

Commodity Futures Trading Commission  
CEA CASES

**NAME:** WARD MERCANTILE, INC., AND PHILIP J. FULLERTON

**DOCKET NUMBER:** 179

**DATE:** AUGUST 19, 1971

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: Ward Mercantile, Inc., and Philip J. Fullerton, Respondents

CEA Docket No. 179

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. 1 et seq.) 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 Ward Mercantile, Inc., is now, and was at all times material herein, a corporation organized and existing under the laws of the State of New York, with offices at 6 Harrison Street, New York, New York 10013. The said corporation is now, and was at all such times, a registered futures commission merchant under the Commodity Exchange Act, engaged in trading in commodities for future delivery for the accounts of customers and holding for such customers sums of money, representing deposits of margin by and trading profits accruing to such customers. At all such times, the said corporation was subject to the minimum financial requirements specified in section 1.17 of the regulations under the Commodity Exchange Act (34 F.R. 599).

II

Respondent Philip, J. Fullerton, an individual, is now, and was at all times material herein, secretary-treasurer of the respondent corporation, and responsible for the management, direction and control of its activities.

III

During the period from August 31, 1970 through October 19, 1970, respondent Ward Mercantile, Inc., engaged as a registered futures commission merchant under the Commodity Exchange Act while failing to meet the minimum financial requirements prescribed by section 1.17 of the regulations issued by the Secretary of Agriculture under the Act. As of August 31, 1970, the respondent corporation lacked approximately \$ 33,560 of having enough working capital to meet such minimum financial requirements. This insufficiency was not corrected until October 20, 1970.

IV

Having reason to believe that the respondent corporation was not meeting the minimum financial requirements prescribed in section 1.17 of the regulations under the Commodity Exchange Act, T. Reed McMinn, Director of the Commodity Exchange Authority's Eastern Region, on January 20, 1970, warned the corporation in writing as follows: "It is your firm's responsibility at all times to meet the financial requirements . . ." prescribed in section 1.17.

To correct the working capital insufficiency at the time, respondent Fullerton on or about February 13, 1970, loaned the corporate respondent \$ 100,000 and subordinated the loan to the claims of the other general creditors.

V

By reason of the facts alleged in this complaint, the respondents willfully violated section 4f of the Commodity Exchange Act and section 1.17 of the regulations thereunder.

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 purposes of this proceeding. Failure to file an answer will constitute an admission of all the allegations of this complaint and a waiver of hearing. The filing of an answer in which all of the material allegations of fact contained in the complaint are admitted

likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless hearing is waived, a hearing will be held at 10:00 a.m., local time, on October 27, 1971, in New York, New York, 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 appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) suspending or revoking the registration of the respondent corporation as futures commission merchant, (2) 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 (3) directing that the respondents shall cease and desist from violating the Act and regulations in the manner alleged herein.

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 19, 1971

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

**LOAD-DATE:** June 16, 2008

