

U.S. Commodity Futures Trading Commission vs. Risk Management Service Company

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- Risk Management Service Company (the Company), began a trading program for the benefit of agricultural producers by purchasing and selling futures and options contracts associated with their production and marketing of corn.
- The Company had explained to producers that, among other things, the trading program was intended to hedge the risk of a fall in the price of corn.
- The Company used agreement forms with official language recognized by the U.S. Commodity Futures Trading Commission that stated the purpose of the trading program was to hedge the risk associated with the ownership and marketing of corn.

- Approximately 200 agricultural producers, including JR and Bill, signed the hedge agreement.
- A few more months went by and the monthly statements continued to show negative figures.
- JR's concerns grew each time he was required to deposit additional funds into the account.
- He didn't understand why hedging 190,000 bushels of corn would require such a large amount of money.

- When JR was in school years before, he had learned about the concept of hedging and vaguely understood margin calls.
- But, he thought those happened when prices were going up and a hedge had already locked in a price.
- The price of corn was not going up and yet he was adding more funds to his account.

- One day Bill approached JR recalling their earlier conversation in the coffee shop. He said a number of producers are worried.
- Bill explained that they all have concerns about the negative figures and the amount of money being required in their brokerage accounts.
- No one was satisfied with the explanation coming from Sam, the market advisor at the Company.

- Subsequently, JR, Bill and a group of producers met to discuss their collective situation and decided to engage an attorney.
- They also contacted the U.S. Commodity Futures Trading Commission. JR thought to himself, “Oh boy, misery loves company”!
- In May, more than a year after JR’s initial concerns, a lawsuit was filed naming the Company and the market advisor as defendants.

UNITED STATES DISTRICT COURT

UNITED STATES COMMODITY)
FUTURES TRADING COMMISSION)
)
Plaintiff,)
)
v.)
)
MARKETING ADVISOR SERVICES,)
INC. d.b.a. RISK MANAGEMENT)
SERVICE COMPANY, SAM)
SMITH)
)
Defendant)

**The Marketing Advisor and the Company Allegedly Made
Unauthorized, Speculative Trades in Commodity Hedge
Accounts that Caused Producers \$5 Million in Losses**

- Specifically, the lawsuit alleges that defendants were engaged to manage hedge accounts for the producers.
- As further alleged, without approval from the producers, and rather than following the explicit instructions in the producers' hedge account agreements, defendants executed a speculative trading strategy that resulted in approximately \$5.1 million in trading losses for those producers.
- According to the lawsuit, defendants consistently led the producers to believe that the defendants' trading strategy would reduce the producers' trading risks when, in fact, the trading strategy substantially increased the producers' risks and their ultimate exposure to adverse price fluctuations.

CFTC Attorneys

- CFTC attorneys knew how to identify and prosecute fraud – the knowing misrepresentation of a situation or facts for personal or business gain.
- The attorneys did not know how to evaluate 13 months of Futures Commission Merchants statements showing a variety of positions in the options and futures market placed by the defendants.
- They needed to know the positions that were hedges and those that were speculative.
- At the end of the month, were producers in a hedged or speculative position?

***** POSITIONS IN YOUR ACCOUNT *****

8/23/2 F1	38	DEC 02 CORN	01	2.71 1/2	US	38,000.00	
	38*	OPEN TRADE EQUITY		2.51 1/2		38,000.00*	
9/23/2 F1	60	PUT JUL 03 CORN	240 01	.07	US	26,250.00	
	60*	OPTION MARKET VALUE		.08 3/4		26,250.00*	
		EXPIRE 6/21/03					
9/23/2 F1	5	PUT DEC 02 CORN	250 01	.07	US		2,312.50
9/23/2 F1	34	PUT DEC 02 CORN	250 01	.07 1/4	US		15,725.00
9/23/2 F1	12	PUT DEC 02 CORN	250 01	.07 1/2	US		5,550.00
9/23/2 F1	9	PUT DEC 02 CORN	250 01	.07 3/4	US		4,162.50
	60*	OPTION MARKET VALUE		.09 1/4			27,750.00*
		EXPIRE 11/23/02					
5/13/2 F1	8	CALL DEC 02 CORN	260 01	.07 3/4	US	2,700.00	
5/14/2 F1	3	CALL DEC 02 CORN	260 01	.07 3/4	US	1,012.50	
5/14/2 F1	27	CALL DEC 02 CORN	260 01	.08	US	9,112.50	
	38*	OPTION MARKET VALUE		.06 3/4		12,825.00*	
		EXPIRE 11/23/02					
8/19/2 F1	1	PUT DEC 02 CORN	270 01	.09 3/4	US	1,137.50	
8/19/2 F1	19	PUT DEC 02 CORN	270 01	.10	US	21,612.50	
9/09/2 F1	18	PUT DEC 02 CORN	270 01	.04 3/4	US	20,475.00	
	38*	OPTION MARKET VALUE		.22 3/4		43,225.00*	
		35,150.00- SIM EXPIRE 11/23/02					
6/25/2 F1	17	CALL DEC 02 CORN	290 01	.04 1/4	US	1,593.75	

DATE	AT	LONG/BUY	SHRT/SELL	DESCRIPTION	EX	PRICE/LEGND	CC	DEBIT	CREDIT
6/25/2 F1			21	CALL DEC 02 CORN	290 01	.04 1/2	US	1,968.75	
			38*	OPTION MARKET VALUE		.01 7/8		3,562.50*	
				EXPIRE 11/23/02					
9/23/2 F1			10	CALL JUL 03 CORN	320 01	.07 1/2	US	3,125.00	
9/23/2 F1			21	CALL JUL 03 CORN	320 01	.07 3/4	US	6,562.50	
			31*	OPTION MARKET VALUE		.06 1/4		9,687.50*	
				EXPIRE 6/21/03					
7/15/2 F1			2	CALL NOV 02 SOYBEAN	620 01	.09 1/2	US	75.00	
			2*	OPTION MARKET VALUE		.00 3/4		75.00*	
				EXPIRE 10/26/02					

***** POSITIONS IN YOUR ACCOUNT *****

8/23/2 F1	38	DEC 02 CORN	01	2.71 1/2	US	38,000.00	
	38*	OPEN TRADE EQUITY		2.51 1/2		38,000.00*	
9/23/2 F1		60 PUT JUL 03 CORN	240 01	.07	US	26,250.00	
		60* OPTION MARKET VALUE		.08 3/4		26,250.00*	
		EXPIRE 6/21/03					
9/23/2 F1	5	PUT DEC 02 CORN	250 01	.07	US		2,312.50
9/23/2 F1	34	PUT DEC 02 CORN	250 01	.07 1/4	US		15,725.00
9/23/2 F1	12	PUT DEC 02 CORN	250 01	.07 1/2	US		5,550.00
9/23/2 F1	9	PUT DEC 02 CORN	250 01	.07 3/4	US		4,162.50
	60*	OPTION MARKET VALUE		.09 1/4			27,750.00*
		EXPIRE 11/23/02					
5/13/2 F1		8 CALL DEC 02 CORN	260 01	.07 3/4	US	2,700.00	
5/14/2 F1		3 CALL DEC 02 CORN	260 01	.07 3/4	US	1,012.50	
5/14/2 F1		27 CALL DEC 02 CORN	260 01	.08	US	9,112.50	
		38* OPTION MARKET VALUE		.06 3/4		12,825.00*	
		EXPIRE 11/23/02					
8/19/2 F1		1 PUT DEC 02 CORN	270 01	.09 3/4	US	1,137.50	
8/19/2 F1		19 PUT DEC 02 CORN	270 01	.10	US	21,612.50	
9/09/2 F1		18 PUT DEC 02 CORN	270 01	.04 3/4	US	20,475.00	
		38* OPTION MARKET VALUE		.22 3/4		43,225.00*	
		35,150.00- SIM EXPIRE 11/23/02					
6/25/2 F1		17 CALL DEC 02 CORN	290 01	.04 1/4	US	1,593.75	

Aug 02

	8/23/02		
Dec 02	Long 38		
Futures	Dec Futrs		
Price	\$2.7150	bushels	\$ value
\$1.90	-\$0.8150	190,000	-\$154,850
\$2.00	-\$0.7150	190,000	-\$135,850
\$2.10	-\$0.6150	190,000	-\$116,850
\$2.20	-\$0.5150	190,000	-\$97,850
\$2.30	-\$0.4150	190,000	-\$78,850
\$2.40	-\$0.3150	190,000	-\$59,850
\$2.50	-\$0.2150	190,000	-\$40,850
\$2.60	-\$0.1150	190,000	-\$21,850
\$2.70	-\$0.0150	190,000	-\$2,850
\$2.80	\$0.0850	190,000	\$16,150
\$2.90	\$0.1850	190,000	\$35,150
\$3.00	\$0.2850	190,000	\$54,150

***** POSITIONS IN YOUR ACCOUNT *****

8/23/2 F1	38	DEC 02 CORN	01	2.71 1/2	US	38,000.00
	38*	OPEN TRADE EQUITY		2.51 1/2		38,000.00*
9/23/2 F1	60	PUT JUL 03 CORN	240 01	.07	US	26,250.00
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9/23/2 F1	9	PUT DEC 02 CORN	250 01	.07 3/4	US	4,162.50
	60*	OPTION MARKET VALUE		.09 1/4		27,750.00*
		EXPIRE 11/23/02				
5/13/2 F1	8	CALL DEC 02 CORN	260 01	.07 3/4	US	2,700.00
5/14/2 F1	3	CALL DEC 02 CORN	260 01	.07 3/4	US	1,012.50
5/14/2 F1	27	CALL DEC 02 CORN	260 01	.08	US	9,112.50
	38*	OPTION MARKET VALUE		.06 3/4		12,825.00*
		EXPIRE 11/23/02				
8/19/2 F1	1	PUT DEC 02 CORN	270 01	.09 3/4	US	1,137.50
8/19/2 F1	19	PUT DEC 02 CORN	270 01	.10	US	21,612.50
9/09/2 F1	18	PUT DEC 02 CORN	270 01	.04 3/4	US	20,475.00
	38*	OPTION MARKET VALUE		.22 3/4		43,225.00*
		35,150.00- SIM EXPIRE 11/23/02				
6/25/2 F1	17	CALL DEC 02 CORN	290 01	.04 1/4	US	1,593.75

Sep 02

----- PUT SPREAD -----

	9/23/2002				9/23/2002			
Dec 02	Long 60				Jul 03	Short 60		
Futures	Dec 02				Futures	Jul 03		
Price	PUT \$2.50	bushels	\$ value		Price	PUT \$2.40	bushels	\$ value
\$1.90	\$0.5265	300,000	\$157,938		\$2.20	-\$0.1300	300,000	-\$39,000
\$2.00	\$0.4265	300,000	\$127,938		\$2.30	-\$0.0300	300,000	-\$9,000
\$2.10	\$0.3265	300,000	\$97,938		\$2.40	\$0.0700	300,000	\$21,000
\$2.20	\$0.2265	300,000	\$67,938		\$2.50	\$0.0700	300,000	\$21,000
\$2.30	\$0.1265	300,000	\$37,938		\$2.60	\$0.0700	300,000	\$21,000
\$2.40	\$0.0265	300,000	\$7,938		\$2.70	\$0.0700	300,000	\$21,000
\$2.50	-\$0.0735	300,000	-\$22,063		\$2.80	\$0.0700	300,000	\$21,000
\$2.60	-\$0.0735	300,000	-\$22,063		\$2.90	\$0.0700	300,000	\$21,000
\$2.70	-\$0.0735	300,000	-\$22,063		\$3.00	\$0.0700	300,000	\$21,000
\$2.80	-\$0.0735	300,000	-\$22,063		\$3.10	\$0.0700	300,000	\$21,000
\$2.90	-\$0.0735	300,000	-\$22,063		\$3.20	\$0.0700	300,000	\$21,000
\$3.00	-\$0.0735	300,000	-\$22,063		\$3.30	\$0.0700	300,000	\$21,000

***** POSITIONS IN YOUR ACCOUNT *****

8/23/2 F1	38	DEC 02 CORN	01	2.71 1/2	US	38,000.00
	38*	OPEN TRADE EQUITY		2.51 1/2		38,000.00*

9/23/2 F1	60	PUT JUL 03 CORN	240 01	.07	US	26,250.00
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		EXPIRE 6/21/03				
9/23/2 F1	5	PUT DEC 02 CORN	250 01	.07	US	2,312.50
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9/23/2 F1	9	PUT DEC 02 CORN	250 01	.07 3/4	US	4,162.50
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5/13/2 F1	8	CALL DEC 02 CORN	260 01	.07 3/4	US	2,700.00
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	38*	OPTION MARKET VALUE		.22 3/4		43,225.00*
		35,150.00- SIM EXPIRE 11/23/02				

6/25/2 F1	17	CALL DEC 02 CORN	290 01	.04 1/4	US	1,593.75
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May 2002

	May 13 & 14		
Dec 02	Short 38		
Futures	Dec 02		
Price	CALL \$2.60	bushels	\$ value
\$1.90	\$0.0793	190,000	\$15,063
\$2.00	\$0.0793	190,000	\$15,063
\$2.10	\$0.0793	190,000	\$15,063
\$2.20	\$0.0793	190,000	\$15,063
\$2.30	\$0.0793	190,000	\$15,063
\$2.40	\$0.0793	190,000	\$15,063
\$2.50	\$0.0793	190,000	\$15,063
\$2.60	\$0.0793	190,000	\$15,063
\$2.70	-\$0.0207	190,000	-\$3,938
\$2.80	-\$0.1207	190,000	-\$22,938
\$2.90	-\$0.2207	190,000	-\$41,938
\$3.00	-\$0.3207	190,000	-\$60,938

May, June, July, Aug & Sep 2002

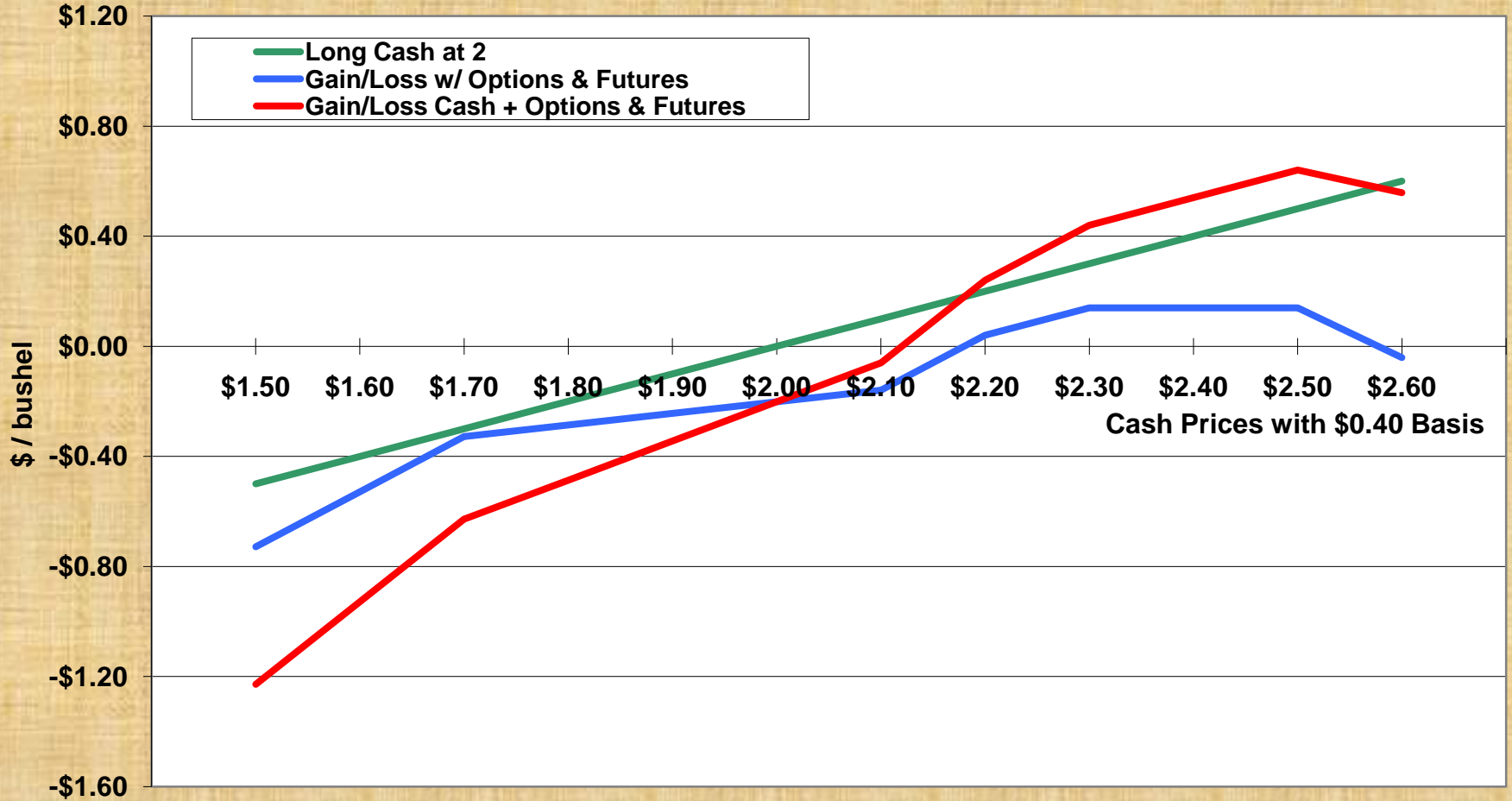
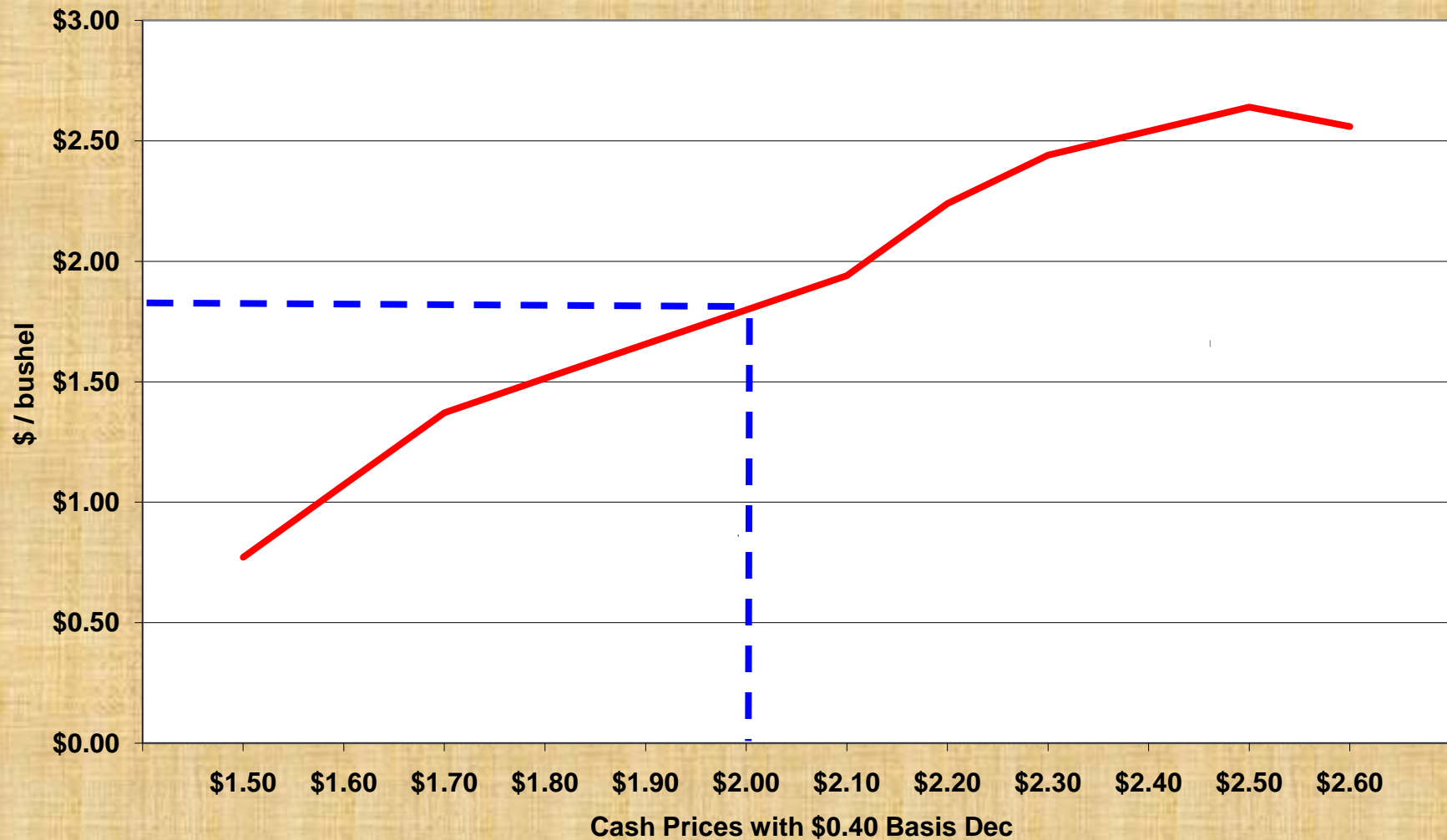


Figure 6. All Positions, End of September 2002



4 former Nebraska bank execs convicted, fined

The Associated Press

Four former executives of the failed Sherman County Bank have been convicted of lending too much money.

Former bank president Gerald Wortman pleaded no contest to 25 counts of excessive loan amount Thursday in Sherman County Court. Vice president Lawrence Volf pleaded no contest to 20 counts, and vice president Michael Rosander and senior vice president George McFadden to 10 counts each.

Wortman, Volf and McFadden were ordered to pay \$350 fines for each count, while Rosander was ordered to pay \$100 fines for each count.

The Loup City bank failed in February 2009. Regulators said the owners weren't able to recover loans to farmers who lost millions of dollars in commodities trading.

The bank's deposits were taken over by the Heritage Bank of Wood River.