

Commodity Futures Trading Commission  
CEA CASES

**NAME:** RICE COMMODITIES, INC., AND SAM L. RICE, JR.

**DOCKET NUMBER:** 213

**DATE:** JANUARY 18, 1974

**DOCUMENT TYPE:** DECISION AND ORDER

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Rice Commodities, Inc., and Sam L. Rice, Jr., Respondents

CEA Docket No. 213

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 alleging that respondent, Sam L. Rice, Jr., is now, and was at all times material herein, president of Rice Commodities, Inc., and responsible for the management, direction and control of its activities. Respondent Rice Commodities, Inc., was at all times material herein registered as a futures commission merchant under the Commodity Exchange Act and a member of the Chicago Board of Trade. As a registered futures commission merchant, Rice Commodities, Inc., was required to meet the working capital rules of the Chicago Board of Trade and if it failed to meet such requirements, it was required to meet the working capital requirements provided for in section 1.17 of the regulations under the Commodity Exchange Act (17 CFR 1.17). The complaint alleges inter alia that the respondent corporation engaged in business as a registered futures

commission merchant notwithstanding that it failed to meet such minimum financial requirements as of March 31 and April 21, 1972, and that it submitted to the Commodity Exchange Authority a financial report as of March 31, 1972, certified by respondent Sam L. Rice, Jr., which did not accurately reflect the financial condition insofar as it stated that the respondent corporation had an excess of working capital when in fact it failed to meet the minimum financial requirements under the Commodity Exchange Act. Such acts were alleged to have been wilful, and in violation of sections 4f and 6(b) of the Commodity Exchange Act (7 U.S.C. 6f, 9) and sections 1.17 and 1.35 of the regulations issued thereunder (17 CFR 1.17, 1.35).

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) admit the facts hereinafter set forth in paragraphs 1 and 2 of the Findings of Fact, (2) admit, for the purposes of this proceeding and for such purposes only, the remaining facts set forth in the Findings of Fact, (3) waive oral hearing on the charges in the complaint and (4) consent to the entry, without further proceedings, of a Decision and Order containing the facts admitted in such stipulation as the findings of fact, conclusions of law based on such findings and the Order contained herein.

Findings of Fact

1. Respondent Rice Commodities, Inc., an Ohio corporation, with its principal place of business at 633 North Reynolds Road, Toledo,

Ohio, was at all times material herein, registered as a futures commission merchant under the Commodity Exchange Act and a member of the Chicago Board of Trade. As a futures commission merchant, Rice Commodities, Inc., was required to meet the working capital rules of the Chicago Board of Trade and if it failed to meet such requirements, it was required to meet the working capital requirements provided for in section 1.17 of the regulations under the Commodity Exchange Act (17 CFR 1.17).

2. Respondent, Sam L. Rice, Jr., an individual, whose business address is the same as that of the respondent corporation, is now, and was at all times material herein, president of Rice Commodities, Inc., and responsible for the management, direction and control of its activities.

3. On March 31, 1972, and on April 21, 1972, the respondent corporation was engaged in business as a registered futures commission merchant under the Commodity Exchange Act, notwithstanding that on both dates it failed to meet the working capital requirements prescribed by the Chicago Board of Trade and the minimum financial requirements under section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of regulations thereunder (17 CFR 1.17). As of March 31, 1972, the respondent corporation lacked approximately \$ 11,500 of having sufficient capital to meet such minimum financial requirements under the Act and on April 21, 1972, it lacked approximately \$ 25,500 of having sufficient capital to meet the minimum financial requirements.

4. On April 21, 1972, the respondent corporation submitted to the Commodity Exchange Authority a financial report (Form 1-FR) which purported to show its financial condition as of March 31, 1972. Such report, certified by the respondent Sam L. Rice, Jr., did not accurately reflect the financial condition of the respondent corporation, in that the report stated that the corporation had an excess of adjusted working capital when in fact it failed to meet minimum financial requirements under the Commodity Exchange Act.

#### Conclusions

By reason of the facts set forth in the Findings of Fact, it is concluded that the respondents have violated sections 4f and 6(b) of the Commodity Exchange Act (7 U.S.C. 6f, 9) and sections 1.17 and 1.35 of the regulations issued thereunder (17 CFR 1.17, 1.35).

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

1. The registration of Rice Commodities, Inc., as futures commission merchant under the Commodity Exchange Act is revoked. Such revocation shall not preclude the Commodity Exchange Authority from giving consideration to any application for registration filed by the respondent corporation subsequent to the termination of the denial of trading privileges set forth in paragraph three (3) of this order.

2. The respondents, and each of them, shall cease and desist from:

(a) 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 thereunder;

(b) Willfully making any material false or misleading statement in any report or application filed under the Commodity Exchange Act;

(c) Willfully omitting to state any material fact in connection with any such application or report; and

(d) 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.

3. The respondents Rice Commodities, Inc. and Sam L. Rice, Jr., are prohibited from trading on or subject to the rules of any contract market for a period of two years and all contract markets shall refuse

all trading privileges to the said respondents during such period. Subject to the exceptions enumerated below such prohibition and refusal shall apply to all trading done and positions held directly by the said respondents, either for their own account or as agent or representative of any other person or firm, and also to all trading done and positions held indirectly through persons or firms owned wholly or in substantial amount by the said respondents or in any way subject to their direction or control. Provided, however, that trading may be done and positions held by the respondents and by persons or firms owned wholly or substantially by the respondents or in any way subject to their direction or control if each of the following conditions is met:

(a) The trading or positions involve a sale of futures contracts to offset a risk resulting from the ownership of, or contract to purchase at a fixed price from some person or firm other than one of the persons or firms referred to above, an equal or greater quantity of the cash commodity (or the offsetting liquidation of such a position); or a purchase of futures contracts to offset a risk resulting from a previous or simultaneous contract to sell (or offer to sell) to such person or firm, other than one of the persons or firms referred to above, an equal or greater quantity of the cash commodity at a fixed price (or the offsetting liquidation of such position);

(b) The futures position referred to in paragraph (a) above are liquidated on or before the date that the risk in the cash market terminates;

(c) Reports are filed by the respondents, addressed to the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, or to such other address as the Administrator shall direct in writing, as to the transactions or positions referred to in paragraphs (a) and (b) above, including supporting explanation demonstrating that the transactions or positions meet the requirements of paragraphs (a) and (b) above, postmarked not later than midnight of the day following the day on which the futures transactions are entered into or liquidated; and

(d) The respondents keep books and records showing all details concerning all such positions and transactions, including all details as to the cash commodity involved in the "hedging" transactions, and makes such books and records available to the Commodity Exchange Authority for examination at all reasonable times and furnishes to the Administrator of the Commodity Exchange Authority, or his employees, any additional pertinent information requested by him. It is further provided that this order shall not apply to the said respondents when acting as an agent for a futures commission merchant and nothing herein contained shall prevent the respondents, Rice Commodities, Inc., and/or Sam L. Rice, Jr. or any contract market from permitting said respondents to so act under the trading rules of any exchange if the respondents transmit all customers' commodity futures orders, together with all money, securities, and property received to margin, guaranty, or clear the trades or

contracts of such customers, to another futures commission merchant for execution or clearance, and the latter renders confirmations and statements of purchase and sale, and transmits remittances, directly to such customers.

4. The provisions set forth in paragraphs 1 and 2 of this order shall become effective upon the date of service of this order upon the respondents. The period of the denial of trading privileges to the respondents, specified in the paragraph 3 above, shall become effective on the thirtieth day after the date of entry of this order. A copy of this Decision and Order shall be served on each of the parties and on each contract market.

Done at Washington, D. C.

JAN 18 1974

[SEE SIGNATURE IN ORIGINAL]

William J. Weber

Administrative Law Judge

Referee

**LOAD-DATE:** June 12, 2008

