

Commodity Futures Trading Commission
CEA CASES

NAME: KERMIT W. QUAINANCE, "Q" COMMODITIES CO., AND EARL B. HOGLUND

DOCKET NUMBER: 176

DATE: JULY 12, 1971

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re: Kermit W. Quaintance, "Q" Commodities Co., and Earl B. Hoglund,
Respondents

CEA Docket No. 176

Complaint and Notice of Hearing under the Commodity Exchange Act

There is reason to believe that the respondents have violated the Commodity Exchange Act (7 U.S.C. Chapter 1, 1964 ed., as amended, Supp. V, 1970) and the regulations made pursuant thereto, and this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent "Q" Commodities Co., a corporation organized and existing under the laws of the State of Minnesota, at all times material to this complaint, was entitled to membership privileges on the Minneapolis Grain Exchange and the Chicago Board of Trade, both duly designated contract markets under the Commodity Exchange Act, and was engaged as a registered futures commission merchant under that Act.

II

Respondent Kermit W. Quaintance, at all times material to this complaint, was president and sole stockholder of respondent "Q"

Commodities Co., was a member of the Minneapolis Grain Exchange and the Chicago Board of Trade, and was a floor broker registered with the Secretary of Agriculture in accordance with the provisions of the Commodity Exchange Act.

III

Respondent Earl B. Hoglund, at all times material to this complaint, was manager of the branch office of "Q" Commodities Co. located in Rochester, Minnesota.

IV

On or about January 31, 1968, February 8, 1968, August 30, 1968 and December 13, 1968, respondents "Q" Commodities Co. and Kermit W. Quaintance engaged in soliciting and accepting orders for the purchase or sale of commodities for future delivery and did not separately account for money received by them from their customers to margin, guarantee, and secure the trades or contracts of such customers, or accruing to such customers as the result of such trades or contracts and commingled it with the funds of "Q" Commodities Co. to the extent of more than \$ 34,000, \$ 6,000, \$ 400,000, and \$ 400,000 respectively, in

violation of section 4d (2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) and section 1.20 of the regulations thereunder (17 CFR 1.20).

V

During the period from about March 15, 1968 to about December 24, 1968, respondents "Q" Commodities Co. and Kermit W. Quaintance, in

making and executing contracts of sale of commodities for future delivery, which were or might have been used for (a) hedging transactions in interstate commerce in such commodities or the products or by-products thereof, or (b) determining the price basis of any such transaction in interstate commerce, or (c) delivering such commodities sold, shipped, or received in interstate commerce for the fulfillment thereof, did not, for such contracts as were recorded in the books and records of "Q" Commodities Co. in the financial ledger account identified as "Customers Accounts Receivable," make records in writing which showed the names of the parties thereto, in violation of section 4 of the Commodity Exchange Act (7 U.S.C. 6) and section 1.37 of the regulations thereunder (17 CFR 1.37).

VI

On or about July 24, 1968, respondent "Q" Commodities Co. submitted a report on Report Form 102 CEA, "Identification of 'Special Accounts'", required by regulations promulgated by the Secretary of Agriculture under the Commodity Exchange Act (17 CFR 17.01), which contained false entries in Item 1 and in response to questions a and b in Item 7, in that Kermit W. Quaintance, and not E. B. Hoglund as indicated, was the person actually responsible for the direction of futures trading in the account reported on, in violation of Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9(b)).

VII

On each day from about August 1, 1968 to about August 30, 1968 respondent Kermit W. Quaintance held open contract positions in wheat futures on the Minneapolis Grain Exchange of 200,000 bushels or more in a single future. By reason thereof, respondent "Q" Commodities Co. was required to submit reports to the Commodity Exchange Authority on Report Form 201 CEA, "Grain Futures: Net Position of Special Accounts," as prescribed by regulations promulgated by the Secretary of Agriculture under the Commodity Exchange Act (17 CFR 17.00), and respondent Kermit W. Quaintance was required to submit reports to the Commodity Exchange Authority on Report Form 203 CEA, "Grain Futures Transactions, Deliveries and Open Contracts," as prescribed by section 4i of the Commodity Exchange Act and by sections 18.00 and 18.01 of the regulations thereunder (17 CFR 18.00, 18.01). Respondents "Q" Commodities Co. and Kermit W. Quaintance failed to submit these required reports in violation of sections 4g and 4i of the Commodity Exchange Act and the above cited sections of the regulations.

VIII

During the period from about June 18, 1968 to about December 13, 1968, respondent Kermit W. Quaintance with criminal intent converted to his own use money, in an amount in excess of \$ 400,000 received by

him from his customers to margin, guarantee and secure their trades or contracts or accruing to such customers as the result of such trades or contracts in violation of section 9(a) of the Commodity Exchange Act. (7 U.S.C. 13(a))

IX

During the period from about May 6, 1968 to about September 12, 1968 respondents "Q" Commodities Co., Kermit W. Quaintance and Earl B. Hoglund, by the use of checks drawn against insufficient funds, willfully falsified the

financial ledger record of the account of Earl B. Hoglund in the books of "Q" Commodities Co., required by regulations of the Secretary of Agriculture under the Commodity Exchange Act (17 CFR 1.35). By carrying over the false credit entries thus created into the daily segregation record maintained by "Q" Commodities Co., required by regulations of the Secretary of Agriculture under the Commodity Exchange Act (17 CFR 1.32), respondents willfully falsified that record. These falsifications constitute violation of Sections 4g and 4d(2) of the Commodity Exchange Act (7 U.S.C. 6g, 6d(2)) and the regulations cited.

X

On or about August 5, 1968, respondent Earl B. Hoglund submitted a report on Form CEA-40, "Statement of Reporting Trader", required by regulations promulgated by the Secretary of Agriculture under the Commodity Exchange Act (17 CFR 18.04) which contained false entries in

Items 5 and 6 in that Kermit W. Quaintance controlled trading and had a financial interest in the account reported on, in violation of Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9(b))

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the respondents and this proceeding shall be governed by sections 0.1, 0.2, 0.4(b), 0.5 through 0.22 and 0.28 of the rules of practice under the Commodity Exchange Act (17 CFR 0.1, 0.2, 0.4(b), 0.5 through 0.22, 0.28). The respondents will have twenty (20) days after the receipt of this complaint in which to file with the hearing Clerk, United States Department of Agriculture, Washington, D. C. 20250, an answer with an original and three copies, fully and completely stating the nature of the defense and admitting or denying specifically and in detail, each 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 allegations of this complaint and waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in this complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless a hearing is waived, a hearing will be held at a time, date, and place 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 appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) prohibiting the respondents from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to the respondents for such period of time as may be determined, and (2) directing that the respondents shall cease and desist from violating the Commodity Exchange Act in the manner alleged herein.

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

Done at Washington, D. C.

July 12, 1971

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

LOAD-DATE: June 16, 2008

