Fulton Products Corporation, with knowledge of the fact that such accounts and such transactions belonged to and were controlled by respondent Albert Feldstein, and when with such knowledge, respondent Woodstock, Inc., reported to the Commodity Exchange Authority that such trades and positions were those of respondents Meyer Getz and Fulton Products Corporation, it clearly violated the above sections of the act and the regulations. The respondent claims that it was unaware of the illegality of its procedure. This is not a valid defense. The necessary requirements are fully set forth in the act and regulations, as above indicated, and it was incumbent upon the respondent, as a futures commission merchant authorized to handle transactions for customers, to acquaint itself with these requirements and to observe them. Failure to do so compels the conclusion that the violations were wilful.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the order to which the respondent proposes to consent. It is the opinion of the complainant that the sanction contained in the proposed order would be adequate, and that the entry of such an order without further proceedings would constitute a satisfactory disposition of this case as against the said respondent, serve the public interest and effectuate the purposes of the Commodity Exchange Act. Complainant, therefore, recommends that the stipulation and waiver be accepted and that the proposed order be issued. It is so concluded.

**ORDER**

The registration of respondent Woodstock, Inc., as a futures commission merchant is hereby suspended for a period of sixty (60) days, effective October 15, 1958, and all contract markets are hereby directed to refuse all trading privileges to the said Woodstock, Inc., for said period of sixty (60) days, *Provided,*

that only the first fifteen (15) days of the said period of suspension of registration and refusal of trading privileges shall become effective as of the said effective date, and that the final forty-five (45) days of the said period of suspension of registration and refusal of trading privileges shall not become effective unless, after complaint, notice, and hearing in accordance with established procedure, respondent Woodstock, Inc., should be found to have violated the Commodity Exchange Act within one year from the date of entry of this order, in which event the Secretary of Agriculture may, without further notice to respondent Woodstock, Inc., issue a supplemental order making effective forthwith the forty-five (45) day remainder of the said period of suspension of registration and refusal of trading privileges.

A copy of this decision and order shall be served upon the said respondent and upon each contract market.

**LOAD-DATE:** June 8, 2008

