

Commodity Futures Trading Commission
CEA CASES

NAME: HOHENBERG BROTHERS COTTON COMPANY AND JULIEN J. HOHENBERG

DOCKET NUMBER: 223; 75-4

DATE: FEBRUARY 5, 1974

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NOTE: LATER BECAME CFTC DOCKET # 75-4

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Hohenberg Brothers Cotton Company and Julien J. Hohenberg, Respondents
CEA Docket No. 223

Complaint and Notice of Hearing Under the Commodity Exchange Act

There is reason to believe that the respondents have violated the Commodity Exchange Act as amended (7 U.S.C. Chapter 1), and this complaint and notice of hearing is issued stating the charges in that respect as follows.

I

(a) Hohenberg Brothers Cotton Company, a corporation with its principal office and place of business at 266 South Front Street, Memphis, Tennessee, is now and was at all times material herein operating as a cotton merchant.

(b) Julien J. Hohenberg, an individual whose business address is the same as that of Hohenberg Brothers Cotton Company, is now and was at all times material herein the president and principal shareholder of Hohenberg Brothers Cotton Company and a member of the New York Cotton Exchange.

II

The New York Cotton Exchange is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act.

III

The allegations of this complaint relate to the purchase and sale of December 1971 cotton futures contracts on and subject to the rules of the New York Cotton Exchange. The first day that this future was open for trading was August 10, 1970. Trading in this future began on October 2, 1970. The first day on which notice of intent to deliver spot cotton in satisfaction of contracts in this future (first notice day) was November 23, 1971. The last day on which trading in this future was conducted (last trading day) was December 9, 1971. The last day on which spot cotton could be delivered in satisfaction of contracts in this future (last day to deliver) was December 23, 1971.

IV

During the period from February 25, 1971 to November 22, 1971, respondents established and maintained a large short futures position in the December 1971 cotton future. At the beginning of trading on May 5, 1971, respondents' short position was 376 contracts, 6.6 percent of the short open interest. At the beginning of trading on June 9, 1971, respondents' short position was 914 contracts, 9.8 percent of the short open interest. At the beginning of trading on October 21, 1971, respondents' short position was 735 contracts, 13.9 percent of the short open interest. At the beginning of trading on November 23, 1971,

first notice day, respondents' short position was 936 contracts, 46.3 percent of the short open interest.

V

On November 22, 1971, respondent Julien J. Hohenberg, by telephone, advised an official of Plains Cotton Cooperative Association, which held a large, long position in the December 1971 cotton future, that Plains would be ill-advised to accept delivery of spot cotton which respondents planned to tender, on the following day, in satisfaction of their open short futures position.

VI

On November 23, 1971, first notice day, respondents tendered 357 transferable notices of delivery of spot cotton in satisfaction of their open short futures contracts.

VII

In pursuing the course of action described in paragraphs V and VI above, respondents acted for the purpose and with the intent of causing the price of the December 1971 cotton future to be abnormally and artificially low on and after November 23, 1971.

VIII

By reason of the facts alleged in this complaint, respondents attempted to manipulate the price of the December 1971 cotton future on November 23, 1971, in wilfull violation of sections 6(b), 6(c) and 9(b) of the Commodity Exchange Act (7 U.S.C. 9, 13b and 13(b)).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served on the respondents. The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C.

20250, an answer with an original and four copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this complaint. Allegations not answered will be deemed admitted for the purposes of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in the complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at a time and place to be specified later, before an administrative law judge 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 appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) prohibiting the respondents from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to the respondents for such period of time as may be determined, and (2) directing that the respondents shall cease and desist from violating the Commodity Exchange Act in the manner alleged herein.

Done at Washington, D.C.

February 5, 1974

[SEE SIGNATURE IN ORIGINAL]

CLAYTON YEUTTER

Assistant Secretary

LOAD-DATE: August 6, 2008

