

IN THE MATTER OF

EDWARD B. GOTTHELF TRADING AS COMMODITY FUTURES  
FORECAST

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-592. Complaint, Sept. 20, 1963—Decision, Sept. 20, 1963*

nt order requiring an individual in New York City engaged in selling to  
e public a weekly advisory letter known as "Commodity Futures Fore-

cast", a daily statistical bulletin titled "Commodex", and management services incident to the purchase and sale of commodity futures, to cease representing falsely in circulars and other advertising material that stated large profits had been realized for accounts he managed, that they were typical and could be expected, that the transactions reflected the recommendations in his aforesaid advisory letter, and that he managed customers' accounts in accordance with the principles contained in his "Forecast" and "Commodex".

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Edward B. Gotthelf, an individual trading as Commodity Futures Forecast, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Edward B. Gotthelf, an individual trading as Commodity Futures Forecast, has his principal office and place of business located at 90 West Broadway in the city of New York, State of New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale and sale of a weekly advisory letter known as "Commodity Futures Forecast", a daily statistical bulletin known as "Commodex", and management services incident to the purchase and sale of commodity futures, to the public. Said publications have an annual subscription price of \$200 each and the remuneration for said management services is founded on a percentage of the profits attained.

PAR. 3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, said publications and materials in connection with said management services, when sold, to be sent by United States mail from his place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR 4. In the course and conduct of his business, and for the purpose of inducing the purchase of said publications and management services, respondent has made and published or caused to be published certain statements, claims and representations in circulars and other

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material distributed by him. Among and typical of the foregoing, but not all inclusive thereof, are the following:

*\$5,600.50 Profit in 3 Months With No Effort and Little Risk*

Attached is a record of results on closed transactions for the first 3 months of this year \* \* \* Commodity Futures Forecast makes commodity trading simple and profitable. It is the only service using Commodex for part of its technical conclusions \* \* \* Look over the attached bulletin and note how positions are doing. Read the comments of subscribers and managed accounts.

*Summary of closed trades*  
Jan. 1 to Mar. 31, 1961

| Opened       | Closed       | Commodity            | Bought | Sold   | Profit | Loss  |
|--------------|--------------|----------------------|--------|--------|--------|-------|
| Dec. 2.....  | Jan. 3.....  | January eggs.....    | 37.25  | 38.75  | \$189  | ----- |
| Dec. 5.....  | Jan. 16..... | May rye.....         | 1.16½  | 1.18¾  | 198    | ----- |
| Jan. 16..... | Jan. 30..... | September cocoa..... | 22.35  | 21.75  | -----  | \$230 |
| Feb. 6.....  | Feb. 6.....  | July oats.....       | 71¼    | .69½   | -----  | 125   |
| Jan. 16..... | Feb. 6.....  | September wheat..... | 1.92   | 1.98¾  | 300    | ----- |
|              |              | do.....              | 1.92   | 1.95¾  | 150    | ----- |
| Jan. 3.....  | Feb. 6.....  | July rye.....        | 1.21   | 1.29¾  | 400    | ----- |
|              |              | do.....              | 1.21   | 1.28½  | 356    | ----- |
| Nov. 28..... | Jan. 30..... | March lard.....      | 11.37  | 12.42  | 400    | ----- |
| Jan. 9.....  | Feb. 13..... | May corn.....        | 1.12   | 1.19¾  | 312    | ----- |
| Jan. 9.....  | Feb. 13..... | September eggs.....  | 34.90  | 38.25  | 442    | ----- |
| Dec. 27..... | Feb. 13..... | May wool.....        | 111.20 | 114.20 | 132    | ----- |
| Jan. 16..... | Feb. 13..... | March lard.....      | 11.37  | 13.55  | 1,152  | ----- |
| Jan. 16..... | Feb. 20..... | July-May wheat.....  | .21    | .16    | 250    | ----- |
| Feb. 4.....  | Feb. 27..... | September eggs.....  | 35.35  | 38.10  | 376    | ----- |
| Feb. 4.....  | Mar. 6.....  | do.....              | 35.50  | 38.10  | 354    | ----- |
| Feb. 6.....  | Mar. 6.....  | May potatoes.....    | 2.64   | 2.86   | 90     | ----- |
| Feb. 20..... | Mar. 20..... | May wheat.....       | 2.03   | 2.11¾  | 400    | ----- |
| Feb. 20..... | Mar. 27..... | do.....              | 1.99¾  | 2.11¾  | 543    | ----- |
| Total.....   |              |                      |        |        | 5,955  | 355   |

*Approximate Weekly Investment—Below \$5,000*

\* \* \* \* \*

If you can afford to speculate, Commodity Futures Forecast gives help and advice when needed. Here are excerpts from recent unsolicited letters:

During the 4 months I have subscribed to your service, and followed your recommendations, I have made a 40-percent profit on my original investment.

E.L.R.S.

I am pleased with the way you have handled my account \* \* \* and wish to increase the amount of my investment with an additional \$5,500 for which a check is being mailed \* \* \*

B.B.

I am very happy with the results realized in my managed commodity account. I am amazed you have done so well in a very irregular market. I appreciate the efforts and expert management and feel very optimistic.

C.W.

Incidentally, I want to take this opportunity to congratulate you upon the high percentage of accuracy of your recommendations.

E.A.P.

Up to the present time we are very satisfied with your method. Now we wish to increase this account.

M.H.M.

Followers of Commodex were able to realize up to \$24,665 on an investment of \$1,600 to \$4,000.

PAR. 5. Through the use of the aforesaid statements, claims and representations and others similar thereto, but not specifically set out herein, respondent has represented, directly or by implication:

a. That the profits or earning set forth in the summary of closed trades had been realized for an account or portfolio managed by him; that the stated profits or earnings were typical and could be expected generally; and that the transactions reflected the recommendations contained in his advisory letter, Commodity Futures Forecast.

b. That he managed the accounts of his customers according to the information or principles contained in Commodity Futures Forecast and Commodex.

PAR. 6. In truth and in fact:

a. The profits or earnings set forth in the summary of closed trades were not realized for any account or portfolio managed by him. Such profits or earnings were not typical, nor could they be expected generally; and the transactions did not reflect the recommendations contained in the advisory letter, Commodity Futures Forecast.

b. The information or principles contained in Commodity Futures Forecast and Commodex were not followed in the management of customers' accounts.

Therefore, the statements, claims and representations as set forth in Paragraphs 4 and 5 hereof were and are false, misleading and deceptive.

PAR. 7. In the conduct of his business, and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise and services of the same general kind and nature.

PAR. 8. The use by respondent of the aforesaid false, misleading and deceptive statements, claims and representations, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements, claims and representations were and are true and into the purchase of substantial quantities of respondent's publications and management services by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Decision and Order

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## DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Edward B. Gotthelf, an individual trading as Commodity Futures Forecast, has his office and principal place of business located at 90 West Broadway, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

*It is ordered*, That respondent Edward B. Gotthelf, an individual trading as Commodity Futures Forecast, or under any other name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of publications and management services, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. a. Representing directly or by implication that profits or earnings have been realized for any account or portfolio managed by him unless such profits or earnings have been in fact realized by an account or portfolio managed by him.

b. Representing directly or by implication that the transactions reflected the recommendations contained in the advisory letter, Commodity Futures Forecast, unless such transactions have been there recommended.

c. Representing directly or by implication that customers made or realized profits or earnings of a specified amount when such specified amount is in excess of those customarily made unless it is clearly and conspicuously disclosed in immediate conjunction therewith that such profits or earnings are exceptional and are not realized or to be expected by customers generally; or otherwise representing profits or earnings in any manner not in accordance with the facts.

2. Representing directly or by implication that customers' accounts are being managed in accordance with the information or principles contained in Commodity Futures Forecast or Commodity unless all such transactions conform to the information or principles set forth in such publications.

*It is further ordered*, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.