

Commodity Futures Trading Commission
CEA CASES

NAME: FRONTIER COMMODITIES, INC. AND EDWIN J. SCHUFFMAN

CITATION: 31 Agric. Dec. 1137

DOCKET NUMBER: 191

DATE: SEPTEMBER 14, 1972

DOCUMENT TYPE: DECISION AND ORDER

(No. 14,760)

In re FRONTIER COMMODITIES, INC. and EDWIN J. SCHUFFMAN. CEA Docket No. 191.
Decided September 14, 1972.

Undersegregation of funds -- Minimum financial requirements -- Failure to make required financial report -- Customers' accounts -- Stipulation -- Cease and Desist

The respondents have consented to the issuance of an order against them to cease and desist from the violations as set forth in the order herein.

John J. Casey, for complainant.

Joel J. Bellows, Chicago, Illinois, for respondents.

Harry S. McAlpin, Chief Hearing Examiner.

Decision by Donald A. Campbell, Judicial Officer.

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C., Chapter 1), instituted by a complaint and notice of hearing issued on June 1, 1972, under section 6 (c) of the Act (7 U.S.C. 13b). The respondents are charged with violating sections 4d, 4f, 4g and 4i of the Commodity Exchange Act (7 U.S.C. 6d, 6f, 6g and 6i) and sections 1.10, 1.17, 1.20, 1.21, 1.22, 15.00, and 17.00 of the regulations thereunder (17 CFR 1.10, 1.17, 1.20, 1.21, 1.22, 15.00, and 17.00).

No hearing has been held in this proceeding. The respondents have filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b)), in which they (1) withdraw their answer filed herein and admit the facts hereinafter set forth in paragraphs 1, 2, and 3 of the Findings of Fact, (2) admit for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraphs 4, 5, 6, and 7 of the Findings of Fact, (3) waive hearing on the charges in the complaint and the report of the referee, and (4) consent to the entry of the order contained herein.

Respondents in their stipulation stated that any violations of the Commodity Exchange Act by reason of the facts therein admitted, were not willful violations.

FINDINGS OF FACT

1. Respondent Frontier Commodities, Inc., a Tennessee corporation with its principal offices at 4110 Hillsboro Road, Nashville, Tennessee, was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act. The respondent corporation is no longer a registrant under the Commodity Exchange Act. At all times material herein up until on or about

December 15, 1971, the name of the respondent corporation was Frontier Securities, Inc.

2. Respondent Edwin J. Schuffman, an individual whose address is 532 Glengarry Drive, Nashville, Tennessee, is now, and was at all times material herein, the president and a director of the respondent corporation and the owner of 50 per cent of its capital stock. At all such times, respondent Schuffman had responsibility for the management, direction and control of the respondent corporation.

3. At all times material herein, the respondent corporation in the regular course of its business as futures commission merchant, carried accounts for customers who traded in commodity futures. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Commodity Exchange Act and the rules and regulations issued thereunder. At all such times, the respondent corporation had to its credit with a bank or other depository sums of money in varying amounts held in segregated account and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers.

4. On January 7, 10, 12, 13, 18 and 31 and February 1, 2, 3, and 4, 1972, the respondent corporation was undersegregated within the range of \$ 1,223.23 to \$ 30,988.30 -- that is, on the ten days mentioned the total amount of regulated commodity customers' funds held in segregation by the respondent corporation was from \$ 1,223.23 to \$ 30,988.30 less than the amount necessary to pay all credits and equities due to such customers.

5. During the period from October 31, 1971 through January 18, 1972, the respondent corporation engaged as a registered futures commission merchant under the Commodity Exchange Act while failing to meet the minimum financial requirements

prescribed by section 1.17 of the regulations (17 CFR 1.17) issued by the Secretary of Agriculture under section 4f of the Act (7 U.S.C. 6f). The respondent corporation lacked \$ 18,727.17 on October 31, 1971 and \$ 109,528.42 on January 18, 1972, of having enough working capital to meet such minimum financial requirements.

6. Under the regulations issued pursuant to the Commodity Exchange Act (17 CFR 1.10), the respondent corporation was obligated at all times material herein to prepare a written computation of its net worth at least once each month, and whenever any such computation showed, or the respondent corporation knew or had reason to believe, that its net worth had declined 20 percent or more from its net worth as shown in the report of its financial condition which it filed with the Commodity Exchange Authority as of September 30, 1971, the respondent corporation was obligated to notify immediately the Commodity Exchange Authority thereof. The respondent firm's computations of its net worth as of November 30 and December 31, 1971, showed that its net worth had declined more than 20 percent of its net worth as shown in its financial report as of September 30, 1971, but the respondent corporation failed or refused to notify the Commodity Exchange Authority thereof, as required under the above-cited section of the regulations.

7. Under the regulations issued pursuant to the Commodity Exchange Act (17 CFR 15.00 (b) and (c), 17.00), the respondent corporation was obligated during the period specified below to report to the Commodity Exchange Authority for each business day with respect to any customer's account on its books which showed a position of 25 contracts or more in a single pork belly future, and with respect to any customer's account on its books which showed a position of 200,000 bushels or more in a single soybean future. On December 14, 15, 20, 21, 1971 and January 5, 6, 7, 10, 14, 17, 18, 19, 26, 31, and February 1, 1972, the respondent corporation carried customers' accounts which had such reportable position, but the respondent corporation failed or refused to report to the

Commodity Exchange Authority with respect to such accounts as required under the above-cited sections of the regulations.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, the respondents violated sections 4d, 4f, 4g and 4i of the Commodity Exchange Act,

and sections 1.10, 1.17, 1.20, 1.21, 1.22, 15.00, and 17.00 of the regulations thereunder. The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by the respondents. The administrative officials believe that the prompt entry of the proposed order would constitute a satisfactory disposition of this case, serve the public interest and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation be accepted and the proposed order be issued. It is concluded that the complainant's recommendation should be adopted.

ORDER

Respondents and each of them shall cease and desist from:

1. failing to treat and deal with customers' funds as belonging to such customers as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and the regulations thereunder;

2. failing to hold customers' funds in segregated account as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and the regulations thereunder;

3. engaging as futures commission merchant within the meaning of the Commodity Exchange Act without meeting the minimum financial requirements of the Act and the regulations there under;

4. failing, while registered as futures commission merchant under the Commodity Exchange Act, to prepare a written computation of net worth at least once each month and failing to notify the Commodity Exchange Authority whenever such respondent knows or has reason to know that its net worth has declined 20% or more from the net worth of such respondent shown in the most recent report of financial condition filed with the Commodity Exchange Authority;

5. failing to file, in accordance with the Commodity Exchange Act and the regulations thereunder, such reports as they are required to file under such Act and regulations; and

6. willfully causing, aiding, counseling, commanding or inducing any person to engage in any act or practice from which the respondents are directed to cease and desist by this order.

This Order shall become effective on the date of service on the respondents.

LOAD-DATE: June 9, 2008

