

Commodity Futures Trading Commission
CEA CASES

NAME: CHARLES VOJTEK

CITATION: 7 Agric. Dec. 386

DOCKET NUMBER: 43

DATE: MAY 26, 1948

DOCUMENT TYPE: DECISION AND ORDER

(Agric. Dec. 1759)

In re CHARLES VOJTEK. CEA Doc. No. 43. Decided May 26, 1948.

Wilful Violations of Act -- Taking Opposite Side of Orders -- Converting Customers' Funds -- Falsely Reporting to Customers -- Using Customers' Funds to Margin and Secure One's Own Trades -- Denial of Trading Privileges

Where respondent, by failing to answer the complaint, admitted that, while acting as a futures commission merchant, he took the opposite side of orders without the prior consent of a customer, converted customer's funds to his own use, falsely reported to customers that their orders had been executed, and used customers' funds to margin and secure his own trades, it is held: (1) such acts constitute wilful violations of §§ 4b (C), 4b (D), 4d (2), and 4h (2) of the act; (2) these violations warrant a revocation or suspension of respondent's registration as a futures commission merchant, as well as a denial of trading privileges; (3) since respondent's registration as a futures commission merchant expired on December 31, 1947, the sanction of revocation or suspension of his registration is unnecessary; and (4) under the circumstances, the respondent should be denied all trading privileges on all

markets until further order of the Secretary of Agriculture or his lawful delegatee. *

* Reference to other points involved in this case will be found in Index-Digest in this issue of Agriculture Decisions. -- Ed.

Mr. Benj. M. Holstein for complainant. *Mr. John J. Curry*, Referee.

Decision by Thomas J. Flavin, Judicial Officer.

DECISION AND ORDER

On February 4, 1948, the Secretary of Agriculture issued a complaint against the respondent charging violations of Sections 4b (C), 4b (D), 4d (2), and 4h (2) of the Commodity Exchange Act (7 U. S. C. 1-17a), hereinafter called the Act. The complaint alleged that the respondent, a registered futures commission merchant, violated the Act (1) by falsely representing to customers that orders for the purchase or sale of commodity futures contracts had been executed and that there were open trades in such customers' accounts, (2) by taking opposite sides of orders without the consent of customers, and (3) by converting and misusing customers' funds.

The complaint was served on February 16, 1948, and a hearing on the matter was set for March 16, 1948. The answer was due on March 8, 1948, but no answer has been filed. The failure to file an answer constitutes an admission of the allegations in the complaint and a waiver of hearing, and the rules of practice provide that if the respondent admits the allegations of the complaint and

waives hearing, the referee "without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint." (17 CFR, Cum. Supp., 0.59.) The Commodity Exchange Authority, by its attorney, Benj. M. Holstein, filed suggested findings of fact, conclusions and order in the proceeding. The referee, John J. Curry, issued a report which was served upon the respondent by registered mail. No exceptions to the report were filed.

FINDINGS OF FACT

1. The respondent, Charles Vojtek, is an individual residing in Chicago, Illinois. At all times material to the complaint, the respondent was registered with the Secretary of Agriculture as a futures commission merchant under the provisions of the Commodity Exchange Act, and was a member of the Chicago Open Board of Trade, a duly designated contract market under the provisions of the Act.

2. The respondent, on or about June 7, June 10, June 13, July 5, July 7, and July 9, 1947, in connection with orders to make contracts of

sale of commodities for future delivery on the Chicago Open Board of Trade for one S. Bristol, a customer, wilfully deceived the said customer with respect to the execution and disposition of such orders and contracts by falsely representing to him that there were in existence open trades on his behalf.

3. The respondent, on or about June 20, June 21, and June 27, 1947, in connection with orders to make contracts of sale of commodities for future delivery on the Chicago Open Board of Trade on behalf of one P. Tulupan, a customer, wilfully and knowingly and without the prior consent of the customer, became the buyer with respect to the selling orders of the customer and became the seller with respect to the buying orders of the customer.

4. The respondent, on or about May 15, May 27, June 12, and June 17, 1947, while acting as a futures commission merchant, accepted orders from one S. Bristol, a customer, for the purchase or sale of commodities for future delivery and received from the customer various sums of money in the total amount of \$ 450 to margin and secure the trades and contracts of the customer. The respondent failed to treat and deal with the money as belonging to the customer, in that he converted the money to his own use.

5. The respondent, on or about February 17, February 18, February 19, February 21, February 24, February 25, February 27, February 28, March 3, March 5, March 7, March 8, March 11, March 12, March 13, March 14, March 17, and March 18, 1947, accepted orders from one S. Lust, a customer, for the purchase or sale of commodities for future delivery and in connection therewith falsely reported to the customer that such orders had been executed on a contract market, namely, the Chicago Open Board of Trade, whereas such orders had not been executed.

6. The respondent, on or about June 23, June 25, June 27, June 28, June 30, July 2, and July 3, 1947, having theretofore executed on the Chicago Open Board of Trade an order for the purchase of a commodity for future delivery on behalf of one A. Caposto, a customer, and having theretofore become responsible for money received from the customer to margin and secure such purchase contract and for money accruing to such customer as a result of such purchase contract, used such money to margin or guarantee his own, the respondent's trades and contracts.

CONCLUSIONS

The respondent has not answered the complaint. He has, therefore, admitted that he took the opposite side of orders without the prior consent of the customer, converted customers' funds to his own use, falsely reported to customers that their orders had been executed, and

used customers' funds to margin and secure his own trades (17 CFR, Cum. Supp., 0.59). Such acts are violations of sections 4b (C), 4b (D), 4d (2), and 4h (2) of the Act. The violations were wilful. They took place over a period of six months, involved four different customers, and covered approximately 35 separate transactions. These violations are sufficiently serious to warrant revocation or suspension of the respondent's registration as a futures commission merchant, as well as a denial of trading privileges. However, the respondent's registration as a futures commission merchant expired on December 31, 1947, in accordance with the provisions of section 4f (1) of the Act that all registrations shall expire on the 31st day of December of the year in which issued. He has made no application for the renewal of his registration. Since he is not now a registered futures commission merchant, the sanction of revocation or suspension of registration is unnecessary and would be meaningless. Under the circumstances, the respondent should be denied all trading privileges on all contract markets until further order of the Secretary of Agriculture or his lawful delegatee.

ORDER

Effective on the 30th day after the date of this order, all contract markets shall refuse all trading privileges thereon to Charles Vojtek until further order of the Secretary of Agriculture or his lawful delegatee.

A copy of this decision and order shall be sent by registered mail to the respondent and to each contract market under the Act.

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