

Commodity Futures Trading Commission
CEA CASES

NAME: G. H. MILLER AND COMPANY; GILBERT H. MILLER; HOWARD RANDOLPH, D/B/A RANDOLPH AND COMPANY; REFRIGERATED PRODUCTS, INC.; J.W. HARDING; CENTRAL IOWA POULTRY AND EGG COMPANY; JOHN H. SNOWGREN; ALLEN HEADLEE, D/B/A HEADLEE PRODUCE COMPANY; E.E. HUMMEL AND K. HUMMEL, D/B/A HUMMEL PRODUCE COMPANY; ALBERT SCHIRM, D/B/A SCHIRM PRODUCE COMPANY; LEO HAGEN; A.L. MYRICK, D/B/A MARKET PRODUCE COMPANY; LEWIS R. VAN SANT AND ROY ROUNTREE, D/B/A DATED EGG COMPANY

DOCKET NUMBER: 60

DATE: SEPTEMBER 1, 1953

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Complaint and Notice of Hearing Under Section 6(b)

of the Commodity Exchange Act

CEA Docket No. 60

In re G. H. Miller and Company, a corporation; Gilbert H. Miller; Howard Randolph, doing business as Randolph and Company; Refrigerated Products, Inc., a corporation; J. W. Harding; Central Iowa Poultry and Egg Company, a corporation; John H. Snowgren; Allen Headlee, doing business as Headlee Produce Company; E. E. Hummel and K. Hummel, partners, doing business as Hummel Produce Company; Albert Schirm, doing business as Schirm Produce Company; Leo Hagen; A. L. Myrick, doing business as Market Produce Company; Lewis R. Van Sant and Roy Rountree, partners, doing business as Dated Egg Company; Respondents,

The Assistant Secretary of Agriculture has reason to believe that the respondents, G. H. Miller and Company, a corporation, Gilbert H. Miller, its president, Howard Randolph, an individual doing business as Randolph and Company, Refrigerated Products, Inc., a corporation, J. W. Harding, its president, Central Iowa Poultry and Egg Company,

a corporation, John H. Snowgren, its president, Allen Headlee, an individual doing business as Headlee Produce Company, E. E. Hummel and K. Hummel, partners, doing business as Hummel Produce Company, Albert Schirm, an individual doing business as Schirm Produce Company, Leo Hagen, A. L. Myrick, an individual doing business as Market Produce Company, and Lewis R. Van Sant and Roy Rountree, partners, doing business as Dated Egg Company, attempted to manipulate and did manipulate the price of a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade, and attempted to corner and did corner such commodity, in violation of the Commodity Exchange Act (7 U.S.C. 1-17a). 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 alleging as follows:

I

Respondent G. H. Miller and Company is a corporation organized under the laws of the State of Illinois, and has an office and place of business at 1136 West Fulton Street, Chicago, Illinois. The said corporation is a dealer in eggs for its own account and for the accounts of customers, and in connection therewith it buys and sells cash eggs and trades in egg futures on the Chicago Mercantile

Exchange. The said corporation was at all times material to this complaint and is now a

registered futures commission merchant under the Commodity Exchange Act and a clearing member of the Chicago Mercantile Exchange. Respondent Gilbert H. Miller, a registered floor broker under the commodity Exchange Act, is president of the said corporation, owns 50 per cent of its stock, and manages and controls its business.

II

Respondent Howard Randolph is the sole owner and manager of Randolph and Company, located in Guthrie Center, Iowa. The said firm is a dealer in and shipper of eggs, and it trades in egg futures on the Chicago Mercantile Exchange through various futures commission merchants including respondent G. H. Miller and Company. The said Howard Randolph is now and was at all times material to this complaint a member of the Chicago Mercantile Exchange, and was authorized by the said Exchange to act as associate broker for G. H. Miller and Company and solicit orders for futures transactions to be executed on the said Exchange through the said G. H. Miller and Company.

III

Respondent Refrigerated Products, Inc., is a corporation organized under the laws of the State of Texas, and has an office and place of business at 1109 Jones Street, Fort Worth, Texas. The said corporation is engaged in various enterprises including the egg business, and it carries on speculative trading in egg futures on the Chicago Mercantile

Exchange for its own account through respondent G. H. Miller and Company. Respondent J. W. Harding is president of and a principal shareholder in the said corporation, and manages and controls its business.

IV

Respondent Central Iowa Poultry and Egg Company is a corporation organized under the laws of the state of Iowa, and has an office and place of business at Marshalltown, Iowa. The said corporation is a dealer in eggs and poultry. John H. Snowgren is president of the said corporation and manages and controls its business.

V

Respondent Allen Headlee is the sole owner and manager of the Headlee Produce Company, located in Coon Rapids, Iowa. The said firm is a packer and shipper of eggs.

VI

Respondents E. E. Hummel and K. Hummel are partners doing business as the Hummel Produce Company, Oakland, Iowa. The said partnership is in the egg and feed business.

VII

Respondent Albert Schirm is the sole owner and manager of the Schirm Produce Company, Walnut, Iowa. The said firm is a packer and shipper of eggs.

VIII

Respondent Lee Hagen is an individual residing in Guthrie Center, Iowa.

IX

Respondent A. L. Myrick is the sole owner and manager of the Market Produce Company, 315 East First Street, Fort Worth, Texas. The said firm is a dealer in eggs and poultry.

X

Respondents Lewis R. Van Sant and Roy Rountree are partners doing business as the Dated Egg Company, 321 Franklin Street, Houston, Texas. The said partnership is a dealer in eggs and poultry. The said Lewis R. Van Sant is now and was at all times material to this complaint a member of the Chicago Mercantile Exchange.

XI

The transactions hereinafter described took place upon the Chicago Mercantile Exchange, a duly designated contract market under the Commodity Exchange Act.

XII

At all times material to this complaint, the individual respondents exercised management and control over the business of the various respondent corporations, partnerships, or sole ownerships with which they

were associated, and the transactions hereinafter described were carried out under the direction and supervision and by means of the acts of the said individual respondents in their capacities as officers, partners, or sole owners of the said respondents firms.

XIII

At all times material to this complaint, the respondents acted collectively and in a uniform manner, pursuant to an understanding or agreement to corner and manipulate the egg market, in furtherance of which respondents Gilbert H. Miller, Howard Randolph, and J. W. Harding caused the execution of the transactions in egg futures and cash eggs hereinafter described.

XIV

At the close of business on December 16, 1952, respondent Randolph and Company had a long position of 13 contracts or carlots of December 1952 egg futures on the Chicago Mercantile Exchange on the books of G. H. Miller and Company, and the G. H. Miller and Company had a long position of 22 contracts or carlots in such future for its own account. None of the other respondents above named had any position in December 1952 egg futures on the books of G. H. Miller and Company at the close of business on December 16, 1952. Beginning on December 17, 1952, and continuing through December 18 and 19, 1952, respondent Gilbert H. Miller purchased approximately 197 contracts or

carlots of December 1952 egg futures which he distributed among the accounts of certain of the respondents as follows:

Name	Position on Dec. 16	Bought Dec. 17-19	Total Held Dec. 19
Randolph and Company	13	37	50
Refrigerated Products Company	0	50	50
Central Iowa Poultry and Egg Company	0	24	24
Headlee Produce Company	0	20	20
Hummel Produce Company	0	9	9
Schirm Produce Company	0	9	9
Market Produce Company	0	24	24
Dated Egg Company	0	24	24

XV

During the period from December 17 through December 19, 1952, respondent Gilbert H. Miller withheld December 1952 egg futures from sale for the accounts of the said respondents, and kept their positions open in increasing quantities and at a steadily increasing percentage of the total open interest, with the result that, on December 19, 1952, as the close of trading in the December 1952 future approached, the said respondents held approximately 75 per cent of the total open interest in December 1952 egg futures and had thereby attained a dominant and controlling long position in such future.

XVI

On December 19, 1952, the business manager of the Chicago Mercantile Exchange instructed respondent Gilbert H. Miller not to accept

any more buying orders for December 1952 egg futures contracts. On December 22, 1952, the next business day, respondent Howard Randolph purchased, through Helfer-King-Gatlin, Inc., a registered futures commission merchant and a clearing member of the Chicago Mercantile Exchange, 21 contracts or carlots of December 1952 egg futures, eleven of which were entered in the account of respondent Randolph and Company and ten of which were entered in the account of respondent Leo Hagen.

XVII

On December 17, 1952, there were approximately 133 carlots of shell eggs, deliverable and undeliverable, in Chicago warehouses, including shell eggs held by the respondents. This figure declined steadily to approximately 88 carlots on December 31, 1952. Trade estimates available to the public indicated that at all times after December 17, 1952, stocks of shell eggs in Chicago which were qualified for delivery in satisfaction of December 1952 egg futures contracts (hereinafter called "deliverable") totaled approximately 60 carlots. The last day for trading in December 1952 egg futures was December 23, 1952. At all times during the three trading days immediately prior thereto the total quantity of long December 1952 egg futures held by the respondents was more than three times as large as estimated total stocks of deliverable eggs in Chicago, including deliverable eggs held by the respondents.

XVIII

In furtherance of the understanding or agreement among the respondents to maintain control of December 1952 egg futures and deliverable cash eggs, respondents Gilbert H. Miller and G. H. Miller and Company stood for and received substantial deliveries of eggs on the long contracts held by the respondents, and maintained the cash egg position of the respondents at a steadily increasing percentage of the total available stocks of deliverable eggs in Chicago. Such deliveries were required and received with knowledge by the respondents of the fact that there was an insufficient supply of deliverable eggs in Chicago which could be tendered in satisfaction of the long futures contracts held by them, and with knowledge of the further fact that the major portion of such deliverable eggs was in their own possession.

XIX

On December 22 and December 23, 1952, respondent Gilbert H. Miller sold 113 contracts or carlots of the long December 1952 egg futures purchased on December 17, 18, and 19, 1952. On December 23, 1952, respondent Howard Randolph sold, through Helfer-King-Gatlin, Inc., the 21 contracts or carlots of December 1952 egg futures purchased the previous day, as described in paragraph XVI. All such sales were made on a rising market, at or near prices which represented the maximum to which such prices were permitted to increase under the rules of the Chicago Mercantile Exchange.

XX

Because of the dominant and controlling position of the respondents in the December 1952 egg futures market and the acceptance of delivery of eggs in satisfaction of such contracts, as above described, the said respondents owned and held approximately 75 per cent of all deliverable eggs in Chicago at the close of trading on December 23, 1952, and on December 31, 1952, the said respondents owned and held 77 out of a total of 79 carlots of deliverable eggs in Chicago, or 97 per cent.

XXI

Respondents Gilbert H. Miller and G. H. Miller and Company with held cash eggs from sale during the period of trading in the December 1952 egg future, and refused to sell such eggs after the close of trading in such future except at prices which were at a premium in relation to prevailing prices of cash refrigerator eggs, thus compelling the holders of short contracts to cover their commitments by the purchase of cash eggs from the respondents at prices fixed by them.

XXII

The respondents carried out the acts described in paragraphs XIII to XXI, inclusive, for the purpose and with the intent of cornering December 1952 egg futures and cash refrigerator eggs in Chicago, and for the purpose and with the intent of raising the price of December

1952 egg futures and cash refrigerator eggs in Chicago. In furtherance of such purpose and intent, the respondents attained a dominant and controlling long position in the December 1952 egg futures market, required and accepted the delivery of cash eggs in satisfaction thereof, obtained control of the supply of deliverable eggs in Chicago, and placed themselves in a position where they could and did, through respondents Gilbert H. Miller and G. H. Miller and Company, exact such prices as they saw fit from the holders of short December 1952 egg futures contracts. Such acts caused the price of December 1952 egg futures contracts on the Chicago Mercantile Exchange and the price of deliverable cash eggs in Chicago in December 1952 to rise to an artificial and manipulated level.

XXIII

By reason of the acts described above, the respondents attempted to corner and did in fact corner a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade in violation of Section 9 of the Commodity Exchange Act (7 U.S.C. 13). By reason of such acts, the respondents also attempted to manipulate and did in fact manipulate the price of a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade, in violation of Sections 6(b) and 9 of the Commodity Exchange Act (7 U.S.C. 9, 13).

Therefore, the said respondents, G. H. Miller and Company, Gilbert H. Miller, Howard Randolph, Refrigerated Products, Inc., J. W. Harding, Central Iowa Poultry and Egg Company, John H. Snowgren, Allen Headlee, E. E. Hummel, K. Hummel, Albert Schirm, Leo Hagen, A. L. Myrick, Lewis R. Van Sant, and Roy Rountree, are hereby notified to be and appear at a hearing to be held at 10:00 a.m., Central Standard Time, on the 3d day of November, 1953 in Room 1200, Board of Trade Building, 141 West Jackson Boulevard, Chicago, Illinois, before a referee designated to conduct such hearing and then and there show cause, if any there be, why an order should not be made revoking or suspending the registration of respondent G. H. Miller and Company as a futures commission merchant, revoking or suspending the registration of respondent Gilbert H. Miller as a floor broker, and directing that all contract markets refuse all trading privileges to all the respondents until further notice by the Secretary of Agriculture.

The respondents will have 20 days after the receipt of this notice of hearing in which to file with the hearing clerk, United States Department of Agriculture, in triplicate, an answer fully and completely stating the nature of the defense and admitting or denying specifically in detail each material and relevant allegation of the complaint. Allegations that are not answered will be deemed admitted for the purpose of this proceeding.

It is ordered that this complaint and notice of hearing be served on the respondents by delivery of a true copy thereof by an employee of the Department of Agriculture, or by registered mail, at least 20 days prior to the date set for hearing.

Done at Washington, D. C.

this 1 day of Sept., 1953.

/s/ John H. Davis

Assistant Secretary of Agriculture

LOAD-DATE: June 12, 2008

