

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA) Violation: Title 7, United States
) Code, Section 13(a)(4)
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)
NICOLE M. GRAZIANO)

COUNT ONE

The SPECIAL SEPTEMBER 2011 GRAND JURY charges:

1. At times material to this indictment:

a. Futures contracts were traded on contract markets, commonly known as exchanges and boards of trade, that were designated pursuant to the Commodity Exchange Act by the Commodity Futures Trading Commission, or CFTC, the federal agency established by statute to regulate transactions involving the purchase and sale of futures contracts. The Chicago Mercantile Exchange, or CME, was one of these designated contract markets.

b. Futures contracts were standardized, legally binding agreements to buy or sell a specific product or financial instrument in the future. The buyer and seller of a futures contract agreed on a price for a product or financial instrument to be delivered or settled in cash on a future date.

c. Lean hogs futures contracts were contracts to purchase hogs in the future. The contracts were traded on the floor of the CME in a “trading pit” between 9:05 a.m. and 1:00 p.m. Each contract allowed an individual to purchase or sell one “lot” of lean hogs, and each lot represented 40,000 pounds of hogs.

d. The trading day was divided into “time brackets.” The “opening” bracket began at 9:05 a.m. and continued until all orders placed before the start of the trading day were executed. The “closing” bracket began at 12:59:30 p.m. and continued until 1:00 p.m.

e. A floor trader was a person authorized to execute futures contract trades on the floor of an exchange. Floor traders were required to trade through a clearing firm that financially assured the performance of each of the trades of the firm’s clients.

f. Floor traders who executed orders to buy or sell futures contracts for public customers were called “brokers.” Customers requested brokers to buy or sell futures contracts by submitting orders that were delivered in writing to the floor of the exchange. These order requests were recorded on “trade cards.”

g. CFTC and CME rules required floor traders to execute trades openly and competitively by open outcry in the trading pit during the hours of trading. Open outcry trading involved bidding to buy or offering to sell contracts either verbally or using gestures in a manner designed to give multiple traders the opportunity to engage in a trade.

h. When floor traders agreed to execute a futures contract transaction, CME rules required both traders to record on separate trade cards facts including the price, quantity, time bracket, and name of the broker on the opposite side of the trade. CME rules further required traders to time-stamp and submit completed trade cards to their clearing firms, which then reported information contained on the trade cards

to the exchange's clearing system. This information was then relied on and used in the clearing process, in which transactions were matched with one another by confirming that both the buyer's and the seller's trade information was in agreement.

i. Floor traders employed trading clerks to perform tasks that included collecting the trade cards, gathering the trade cards into a "deck," providing the decks to the floor traders so that they could use them to execute trades, and retrieving the decks from the traders once all of the orders had been executed.

j. After floor traders executed trades in the opening and closing brackets, their clerks allocated prices to the customers' orders on a "ratio basis," meaning that all of the trade cards were compiled, and then each customer's order was filled at the average price of all of the transactions that had occurred during those brackets.

k. CME rules prohibited creating or reporting a false or fictitious trade. CME rules also prohibited any conduct that was inconsistent with just and equitable principles of trade.

l. Floor Traders A and B were members of the CME and were authorized to buy and sell lean hogs futures contracts.

m. Defendant NICOLE M. GRAZIANO was employed as a trading clerk for Floor Trader A.

2. Beginning no later than on or about September 11, 2009 and continuing until on or about August 6, 2010, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

NICOLE M. GRAZIANO,

defendant herein, willfully falsified, concealed, and covered up by scheme, a material fact; willfully made false, fictitious, and fraudulent material statements and representations; and willfully made and used a false writing and document knowing the same to contain a false, fictitious, and fraudulent material statement and entry to a registered entity, namely, the CME, designated and registered under the Commodity Exchange Act and acting in furtherance of its official duties under the Commodity Exchange Act, which conduct is further described below.

3. It was part of the scheme that defendant GRAZIANO collected trade cards submitted by public customers and inserted trade cards for her own personal orders into the decks that she provided to Floor Traders A and B to execute during the opening bracket and the closing bracket.

4. It was further part of the scheme that defendant GRAZIANO intentionally concealed from Floor Traders A and B that she had included her personal orders in the decks that she gave them.

5. It was further part of the scheme that defendant GRAZIANO retrieved the completed decks from Floor Traders A and B and then failed to fill her personal bids to buy lean hogs futures contracts on a ratio basis. Instead, the defendant

fraudulently allocated lower purchase prices to her buy orders to the detriment of the public customers.

6. It was further part of the scheme that defendant GRAZIANO retrieved the completed decks from Floor Traders A and B and then failed to fill her personal offers to sell lean hogs futures contracts on a ratio basis. Instead, the defendant fraudulently allocated higher prices to her sell orders to the detriment of the public customers.

7. It was further part of the scheme that defendant GRAZIANO made false and fraudulent entries on the trade cards representing her personal orders, including entries misrepresenting: (a) the time of the trades; and (b) that the prices at which her orders were filled were consistent with the ratio prices allocated to public customers.

8. It was further part of the scheme that defendant GRAZIANO submitted at least 104 fraudulent and falsified trade cards to the appropriate clearing firms to be relied on and used in the clearing process.

9. It was further part of the scheme that defendant GRAZIANO fraudulently allocated more favorable prices to approximately 15 of her personal orders from the opening bracket, to the detriment of public customers, resulting in fraudulent profits to defendant GRAZIANO in the amount of approximately \$13,390.

10. It was further part of the scheme that defendant GRAZIANO fraudulently allocated more favorable prices to approximately 89 of her personal orders from the closing bracket, to the detriment of public customers, resulting in additional fraudulent profits to defendant GRAZIANO in the amount of approximately \$213,680.

11. It was further part of the scheme that defendant GRAZIANO concealed, misrepresented, and hid, and caused to be concealed, misrepresented, and hidden, the existence and purpose of the scheme and the acts done in furtherance of the scheme.

12. On or about September 11, 2009, at Chicago, in the Northern District of Illinois, Eastern Division,

NICOLE M. GRAZIANO,

defendant herein, willfully falsified and covered up by scheme a material fact, specifically, the time bracket of the trading day of the purchase of 10 lean hogs futures contracts, as recorded on trade card number 344, to a registered clearing firm and to the CME, acting in furtherance of their duties under the Commodities Exchange Act;

In violation of Title 7, United States Code, Section 13(a)(4).

COUNT TWO

The SPECIAL SEPTEMBER 2011 GRAND JURY further charges:

1. The allegations of Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.

2. On or about April 15, 2010, at Chicago, in the Northern District of Illinois, Eastern Division,

NICOLE M. GRAZIANO,

defendant herein, willfully falsified and covered up by scheme a material fact, specifically, the time bracket of the trading day of the purchase of 105 lean hogs futures contracts, as recorded on trade card number 556, to a registered clearing firm and to the CME, acting in furtherance of their duties under the Commodities Exchange Act;

In violation of Title 7, United States Code, Section 13(a)(4).

COUNT THREE

The SPECIAL SEPTEMBER 2011 GRAND JURY further charges:

1. The allegations of Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.

2. On or about July 13, 2010, at Chicago, in the Northern District of Illinois, Eastern Division,

NICOLE M. GRAZIANO,

defendant herein, willfully falsified and covered up by scheme a material fact, specifically, the time bracket of the trading day of the sale of 100 lean hogs futures contracts, as recorded on trade card number 676, to a registered clearing firm and to the CME, acting in furtherance of their duties under the Commodities Exchange Act;

In violation of Title 7, United States Code, Section 13(a)(4).

COUNT FOUR

The SPECIAL SEPTEMBER 2011 GRAND JURY further charges:

1. The allegations of Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 14, 2010, at Chicago, in the Northern District of Illinois, Eastern Division,

NICOLE M. GRAZIANO,

defendant herein, willfully falsified and covered up by scheme a material fact, specifically, the time bracket of the trading day of the sale of 100 lean hogs futures contracts, as recorded on trade card number 728, to a registered clearing firm and to the CME, acting in furtherance of their duties under the Commodities Exchange Act;

In violation of Title 7, United States Code, Section 13(a)(4).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY