

# The Burger Court Opinion Writing Database

## *Commodity Futures Trading Commission v Weintraub*

471 U.S. 343 (1985)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

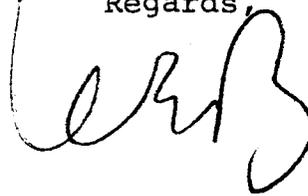
April 26, 1985

RE: 84-261 - Commodity Futures Trading  
Commission v. Weintraub

Dear Thurgood:

I join.

Regards,



Justice Marshall

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 25, 1985

No. 84-261

Commodity Futures Trading  
Commission v. Weintraub, et al.

Dear Thurgood,

I agree.

Sincerely,

*Bul*

Justice Marshall

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Supreme Court of the United States  
Washington, D. C. 20543

  
CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 25, 1985

84-261 - CFTC v. Weintraub

Dear Thurgood,

Please join me.

Sincerely yours,



Justice Marshall

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To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: Justice Marshall

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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 84-261

COMMODITY FUTURES TRADING COMMISSION, PETITIONER *v.* GARY WEINTRAUB ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[April —, 1985]

JUSTICE MARSHALL delivered the opinion of the Court.

The question here is whether the trustee of a corporation in bankruptcy has the power to waive the debtor corporation's attorney-client privilege with respect to communications that took place before the filing of the petition in bankruptcy.

### I

The case arises out of a formal investigation by petitioner Commodity Futures Trading Commission to determine whether Chicago Discount Commodity Brokers (CDCB), or persons associated with that firm, violated the Commodity Exchange Act, 7 U. S. C. §1 *et seq.* CDCB was a discount commodity brokerage house registered with the Commission, pursuant to 7 U. S. C. §6d(1), as a futures commission merchant. On October 27, 1980, the Commission filed a complaint against CDCB in the United States District Court for the Northern District of Illinois alleging violations of the Act. That same day, respondent Frank McGhee, acting as sole director and officer of CDCB, entered into a consent decree with the Commission, which provided for the appointment of a receiver and for the receiver to file a petition for liquidation under Chapter 7 of the Bankruptcy Reform Act of 1978 (Bankruptcy Code). The District Court appointed John K. Notz, Jr., as receiver.

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STYLISTIC CHANGES THROUGHOUT

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: Justice Marshall

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## SUPREME COURT OF THE UNITED STATES

No. 84-261

COMMODITY FUTURES TRADING COMMISSION, PETITIONER *v.* GARY WEINTRAUB ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[April 29, 1985]

JUSTICE MARSHALL delivered the opinion of the Court.

The question here is whether the trustee of a corporation in bankruptcy has the power to waive the debtor corporation's attorney-client privilege with respect to communications that took place before the filing of the petition in bankruptcy.

### I

The case arises out of a formal investigation by petitioner Commodity Futures Trading Commission to determine whether Chicago Discount Commodity Brokers (CDCB), or persons associated with that firm, violated the Commodity Exchange Act, 7 U. S. C. § 1 *et seq.* CDCB was a discount commodity brokerage house registered with the Commission, pursuant to 7 U. S. C. § 6d(1), as a futures commission merchant. On October 27, 1980, the Commission filed a complaint against CDCB in the United States District Court for the Northern District of Illinois alleging violations of the Act. That same day, respondent Frank McGhee, acting as sole director and officer of CDCB, entered into a consent decree with the Commission, which provided for the appointment of a receiver and for the receiver to file a petition for liquidation under Chapter 7 of the Bankruptcy Reform Act of 1978 (Bankruptcy Code). The District Court appointed John K. Notz, Jr., as receiver.

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 25, 1985

Re: No. 84-261, Commodity Futures v. Weintraub

Dear Thurgood:

Please join me.

Sincerely,

*H.A.B.*  
—

Justice Marshall

cc: The Conference

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 24, 1985

84-261 Commodity Futures v. Weintraub

Dear Thurgood:

Please add at the end of the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,



Justice Marshall

lfp/ss

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 25, 1985

Re: 84-261 - Commodity Futures Trading Commission  
v. Weintraub

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 25, 1985

Re: 84-261 Commodity Futures Trading Comm'n v.  
Weintraub

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

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CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

Supreme Court of the United States  
Washington, D. C. 20543

April 25, 1985

Re: 84-261 Commodity Futures Trading Commission v.  
Gary Weintraub, et al.

Dear Thurgood,

Please join me.

Sincerely,

Justice Marshall

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