

Commodity Futures Trading Commission
CEA CASES

NAME: SAN JACINTO PACKING CO., AGRI-EMPIRE, INC., JAMES MINOR

CITATION: 33 Agric. Dec. 746

DOCKET NUMBER: 200

DATE: JUNE 25, 1974

DOCUMENT TYPE: DECISION AND ORDER

NOTE: VERSION REPORTED IN THE AGRICULTURAL DECISIONS HAS NO DATE, BUT THE VERSION NOT IN THE AGRICULTURAL DECISIONS HAS A DATE OF JUNE 25, 1974

(No. 15,868)

In re SAN JACINTO PACKING CO., a proprietorship, AGRI-EMPIRE, INC. a corporation, JAMES MINOR, an individual. CEA Docket No. 200.

Manipulation of prices -- potato futures -- Sanction

Respondents, as stipulated, have consented to the entrance of the order herein against them for violating the Act and regulations as found herein in connection with raising the price of potatoes for future delivery in commerce. Respondents are denied trading privileges for a period of 180 days, as stated in the order herein.

Gilbert A. Horn, Chicago, Ill., and

Harold Reuben, for complainant.

Louis F. Racine, Pocatello, Idaho, for respondents.

Decision by Dorothea A. Baker, 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, filed September 7, 1972. The complaint charges that the respondents attempted to manipulate the prices of potato futures on the Chicago Mercantile Exchange in violation of §§ 6(b), 6(c) and 9 of the Act (7 U.S.C. §§ 9, 13b and 13).

By stipulation filed September 18, 1972 the parties requested an extension of time within which to answer the complaint. The complainant had no objection thereto and an extension until December 15, 1972 was granted. On November 20, 1972 certain of the respondents filed a motion in the nature of discovery. The

complainant was given an opportunity to reply or otherwise respond thereto which it did on December 7, 1972.

On January 10, 1973, a Decision and Order with respect to J. R. Simplot Co., Simplot Eastern Idaho Produce, Inc., and J. R. Simplot was entered pursuant to the filing by them on December 10, 1972 and January 8, 1973 of a joint amended stipulation. On January 15, 1973, the respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor filed an answer to the complaint. Extensions of time were granted other respondents within which to answer or otherwise respond to the complaint, to which complainant had no objection. On May 16, 1973, a Decision and Order with respect to Idaho Potato Packers Corp., a

corporation, Idaho Potato Packers of Idaho, Inc., a corporation, Robert H. Abend and Harold Abend was entered pursuant to the filing by them of a joint stipulation on May 15, 1973. On May 31, 1973, a Decision and Order with respect to Chef-Reddy Foods, a corporation, Peter J. Taggares and Kenneth L. Ramm was entered pursuant to the filing by them of a joint stipulation on May 30, 1973. On June 7, 1973, a Decision and Order with respect to Universal Land-Snake River, a partnership, Edward Spiegel and Modie J. Spiegel was entered pursuant to the filing by them of a joint stipulation on June 6, 1973.

Pursuant to duly issued notice, Administrative Law Judge Dorothea A. Baker held a prehearing conference on April 11, 1974 at Los Angeles, California, and issued a prehearing conference memorandum thereon. Prior thereto Judge Baker had granted application for depositions.

Respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor filed a stipulation on June 19, 1974 under section 0.4(b) of the Rules of Practice under the Commodity Exchange Act (17 CFR 0.4(b)), in which (1) they admit the facts hereinafter set forth in findings of fact one through three, (2) they agree, for the purpose of avoiding a trial in this proceeding and for such purpose only, that the facts hereinafter set forth in findings of fact four and five may be taken as true, (3) they state that nothing in this stipulation shall be deemed to constitute an admission that the Commodity Exchange Act or regulations thereunder have been violated by them, and (4) they waive hearing on the charges and consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent San Jacinto Packing Co. is a proprietorship and

respondent Agri-Empire, Inc., is a corporation, both of which are organized under the laws of the State of California with their principal offices and places of business at San Jacinto, California. The said firms are now and were at all times material to this complaint engaged in the potato growing and merchandising business. At all such times, respondent James Minor, owner and president of said firms, speculatively traded in potato futures on the Chicago Mercantile Exchange in the name of said San Jacinto Packing Co., and directed, controlled, and was responsible for the said firms' transactions herein involved.

2. The Chicago Mercantile Exchange is now and has been at all times material to this complaint a board of trade duly designated as a contract market under the Commodity Exchange Act.

3. The futures transactions referred to in this complaint relate to the May 1971 potato future on the Chicago Mercantile Exchange. Trading in such future commenced on May 11, 1970, and continued until its termination on May 10, 1971. A potato futures contract on the Exchange is a contract for 50,000 pounds of Idaho Russet Burbank potatoes.

4. Respondent James Minor purchased in transactions on the Chicago Mercantile Exchange over a period of time beginning on or about October 29, 1970, and continuing until on or about April 30, 1971, numerous contracts of the May 1971 Idaho potato future for the account of respondent San Jacinto Packing Co., and established, maintained, and kept open in increasing quantities over a period of time from on or about October 29, 1970, through the expiration of trading on May 10, 1971, a "long" position in such future which advanced to the maximum permissible speculative limit of 150 open contracts by on or about April 27, 1971, and which amounted to approximately 121 open contracts at the close of trading on May 10, 1971.

5. Respondents James Minor and San Jacinto Packing Co. did not liquidate or offset their "long" positions in such future prior to the expiration of trading on May 10, 1971.

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 or

notice of proceeding and prior to the hearing in any proceeding, the Secretary in his discretion, may allow the respondent or applicant for registration to consent to an order. In so consenting, the respondent or applicant for registration 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 or notice of proceeding and the stipulation or agreement consenting to the order, the judge may enter the order consented to by the respondent or applicant for registration, which shall have the same force and effect as an order made after oral hearing.

The facts admitted by respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor and set forth in the findings of fact are sufficient to subject them to the jurisdiction of the Secretary of Agriculture under the provisions of the above section.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the proposed order. It is the view of the complainant that the proposed sanctions would constitute a satisfactory disposition of this case as to respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant recommends, therefore, that the stipulation and waiver be accepted and that the proposed order be issued, terminating this proceeding as to respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor. It is so concluded.

ORDER

Effective immediately, respondents San Jacinto Packing Co., Agri-Empire, Inc., and James Minor shall in the future cease and desist from acting in furtherance of any combination, conspiracy, agreement, arrangement or understanding designed for the purpose and with the intent of raising the price of potatoes in interstate commerce or for future delivery on or subject to the rules of any contract market.

Effective immediately, (1) the said respondents are prohibited from trading on or subject to the rules of any contract market for a period of 180 days, and (2) all contract markets shall refuse all trading privileges to the said respondents during this period; such prohibition and refusal to apply to all trading done and in all positions held by the said respondents, or any of them directly or

indirectly; provided, however, that said sanctions shall not apply to a partnership known as Greer-Minor Farms of Tolleson, Arizona, in which Agri-Empire, Inc. has a 40 % interest and in which James Minor and/or Agri-Empire, Inc. does not exercise final judgment or control with respect to trading in commodity futures.

A copy of this Decision and Order shall be served upon each of the parties and upon each contract market.

LOAD-DATE: June 9, 2008

