

Commodity Futures Trading Commission
CEA CASES

NAME: GREAT WESTERN FOOD DISTRIBUTORS, INC., NATHANIEL E. HESS, CHARLES S. BORDEN, THOMAS F. HAYNES AND HARTLEY L. HARRIS

CITATION: 12 Agric. Dec. 847

DOCKET NUMBER: 48

DATE: JULY 31, 1953

DOCUMENT TYPE: MODIFICATION OF ORDER

(No. 3565)

In re GREAT WESTERN FOOD DISTRIBUTORS, INC., NATHANIEL E. HESS, CHARLES S. BORDEN, THOMAS F. HAYNES AND HARTLEY L. HARRIS. CEA Docket No. 48. Decided July 31, 1953.

Modification of Order to Permit Trading Privileges

The order of June 20, 1951 is hereby modified to permit respondents Great Western Food Distributors, Inc., Nathaniel E. Hess, and Charles S. Borden to trade for customers other than themselves or each other, in their capacities as registered futures commission merchants or floor brokers, as the case may be.

Mr. Bernard Tomson of Bernstein, Weiss, Tomson, Hammer, and Parter, of New York, New York, and *Mr. George L. Siegel* of Arbey, Hodes, and Mantynband, of Chicago, Illinois, for respondents.

Decision by Thomas J. Flavin, Judicial Officer

MODIFICATION OF ORDER

On June 20, 1951, an order was entered (10 Agric. Dec. 783 (10 A.D. 783)) directing all contract markets to refuse all trading privileges to respondents Great Western Food Distributors, Inc., Nathaniel E. Hess, and Charles S. Borden, for a period of one year. The said order was subsequently stayed pending appeal, and on June 22, 1953, an order was entered vacating the stay and directing that the order of June 20, 1951, become effective September 1, 1953.

The respondents filed a petition on July 30, 1953, asking that the order of June 20, 1951, be clarified or modified to permit trading by respondents in their registered capacities for customers other than themselves. Petitioners assert that the order of June 20, 1951, does not suspend the registrations of Great Western Food Distributors, Inc., as futures commission merchant, Nathaniel E. Hess as floor broker, and Charles S. Borden as floor broker. The petitioners further assert that the complaint charges no misconduct against respondents in their registered capacities for customers other than themselves.

It is not necessary to pass on the merits of petitioners' asserted grounds for clarification or modification of the order. The complaint issued against respondents on July 12, 1948, cited respondents to show cause why all contract markets should not refuse all trading privileges to each of the respondents, and to show cause also why the registration of Great Western Food Distributors, Inc. as a futures commission merchant, and the registrations of Nathaniel

E. Hess and Charles S. Borden as floor brokers should not be suspended or revoked.

Neither the complainants' suggested order nor the order issued on June 20, 1951, mentions the registration of Great Western Food Distributors, Inc., as a futures commission merchant, and Nathaniel E. Hess and Charles S. Borden as floor brokers. The fact that the sanction contained in the suggested order and in the final order varied from the sanction specified in the complaint may have misled the respondents and prevented them from arguing for a lesser sanction at the appropriate time.

Accordingly, the order of June 20, 1951, is hereby modified to permit respondents Great Western Food Distributors, Inc., Nathaniel E. Hess, and Charles S. Borden to trade for customers other than themselves or each other, in their capacities as registered futures commission merchants or floor brokers, as the case may be.

A copy hereof shall be served upon the respondents and the contract markets by registered mail.

LOAD-DATE: June 8, 2008

