

Commodity Futures Trading Commission
CEA CASES

NAME: SERVICE GRAIN COMPANY, AND NORVELL D. SEELE

DOCKET NUMBER: 102

DATE: AUGUST 4, 1961

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Service Grain Company, and Norvell D. Seele, Respondents

CEA Docket No. 102

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondents, Service Grain Company and Norvell D. Seele, have violated the Commodity Exchange Act (7 U.S.C. 1958 ed., Chapter 1) and the regulations made pursuant thereto (17 CFR, Part 1), and in accordance with the provisions of section 6(b) of the said act (7 U.S.C. § 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Service Grain Company is a Missouri corporation with its principal office and place of business at 5100 Oakland Avenue, St. Louis 10, Missouri. The said corporation is now and was at all times material to this complaint a registered futures commission merchant under the Commodity Exchange Act.

At all such times up to April 10, 1961, respondent Service Grain Company enjoyed membership privileges on the Chicago Board of Trade, a duly designated contract market.

II

Respondent Norvell D. Seele, an individual who resides at No. 7 Bellerive Acres, St. Louis 21, Missouri, is now and was at all times material to this complaint the president and manager of respondent Service Grain Company, the owner of 95 percent of its capital stock, and a member of the Chicago Board of Trade.

III

The acts and transactions hereinafter described were ordered and directed by or carried out under the supervision and control of respondent Norvell D. Seele in his capacity as president, manager, and principal shareholder of the respondent corporation.

IV

At the times hereinafter stated, respondent Service Grain Company, in the normal course of its business, carried accounts for customers who traded in commodity futures subject

to the provisions of the Commodity Exchange Act and regulations. In connection therewith, the said respondent had to its credit with a bank or other depository sums of money in varying amounts, held in segregated account and identified as customers' funds, representing deposits of margin by and trading profits accruing to such customers. During the same periods, respondent Service Grain Company traded in commodity futures on the Chicago Board of Trade for its own or house account.

V

Beginning on or about January 18, 1961, and continuing until April 7, 1961, respondent Service Grain Company executed purchases and sales of commodity futures on the Chicago Board of Trade for its own use and benefit and placed certain of such trades in its customers' accounts carried with clearing members, by reason of which the open contract positions and financial results of such trades were commingled with the open contract positions and financial results of the transactions of the customers of the respondent corporation, contrary to the provisions of section 4d(2) of the Commodity Exchange Act (7 U.S.C. § 6d(2)) and sections 1.20, 1.21, and 1.22 of the regulations (17 CFR 1.20, 1.21, 1.22).

VI

During the period set forth in paragraph V, with respect to the transactions for the house account of respondent Service Grain Company therein described, the said respondent failed to prepare and keep a record showing all such transactions, including the date, price, quantity, market, commodity, and future, as required by section 4g of the Commodity Exchange Act (7 U.S.C. § 6g) and section 1.35 of the regulations (17 CFR 1.35).

VII

As a result of losses incurred by respondent Service Grain Company in connection with the trades and contracts executed for its own account and the commingling of such trades and contracts with those of its customers as described in paragraph V, respondent Service Grain Company was under-segregated in the amount of approximately \$ 59,000 at all times between April 10 and April 30, 1961, in the amount of approximately \$ 40,000 on May 1, and in the amount of approximately \$ 15,000 on May 2, 1961, that is, the total amount of customers' funds held in segregation was insufficient, by the aforesaid sums, to pay all credits

and equities due to such customers, contrary to the provisions of section 4d(2) of the Commodity Exchange Act (7 U.S.C. § 6d(2)) and sections 1.20, 1.21, and 1.22 of the regulations (17 CFR 1.20, 1.21, 1.22).

VIII

At all times during the period from January 18, 1961, through March 24, 1961, the computation and record of funds required to be held in segregation, which respondent Service Grain Company was obligated to make as of the close of the market on each business day, as provided by section 1.32 of the regulations (17 CFR 1.32), was incomplete and inaccurate to an extent which made it impossible to determine whether the funds so held were in fact sufficient to pay all credits and equities due to customers. On each business day from March 25 through May 2, 1961, respondent Service Grain Company failed to make any daily computation or permanent record of funds required to be held in segregation.

IX

In June 1959, it was brought to the attention of respondent Norvell D. Seele by a representative of the Commodity Exchange Authority that respondent Service Grain

Company had at that time commingled trades for its own or house account with trades of its customers; that the said corporation had become under-segregated on thirteen different business days during a period of three months; and that its segregation record was incorrect due to erroneous computation of the amount required to be segregated. Respondent Norvell D. Seele was informed that these matters constituted violations of the Commodity Exchange Act and regulations, whereupon the said respondent assured the representative of the Commodity Exchange Authority that necessary corrective measures would be taken and that such violations would not be repeated.

X

By reason of the acts and omissions described in paragraphs V, VII, and VIII, respondents Service Grain Company and Norvell D. Seele failed to treat and deal with customers' funds as belonging to such customers, failed to account separately for such funds, commingled such funds with funds of respondent Service Grain Company, used such funds to margin and guarantee the trades and secure and extend the credit of persons other than those for whom such funds

were held, and failed to prepare and maintain the records required under the Commodity Exchange Act and regulations as a basis for such segregation and accounting, in knowing and wilful violation of section 4d(2) of the Commodity Exchange Act (7 U.S.C. § 6d(2)), and sections 1.20, 1.21, 1.22, and 1.32 of the regulations (17 CFR 1.20, 1.21, 1.22, 1.32).

By reason of the acts and omissions described in paragraph VI, respondents Service Grain Company and Norvell D. Seele failed and refused to keep books and records pertaining to futures transactions in the form and manner required by the Secretary of Agriculture, in knowing and wilful violation of section 4g of the Commodity Exchange Act (7 U.S.C. 6g) and section 1.35 of the regulations (17 CFR 1.35).

Wherefore, it is hereby ordered that this complaint and notice of hearing be served upon each of the said respondents. The respondents will have twenty days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., an answer in quadruplicate,

wholly and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material and relevant allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless hearing is waived, either expressly or by failure to file an answer and request a hearing, a hearing will be held at 10:00 a.m., local time, on the 12th day of September, 1961, in St. Louis, Missouri, at a place therein to be specified later, before a referee designated to conduct such hearing. At such hearing, the respondents will have the right to appear and show cause, if any there be, why an order should not be made suspending or revoking the registration of respondent Service Grain Company as a futures commission merchant and directing all contract markets to refuse all trading privileges to each of the respondents for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C.

August 4, 1961

/s/ Orville L. Freeman

Orville L. Freeman
Secretary

LOAD-DATE: June 12, 2008

