

Commodity Futures Trading Commission
CEA CASES

NAME: JOHN HENRY PHELAN, III

CITATION: 23 Agric. Dec. 616

DOCKET NUMBER: 119

DATE: JUNE 30, 1964

DOCUMENT TYPE: DECISION AND ORDER

(No. 9120)

In re JOHN HENRY PHELAN, III. CEA Docket No. 119. Decided June 30, 1964.

Trading Limits -- Reports -- Denial of Trading Privileges -- Consent

All contract markets are ordered to refuse trading privileges to respondent for a period of 30 days, for failure to file required reports with respect to his trading and positions in potato and grain futures in violation of section 4i of the Commodity Exchange Act.

Mr. Earl L. Saunders for Commodity Exchange Authority. Respondent *pro se*.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is a proceeding under the Commodity Exchange Act (7 U.S.C. Chapter 1), in which the respondent, a trader in commodity futures, is charged with failure to submit required reports concerning transactions in wheat futures, soybean futures and potato futures, in violation of section 4i of the act (7 U.S.C. § 6i) and the applicable regulations thereunder.

No hearing has been held with respect to this proceeding. On June 17, 1964, the respondent submitted a stipulation under section 0.4(b) of the rules of practice (17 CFR § 0.4(b)), in which he admits the facts hereinafter set forth under "Findings of Fact," waives hearing on the charges in the complaint, and consents to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent, John Henry Phelan, III, is an individual whose mailing address is P.O. Box 2270, Beaumont, Texas.

2. The Board of Trade of the City of Chicago, hereinafter referred to as the Chicago Board of Trade, and the New York Mercantile Exchange are now and were at all times material herein duly designated contract markets under the Commodity Exchange Act.

3. On each business day during the periods November 29, 1963, through January 27, 1964, and February 27 through March 4, 1964, the respondent held or controlled a net long or a net short position in wheat futures on the Chicago Board of Trade, which position ranged from 200,000 bushels to 250,000 bushels in a single future. By reason of the fact that such quantities were equal to or in excess of 200,000 bushels, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all wheat futures on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7

U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

4. On December 3, 4 and 12, 1963, January 7, 8 and 9, 1964, and February 27, 1964, while the respondent was in reporting

status as described in paragraph 3 above, and on January 28 and March 5, 1964, when the respondent's position was reduced below 200,000 bushels, transactions in wheat futures on the Chicago Board of Trade were executed on his behalf, but the respondent failed and refused to submit reports to the Commodity Exchange Authority.

5. On each business day during the periods December 6 through December 10, 1963, and January 3 through March 5, 1964, the respondent held or controlled a net long or a net short position in soybean futures on the Chicago Board of Trade, which position ranged from 200,000 bushels to 725,000 bushels in a single future. By reason of the fact that such quantities were equal to or in excess of 200,000 bushels, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all soybean futures on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

6. On December 6, 1963, January 3, 7, 9, 10, 13, 14, 15, 28 and 31, 1964, February 3, 5, 6, 11, 13, 25, 27 and 28, 1964, and on March 5, 1964, while the respondent was in reporting status as described in paragraph 5 above, and on December 11, 1963, and March 6, 1964, when the respondent's position was reduced below 200,000 bushels, transactions in soybean futures on the Chicago Board of Trade were executed on his behalf, but the respondent failed and refused to submit reports to the Commodity Exchange Authority.

7. On each business day during the period April 2 through April 22, 1964, the respondent held or controlled a net short position in potato futures on the New York Mercantile Exchange, which position ranged from 32 carlots to 102 carlots in a single future. By reason of the fact that such quantities were equal to or in excess of 25 carlots, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all potato futures

on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01, and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

8. On April 2, 3, 14, 15 and 22, 1964, while the respondent was in reporting status as described in paragraph 7 above, transactions in potato futures on the New York Mercantile Exchange were executed on his behalf, but the respondent failed or refused to submit reports to the Commodity Exchange Authority.

CONCLUSIONS

Section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) requires every person who trades in futures to submit reports with respect to such trading "whenever such person shall directly or indirectly have or obtain a long or short position in any commodity or in any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Secretary of Agriculture." The quantity fixed by the Secretary for reporting purposes under

the above provision is 25 carlots in any one potato future, and 200,000 bushels in any one grain future (17 CFR § 15.03). The facts set forth in Findings of Fact 3 through 8 demonstrate that on numerous occasions the respondent failed or refused to file required reports with respect to his trading and positions in potato and grain futures, in violation of section 4i of the act, and sections 15.01, 15.02, 15.03, 18.00, 18.01, and 18.03 of the regulations issued by the Secretary (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03).

The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the proposed stipulation and order, and that they believe that the proposed sanction is adequate and that the prompt entry, without further proceedings, of the order to which the respondent has consented will constitute a satisfactory disposition of this case as against the respondent, serve the public interest, and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation and waiver submitted by the respondent be accepted and that the proposed order be issued. It is so concluded.

ORDER

Effective July 30, 1964, all contract markets shall refuse all trading privileges to the respondent, John Henry Phelan, III, for a period of 30 days, such refusal to apply to all trading done and positions held by him directly or indirectly.

A copy of this decision and order shall be served upon the respondent and upon each contract market.

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