

Commodity Futures Trading Commission
CEA CASES

NAME: RAYMOND A. GERSTENBERG, RAYMOND M. GERSTENBERG, GERSTENBERG & CO., AND JOHN W. DICKSON, JR.

DOCKET NUMBER: 141

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Raymond A. Gerstenberg, Raymond M. Gerstenberg, Gerstenberg & Co., and John W. Dickson, Jr., Respondents

CEA Docket No. 141

Complaint and Notice of Hearing Under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents named herein have violated the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), and the rules and regulations issued thereunder (17 CFR, Part I). In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C. 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondents Raymond A. Gerstenberg and Raymond M. Gerstenberg, individuals, are now and were at all times material herein members of a partnership doing business under the firm name of Gerstenberg & Co., with offices and a place of business at Room 763, 141 West Jackson Boulevard, Chicago, Illinois. The said partnership is now and was at all times material herein a registered futures commission

merchant under the Commodity Exchange Act and a clearing member of the Chicago Board of Trade. Each of the said individual respondents is now and was at all times material herein a member of the Chicago Board of Trade, and respondent Raymond M. Gerstenberg is now and was at all such times a registered floor broker under the Commodity Exchange Act.

II

Respondent John W. Dickson, Jr., an individual whose business address is Room 1169, 141 West Jackson Boulevard, Chicago, Illinois, is now and was at all times material herein a member of the Chicago Board of Trade.

III

The Chicago Board of Trade (Board of Trade of the City of Chicago) is now and was at all times material herein a duly designated contract market under the Commodity Exchange Act. The transactions referred to in this complaint relate to contracts for the purchase and sale of commodity futures on the Chicago Board of Trade. Such contracts were capable of being used for hedging transactions in interstate commerce in such commodities or the products or byproducts thereof, or for determining the price basis of transactions in interstate commerce in such commodities or the products or byproducts thereof, or for delivering such commodities sold, shipped, or received in interstate commerce.

IV

On the dates hereinafter listed, respondent Raymond A. Gerstenberg entered into, and confirmed the execution of, fictitious transactions in commodity futures, in that the said respondent prepared and turned in to respondent Gerstenberg & Co. trading cards purporting to show that the following transactions had been executed, when, in truth and in fact, no such transactions had been executed.

100> >101>

Date	Commodity	Future	Quantity (Bushels)	Price (Cents per Bushel)
1965	Commodity	Future	Quantity (Bushels)	Price (Cents per Bushel)
2/16	corn	March	20,000	127-5/8
2/16	corn	July	20,000	15,000 at 131-1/2 and 5,000 at 131-3/8
2/18	corn	July	15,000	131-1/2
2/19	corn	March	10,000	127-1/2
2/19	corn	July	15,000	131-1/2
2/25	corn	May	5,000	129-1/2
2/26	corn	May	5,000	129-3/4
2/26	corn	March	5,000	126-3/4
3/2	soybeans	May	175,000	306
3/2	soybeans	July	175,000	306
3/5	oats	September	5,000	67
3/15	corn	September	35,000	128-7/8
3/22	oats	July	15,000	66-1/4
3/22	oats	September	15,000	67
5/3	oats	May	5,000	72-1/4
5/3	corn	July	5,000	134-1/8
5/20	oats	December	10,000	70
7/9	corn	September	20,000	125-3/8
7/9	corn	July	10,000	129
7/13	corn	July	10,000	127
7/13	corn	September	25,000	124-3/4
7/26	soybeans	August	10,000	278-1/4
7/26	soybeans	November	10,000	250-1/4
Date	Commodity	Purchaser	Seller	
1965	Commodity	Purchaser	Seller	
2/16	corn	Gerstenberg & Co.	Raymond A. Gerstenberg	
2/16	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
2/18	corn	Raymond M. Gerstenberg	Raymond A. Gerstenberg	
2/19	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
2/19	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
2/25	corn	Gerstenberg & Co.	Raymond A. Gerstenberg	
2/26	corn	Gerstenberg & Co.	Raymond A. Gerstenberg	
2/26	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
3/2	soybeans	*	Raymond A. Gerstenberg	
3/2	soybeans	Raymond A. Gerstenberg	*	
3/5	oats	Gerstenberg & Co.	Raymond A. Gerstenberg	
3/15	corn	Raymond A. Gerstenberg	*	
3/22	oats	Gerstenberg & Co.	Raymond A. Gerstenberg	
3/22	oats	Raymond A. Gerstenberg	Gerstenberg & Co.	
5/3	oats	Gerstenberg & Co.	Raymond M. Gerstenberg	
5/3	corn	Raymond M. Gerstenberg	Gerstenberg & Co.	
5/20	oats	Raymond A. Gerstenberg	Gerstenberg & Co.	
7/9	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
7/9	corn	Gerstenberg & Co.	Raymond A. Gerstenberg	
7/13	corn	Gerstenberg & Co.	Raymond M. Gerstenberg	
7/13	corn	Raymond A. Gerstenberg	Gerstenberg & Co.	
7/26	soybeans	*	Raymond A. Gerstenberg	
7/26	soybeans	Raymond A. Gerstenberg	*	

(* a person not a respondent herein)

V

On August 25, 1965, respondent Raymond A. Gerstenberg received for execution an order to purchase 15,000 bushels of September oat futures for the account of a customer of respondent Gerstenberg & Co. Respondent Raymond A. Gerstenberg bucketed the said order by taking the sale side thereof for his own account. To accomplish this, respondent Raymond A. Gerstenberg prepared and turned in to respondent Gerstenberg & Co. (1) a trading card purporting to show the purchase from Gerstenberg & Co. of 15,000 bushels of September oat futures at 66 cents per bushel for the account of the customer, and (2) a trading card purporting to show the sale to Gerstenberg & Co. of the same quantity of the same future and at the same price for respondent Raymond A. Gerstenberg's own account.

VI

On September 10, 1965, respondent Raymond A. Gerstenberg received for execution an order to purchase 10,000 bushels of December oat futures for the account of a customer of respondent Gerstenberg & Co. Respondent Raymond A. Gerstenberg bucketed the said order by taking the sale side thereof for his own account. To accomplish this, respondent Raymond A. Gerstenberg prepared and turned in to respondent Gerstenberg & Co. (1) a trading card purporting to show the purchase from Gerstenberg & Co. of 10,000 bushels of December oat futures at 67-1/2 cents per bushel for

the account of the customer, and (2) a trading card purporting to show the sale to Gerstenberg & Co. of the same quantity of the same future and at the same price for respondent Raymond A. Gerstenberg's own account.

VII

With respect to the transactions referred to in paragraphs IV, V and VI above, respondent Gerstenberg & Co. (1) showed on its books and records that the transactions had been executed, and (2) kept the trading cards prepared by respondent Raymond A. Gerstenberg as a part of the records of the said firm and as a record of respondent Raymond A. Gerstenberg.

VIII

On March 8, 1965, respondent Raymond M. Gerstenberg received for execution an order to sell two tank cars of July soybean oil futures for the account of a customer of respondent Gerstenberg & Co. Respondent Raymond M. Gerstenberg bucketed the said order by taking the purchase side thereof for his own account. To accomplish this, respondent Raymond M. Gerstenberg prepared and turned in to respondent Gerstenberg & Co. (1) a trading card purporting to show the sale to Gerstenberg & Co. of two tank cars of July soybean oil futures at 11.95 cents per pound for the account of the customer, and (2) a trading card purporting to show the purchase from Gerstenberg & Co. of the same quantity of the same future and at the same price for respondent Raymond M. Gerstenberg's own account.

IX

On December 20, 1965, respondent Raymond M. Gerstenberg received for execution an order to purchase 10,000 bushels of March corn futures for the account of a customer of Illinois Cooperative Futures Co., a clearing member of the exchange. Respondent Raymond M. Gerstenberg bucketed the said order by taking the sale side thereof for his own account. To accomplish this, respondent Raymond M. Gerstenberg (1) prepared and turned in to Illinois Cooperative Futures Co. a trading card purporting to show the purchase from John W. Dickson, a clearing member of the exchange, of 10,000 bushels of March corn futures at \$ 1.24-1/2 per bushel for the account of the customer, and (2)

prepared and turned in to John W. Dickson a trading card purporting to show the sale to Illinois Cooperative Futures Co. of the same quantity of the same future and at the same price for respondent Raymond M. Gerstenberg's own account at John W. Dickson.

X

On July 19, 1965, respondent Raymond M. Gerstenberg received for execution an order to purchase 10,000 bushels of August soybean futures for the account of a customer of respondent Gerstenberg & Co. Respondent Raymond M. Gerstenberg bucketed the said order by taking the sale side thereof for his own account. The bucketing of the said order was accomplished as follows: (1) Respondent Raymond M. Gerstenberg prepared and turned in to respondent

Gerstenberg & Co. a trading card purporting to show the purchase from Gerstenberg & Co. of 5,000 bushels of August soybean futures at \$ 2.73 per bushel for the account of the customer, and the purchase from John W. Dickson of the same quantity of the same future and at the same price for the account of the customer; (2) Respondent Raymond M. Gerstenberg prepared and turned in to respondent Gerstenberg & Co. another trading card purporting to show the sale to that firm of 5,000 bushels of August soybean futures at \$ 2.73 per bushel for respondent Raymond M. Gerstenberg's own account; and (3) Respondent John W. Dickson, Jr., acting on the instructions of respondent Raymond M. Gerstenberg, prepared and turned in to John W. Dickson a trading card purporting to show the sale to respondent Gerstenberg & Co. of 5,000 bushels of August soybean futures at \$ 2.73 per bushel for the account of Raymond M. Gerstenberg at John W. Dickson.

XI

With respect to the transactions referred to in paragraphs VIII, IX and X, respondent Gerstenberg & Co. (1) showed on its books and records that the transactions had been executed, and (2) kept the trading cards prepared by respondent Raymond M. Gerstenberg as a part of the records of the said firm and as a record of respondent Raymond M. Gerstenberg.

XII

On July 13, 1965, respondent Gerstenberg & Co., having received an order to sell 15,000 bushels of July corn futures, wilfully and knowingly, and without the prior consent of its customer, became the buyer in respect to the selling order of such customer. In filling the said order, respondent Raymond M. Gerstenberg, acting as selling floor broker, sold 15,000 bushels of July corn futures at \$ 1.27 per bushel for the customer's account to respondent Raymond A. Gerstenberg who, acting as buying floor broker, made the corresponding purchase for the corn hedge account of respondent Gerstenberg & Co. Neither of the said individual respondents prepared a trading card with respect to such transaction which showed his own name and identified the opposite floor broker with whom the transaction was executed.

XIII

By reason of the facts alleged in this complaint: (1) respondents Raymond A. Gerstenberg and Raymond M. Gerstenberg entered into, and confirmed the execution of, transactions which were fictitious sales, and bucketed customers' orders, in wilful violation of sections 4b and 4c of the Commodity Exchange Act (7 U.S.C. 6b, 6c); (2) respondent Gerstenberg and Co. knowingly, and without the prior consent of its customer, became the buyer in respect to the selling order of such customer, in wilful violation of section 4b of the Act; (3) respondent John W. Dickson, Jr., entered into,

and confirmed the execution of, a transaction which was a fictitious sale, in wilful violation of section 4c of the Act; and (4) each of the respondents prepared and kept false and incomplete records of futures transactions in wilful violation of section 4g of the Act and section 1.35 of the regulations (7 U.S.C. 6g; 17 CFR 1.35).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. The respondents will have twenty (20) days after the receipt of this complaint in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer with an original and six copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in the complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at 10:00 a.m., local time, on January 18, 1967, in Chicago, Illinois, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing the respondents will have the right to appear and show cause, if any

there be, why an order should not be made suspending or revoking the registration of respondent Raymond M. Gerstenberg as floor broker, suspending or revoking the registration of respondent Gerstenberg & Co. as futures commission merchant, and directing that all contract markets refuse all trading privileges to each respondent for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on each of the said respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.

November 18, 1966.

[SEE SIGNATURE IN ORIGINAL]

Assistant Secretary

LOAD-DATE: June 12, 2008

