

Commodity Futures Trading Commission
CEA CASES

NAME: WALSTON & CO., INC., PAT G. NOEL, AND CARLTON M. SMITH

CITATION: 24 Agric. Dec. 1289

DOCKET NUMBER: 130

DATE: OCTOBER 7, 1965

DOCUMENT TYPE: DECISION AND ORDER

(No. 10,152)

In re WALSTON & CO., INC., PAT G. NOEL, AND CARLTON M. SMITH. CEA Docket No. 130. Decided October 7, 1965.

Suspension of registration -- Denial of trading privileges -- Stipulation as to corporate respondent

Respondent Walston & Co., Inc., consented to the issuance of an order suspending its registration as futures commission merchant for 15 days and denying trading privileges to it for a like period, these sanctions to be held in abeyance, for deceiving customers by selectively closing out offsetting long and short positions of such customers.

Mr. Earl L. Saunders for Commodity Exchange Authority.

Respondent Walston & Co., Inc. *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

DECISION AND ORDER WITH RESPECT TO WALSTON & CO., INC.

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 under section 6(b) of the act (7 U.S.C. 9) by the Assistant Secretary of Agriculture.

Respondent Walston & Co, Inc. is one of three respondents in this proceeding. The respondents are charged with deceiving certain customers of the corporate respondent in wilful violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b), and with applying and closing out offsetting long and short positions of such customers in wilful violation of section 1.46 of the regulations issued under the act (17 CFR 1.46).

No hearing has been held with respect to any of the respondents. On September 29, 1965, respondent Walston & Co., 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 it admits the facts hereinafter set forth, waives hearing on the charges in the complaint, and consents to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent Walston & Co., Inc., is now and was at all times material herein a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business at 74 Wall Street, New York, New York, and branch offices at Houston, Texas, and various other cities throughout the United States. The said corporation is now and was at all such times a clearing member of the Chicago Board of Trade and various other contract markets, and a registered futures commission merchant under the Commodity

Exchange Act, trading in commodity futures on such contract markets for the accounts of its customers.

2. The respondent Pat G. Noel, an individual whose address is 202 Renoir Drive, Houston, Texas, was at all times material herein and until April 23, 1965, employed by the corporate respondent as an account executive in its Houston, Texas, office.

3. Respondent Carlton M. Smith, an individual whose address is 7900 West Heimer Street, Houston, Texas, was at all times material herein and until July 15, 1964, employed by the corporate respondent as an account executive in its Houston, Texas, office.

4. The contracts referred to herein were contracts for the purchase or sale of soybean futures on the Chicago Board of Trade, a duly designated contract market under the Commodity Exchange Act. Such contracts could have been used for hedging transactions in interstate commerce in soybeans or the products

or byproducts thereof, or for determining the price basis of transactions in interstate commerce in such commodity, or for delivering such commodity sold, shipped, or received in interstate commerce.

5. During the period from on or about September 16, 1963, through on or about May 5, 1964, by reason of the actions and instructions of respondents Pat G. Noel and Carlton M. Smith, acting in their capacities as account executives of respondent Walston & Co., Inc., in its Houston, Texas, office, respondent Walston & Co., Inc., selectively closed out certain offsetting long and short soybean futures contracts for the accounts of certain customers (Accounts No. 76-01-865, 76-01-756, 76-02-131 and 76-02-079). The selective closing out of such contracts caused larger profits or smaller losses than actually existed to be reported to such customers, thereby for a period of time concealing from each of such customers the actual amount of his losses. n1

n1 As indicated in the Preliminary Statement, this Decision and Order is with respect only to respondent Walston & Co., Inc., and the facts stated in the Findings of Fact are *verbatim* the admissions of fact contained in the stipulation filed by respondent Walston & Co., Inc. Such findings, however, have no binding effect on respondents Noel and Smith.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that respondent Walston & Co., Inc., in connection with the disposition and execution of contracts of sale of a commodity for future delivery on or subject to the rules of a contract market, and in regard to acts of agency performed with respect to such contracts, deceived the persons on behalf of whom such contracts were made in wilful violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b), and that respondent Walston & Co., Inc. applied and closed out offsetting long and short positions of such persons in wilful violation of section 1.46 of the regulations (17 CFR 1.46).

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and the terms of the order to which respondent Walston & Co., Inc. proposes to consent. It is the opinion of the administrative officials that in the circumstances the proposed order would be adequate, and that the prompt entry of such an order would constitute a satisfactory disposition of the case as against the said respondent, 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. It is so concluded.

ORDER

The registration of respondent Walston & Co., Inc., as a futures commission merchant under the Commodity Exchange Act is hereby suspended for a period of 15 days, and all contract markets are hereby directed to refuse all trading privileges to the said Walston & Co., Inc., for the said period of 15 days, *Provided, However,* that the aforesaid suspension of registration and refusal of trading privileges shall not become effective unless, after complaint, and hearing in accordance with established procedure, respondent Walston & Co., 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 Walston & Co., Inc., issue a supplemental order making effective forthwith the aforesaid suspension of registration and refusal of trading privileges.

A copy of this Decision and Order shall be served on each of the respondents and on each contract market.

LOAD-DATE: June 8, 2008

