

Commodity Futures Trading Commission
CEA CASES

NAME: ROBERT E. O'GRADY, CARL D. LEAVEN, LEONARD B. FELDMAN, DONALD T. BARCLAY, TIME TRADING CO., and RITTENHOUSE INVESTMENTS, INC.

CITATION: 30 Agric. Dec. 1819

DOCKET NUMBER: 184

DATE: DECEMBER 7, 1971

DOCUMENT TYPE: DECISION AND ORDER

(No. 14,323)

In re ROBERT E. O'GRADY, CARL D. LEAVEN, LEONARD B. FELDMAN, DONALD T. BARCLAY, TIME TRADING CO., and RITTENHOUSE INVESTMENTS, INC. CEA Docket No. 184.
Decided December 7, 1971.

Wash sales -- Cease and desist order *re Donald T. Barclay and Rittenhouse Investments, Inc.* -- Denial of trading privileges for 10 days *re Donald T. Barclay* -- Stipulation

Respondents Barclay and Rittenhouse are ordered to cease and desist from violations of the act involving wash sales and transactions that are not open and competitive, and respondent Barclay is prohibited from trading on the contract markets for a period of 10 days.

Earl L. Saunders for Commodity Exchange Authority.

Respondents Barclay and Rittenhouse *pro se.*

Decision by Thomas J. Flavin, Judicial Officer

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 September 10, 1971. The respondents are charged with violating section 4c of the Act (7 U.S.C. 6c) and section 1.38 of the regulations thereunder (17 CFR 1.38).

No hearing has been held with respect to any of the respondents. On November 18, 1971, a consent order was issued against respondents O'Grady, Leaven, Feldman and Time Trading Co., concluding the proceeding as against them. On November 30, 1971, respondents Barclay and Rittenhouse Investments, Inc., submitted for filing in the record, under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)), a stipulation in which they (1) admit the facts hereinafter set forth in paragraphs one and two of the Findings of Fact, (2) admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraph three of the Findings of Fact, (3) waive oral hearing and the report of the Hearing Examiner, and (4) consent to the entry of the order contained herein.

FINDINGS OF FACT

1. (a) Respondent Robert E. O'Grady, an individual whose address is 100 North La Salle Street, Fourth Floor, Chicago, Illinois 60602, is now, and was at all times material herein, a registered floor broker under the Commodity Exchange Act and a member of the Chicago Mercantile Exchange.

(b) Respondent Carl D. Leaven, an individual whose address is 100 North La Salle Street, Fourth Floor, Chicago, Illinois 60602, is now, and was at all

times material herein, a registered floor broker under the Commodity Exchange Act and a member of the Chicago Mercantile Exchange.

(c) Respondent Leonard B. Feldman, an individual whose address is 110 North Franklin Street, Room 421, Chicago, Illinois 60606, is now, and was at all times material herein, a registered floor broker under the Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and a general partner in respondent Time Trading Co.

(d) Respondent Donald T. Barclay, an individual whose address is 10615 South Seeley Street, Chicago, Illinois 60643, was at all times material herein, a registered floor broker under the

Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and president of respondent Rittenhouse Investments, Inc. Respondent Donald T. Barclay owns 58 percent of the outstanding capital stock of the respondent corporation. He is no longer a registrant under the Commodity Exchange Act.

(e) Respondent Time Trading Co., a partnership whose address is 110 North Franklin Street, Chicago, Illinois 60606, is now, and was at all times material herein, a clearing member of the Chicago Mercantile Exchange and a registered futures commission merchant under the Commodity Exchange Act.

(f) Respondent Rittenhouse Investments, Inc., a corporation whose address is 10615 South Seeley Street, Chicago, Illinois 60643, was at all times material herein, a clearing member of the Chicago Mercantile Exchange, and is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act.

2. The Chicago Mercantile Exchange is now, and was at all times material herein, a duly designated contract market under the Commodity Exchange Act. The transactions referred to in the complaint relate to the purchase and sale of pork belly futures contracts on the exchange. Such contracts could have been used for hedging transactions in interstate commerce in pork bellies or the products or by-products thereof, or for determining the price basis of transactions in interstate commerce in pork bellies, or for delivering pork bellies sold, shipped, or received in interstate commerce.

3. On December 15, 1969, the respondents entered into the transactions in pork belly futures specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions, the respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at specified prices whereby a profit of \$ 19,500.00 would be reported to respondent Barclay's account and a loss of the same amount would be reported to respondent Feldman's account.

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Buying		Quantity	(1970)	Price	Broker	Customer
Broker	Customer	(No. of contracts)	Future		Selling	
Leaven	Barclay	50	February	\$ 43.30	O'Grady	Feldman
O'Grady	Barclay	50	March	42.70	Leaven	Feldman
O'Grady	Feldman	50	February	43.95	Leaven	Barclay
Leaven	Feldman	50	March	43.35	O'Grady	Barclay

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, respondents Donald T. Barclay and Rittenhouse Investments, Inc., (1) entered into transactions which were, or were of the character of, wash sales or fictitious sales, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c), and (2) executed purchaser and

sales of commodities for future delivery in a manner that was not open and competitive, in wilful violation of section 1.38 of the regulations (17 CFR 1.38).

The complainant states that the Commodity Exchange Authority has carefully considered the proposed order, and that the Authority believes the proposed sanctions are adequate and the prompt entry of such an order would constitute a satisfactory disposition of this case as to respondents Barclay and Rittenhouse Investments, Inc. The complainant states that the Commodity Exchange Authority has informed respondents Barclay and Rittenhouse Investments, Inc., of the Authority's position that if the respondent corporation should trade for its corporate account during the period of the denial of trading privileges to respondent Barclay and while he continues his present relationship with the respondent corporation, such trading would constitute a violation on the part of respondent Barclay of the order denying him trading privileges. The complainant recommends that the stipulation be accepted and the proposed order be issued. It is concluded that the complainant's recommendation should be adopted.

ORDER

Effective upon the date of service of this order upon respondents Donald T. Barclay and Rittenhouse Investments, Inc., they shall cease and desist from: (1) entering into, or offering to enter into, any futures transaction subject to the Commodity Exchange Act if such transaction is, is of the character of, or is commonly known to the trade as, a "wash sale"; and (2) executing any futures transaction subject to the Commodity Exchange Act if such transaction is not executed openly and competitively in accordance with section 1.38 of the regulations issued under the Commodity Exchange Act (17 CFR 1.38).

Effective on the thirtieth day after the date of issuance of this order, respondent Donald T. Barclay is prohibited from trading on or subject to the rules of any contract market for a period of

ten days, and all contract markets shall refuse all trading privileges to him during this period, such prohibition and refusal to apply to all trading done and all positions held by him, directly or indirectly.

LOAD-DATE: June 16, 2008

