

Commodity Futures Trading Commission
CEA CASES

NAME: FAGAN AND COMPANY, AND ALBERT E. FAGAN

DOCKET NUMBER: STIPULATION 44

DATE: OCTOBER 19, 1959

DOCUMENT TYPE: STIPULATION OF COMPLIANCE

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Fagan and Company, and Albert E. Fagan

Stipulation of Compliance No. 44

Fagan and Company is a partnership located at 50 Broadway, New York 5, New York, which enjoys membership privileges on the New York Produce Exchange. Albert E. Fagan is a partner of the said Fagan and Company, a member of the New York Produce Exchange and a registered floor broker under the Commodity Exchange Act. Fagan and Company and Albert E. Fagan have been advised by the Commodity Exchange Authority of an investigation made by it of certain transactions in cottonseed oil futures ordered by the said Albert E. Fagan on behalf of the said Fagan and Company and executed on the New York Produce Exchange on December 9, 1958. The facts concerning these transactions are as follows:

On or about December 9, 1958, Albert E. Fagan instructed Jack W. Sommers, a floor broker on the New York Produce Exchange, to make two so-called "switch" trades effecting, (1) the purchase of 20 contracts of March cottonseed oil futures for the account of Fagan and Company and the sale of 20 contracts of May cottonseed oil futures for the account of Fagan and Company, which sale was subsequently changed to the account of one Lou Holts, and (2) the sale of 20 contracts of March cottonseed

oil futures for the account of Fagan and Company and the purchase of 20 contracts of May cottonseed oil futures for the account of Fagan and Co., which purchase was subsequently changed to the account of the said Lou Holts. Both transactions were to be executed at a premium of two points for the May contracts over the March contracts. Also, transaction (1) was to be made at the high price for the day, and transaction (2) was to be made at the low price for the day. The orders were executed by broker Sommers as follows:

		Bought				Sold	
Customer	Broker	Clearing Member	Price and Quantity	Clearing Member	Broker	Customer	
Fagan & Company	Sommers	Coleman & Co.	20 Mar. @ 1303	Orvis	Preston		
	O'Cone	Orvis	20 May @ 1305	McFadden	Sommers	Holts	
	Preston	Orvis	20 Mar. @ 1283	Coleman & Co.	Sommers	Fagan & Company	
Holts	Sommers	McFadden	20 May @ 1285	Orvis	O'Cone		

The Commodity Exchange Authority has advised Fagan and Company and Albert E. Fagan that in its opinion the transactions above described are in violation of the Commodity Exchange Act and the regulations thereunder, particularly those portions relating to wash trades and the requirement that all trading be done openly and competitively.

No complaint with respect to such violations has been issued and the said Fagan and Company and Albert E. Fagan are desirous of disposing of the matter by entering into a stipulation of compliance, as authorized

by section 0.4(a) of the Rules of Practice under the Commodity Exchange Act (17 CFR, 0.0-0.28).

Therefore, Fagan and Company and Albert E. Fagan stipulates that the above statements regarding the transactions of December 9, 1958, are true, and agree to desist from such practices in the future and to comply fully with the requirements of the Commodity Exchange Act and the regulations of the Secretary of Agriculture thereunder; and specifically to refrain from entering into wash trades and to refrain from entering orders which call for or encourage execution otherwise than by open and competitive means.

Fagan and Company and Albert E. Fagan have been informed that the Commodity Exchange Authority may, in connection with its regulatory activities, publicize the facts concerning the transactions discussed herein in order that floor brokers, futures commission merchants, and all other users of the futures markets may be advised of the views of the Commodity Exchange Authority regarding matters of the type covered herein.

/s/ Fagan & Company

Fagan and Company

By /s/ Albert E. Fagan

Partner

/s/ Albert E. Fagan

Albert E. Fagan

Witnessed by:

/s/ Leroy C. Curtis

(Signed in New York, New York, on October 19, 1959)

LOAD-DATE: June 16, 2008

