

Commodity Futures Trading Commission  
CEA CASES

**NAME:** EDWARD R. BYER, JOEL STARRELS, JAMES T. MCKERR AND COMPANY, JAMES T. MCKERR, CHARLES J. MCKERR, AND GILBERT D. MATHY

**DOCKET NUMBER:** 62

**DATE:** AUGUST 20, 1962

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Edward R. Byer, Joel Starrels, James T. McKerr and Company, James T. McKerr, Charles J. McKerr, and Gilbert D. Mathy, Respondents

C.E.A. Docket No. 62

Complaint and Notice of Hearing under the Commodity Exchange Act

The Secretary of Agriculture has reason to believe that the respondents, Edward R. Byer, Joel Starrels, James T. McKerr and Company, James T. McKerr, Charles J. McKerr, and Gilbert D. Mathy, have violated the Commodity Exchange Act and the rules and regulations made pursuant to its requirements. In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C. 9), this complaint is issued alleging as follows:

I

The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, was at all times material to this complaint a duly designated contract market under the Commodity Exchange Act.

II

Respondent Edward R. Byer, an individual whose address is

Box 269, Route 2, Garland Texas, is a trader in commodity futures. At all times material to this complaint, the said Edward R. Byer was a non-clearing member of the Chicago Board of Trade. The said respondent was not at any such time a registered futures commission merchant or registered floor broker under the Commodity Exchange Act, and all futures transactions executed by him on or subject to the rules of the Chicago Board of Trade were executed for his own account.

III

Respondent Joel Starrels, an individual whose business address is Room 1480, Board of Trade Building, 141 West Jackson Blvd., Chicago 4, Illinois, is a trader in commodity futures. At all times material to this complaint, the said Joel Starrels was a registered floor broker under the Commodity Exchange Act and a non-clearing member of the Chicago Board of Trade.

IV

Respondent James T. McKerr and Company is a partnership composed of respondents James T. McKerr and Charles J. McKerr, and has offices at Room 1045, Board of Trade Building, 141 West Jackson Blvd. Chicago 4, Illinois. At all times material to this complaint, the said partnership was a registered futures commission merchant under the Commodity Exchange Act and a clearing member of

the Chicago Board of Trade, and at all such times respondents James T. McKerr and

Charles J. McKerr were registered floor brokers under the Commodity Exchange Act and members of the Chicago Board of Trade.

## V

Respondent Gilbert D. Mathy, an individual whose business address is Room 1042, Board of Trade Building, 141 West Jackson Blvd., Chicago 4, Illinois, is a trader in commodity futures. At all times material to this complaint, the said Gilbert D. Mathy was a registered floor broker under the Commodity Exchange Act and a non-clearing member of the Chicago Board of Trade.

## VI

Uhlmann Grain Company and A. J. Riffel and Company, not respondents herein, were at the times hereinafter mentioned registered futures commission merchants under the Commodity Exchange Act and clearing members of the Chicago Board of Trade.

## VII

During the period from January 1952 through July 1953, respondent Edward R. Byer traded extensively in commodity futures on the Chicago Board of Trade by means of three accounts in his own name, carried by Uhlmann Grain Company, A. J. Riffel and Company, and respondent James T. McKerr and Company. From time to time during the said period, respondent Edward R. Byer also caused the entry and recording of commodity futures transactions which belonged to

him in six other accounts, which appeared under the following names and designations.

Account	Carried With
Joel Starrels, No. 510 Special	Uhlmann Grain Company
James T. McKerr, No. 303 Special	James T. McKerr and Company
Charles J. McKerr, Special	James T. McKerr and Company
Gilbert D. Mathy	A. J. Riffel and Company
William M. Dunn	A. J. Riffel and Company
George B. O'Connell	A. J. Riffel and Company

Respondent Edward R. Byer executed or caused the execution of certain transactions in commodity futures through or by means of the above described accounts carried in the names of other persons, in order to conceal from the Commodity Exchange Authority trades and positions in commodity futures which were in excess of the maximum limits established by the Commodity Exchange Commission, and in furtherance of such concealment all of the respondents wilfully violated various provisions of the Commodity Exchange Act, as hereinafter described.

## Transactions in Oats Futures

## VIII

Between November 26, 1952, and December 2, 1952, both inclusive, and between February 9, 1953, and March 27, 1953, both inclusive, respondent Edward R. Byer's net open contract position in oats

futures on the Chicago Board of Trade ranged between 2,370,000 bushels and 3,295,000 bushels, exclusive of hedging and spreading transactions. On numerous occasions during these periods, including November 28, 1952, February 16, 1953, March 17, 1953, and March 20, 1953, transactions in oats futures, on the Chicago Board of Trade were executed by or for the use and benefit of the said

respondent and were entered in accounts carried in his own name or in the names of other persons, as described in paragraph VII. By reason of such position and transactions, the said respondent traded in oats for future delivery on or subject to the rules of a contract market in amounts which resulted in positions in excess of the maximum permissible quantity, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a) and the order of the Commodity Exchange Commission establishing limits on trading and positions in oats for future delivery (17 CFR 150.1).

## IX

At all times between November 26, 1952, and March 30, 1953, both inclusive, respondent Edward R. Byer held open contracts in one oats future on the Chicago Board of Trade equal to or in excess of 200,000 bushels. By reason of such position, the said respondent was required to report to the Commodity Exchange Authority during such period, with respect to all transactions and open contract positions in all oats futures in accounts owned or controlled by him, as

provided in section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.21). During such period, the said respondent submitted approximately thirty-four (34.) reports to the Commodity Exchange Authority which showed that his net open contract position in oats futures on the Chicago Board of Trade ranged from 660,000 bushels to 1,980,000 bushels, and which purported to include all of the respondent's trading in oats futures during this period. In truth and in fact, the said respondent's net open contract position in oats futures on the Chicago Board of Trade during the said period ranged from 1,010,000 bushels to 3,295,000 bushels, and the reports submitted by him included only his trading and positions in oats futures in the accounts carried in his own name, and did not include trades or positions in oats futures, executed or held for his use and benefit in accounts carried in the names of other persons. By reason thereof, respondent Edward R. Byer submitted false reports to the Commodity Exchange Authority, in wilful violation of the aforementioned provisions of the act and of the rules and regulations thereunder.

## X

(a) At the close of business on November 26, 1952, respondent Edward R. Byer's account on the books of A. J. Riffel and Company had a net long open contract position in oats futures on the Chicago

Board of Trade of 1,960,000 bushels. On the said date respondent Joel Starrels purchased 930,000 bushels of December 1952 oats futures on the floor of the Chicago Board of Trade, entered the said purchases on his trading card, caused such purchases to be recorded in an account which he directed to be opened and which he designated as "Joel Starrels No. 510 Special" on the books of the Uhlmann Grain Company, and submitted reports to the Commodity Exchange Authority which showed that such purchases were made for the account of, and that the resulting position was held by, respondent Joel Starrels. In truth and in fact, the said purchases were made for the use and benefit of respondent Edward R. Byer, and the resulting position was held for him and was subject to his direction and control, but respondent Edward R. Byer did not include such purchases or position in reports which he submitted to the Commodity Exchange Authority. Due to such purchases, respondent Edward R. Byer had a net long open contract position in oats futures on the Chicago Board of Trade of more than 2,000,000 bushels, exclusive of hedging and spreading transactions, to wit, 2,890,000 bushels. The recording of the said purchases in the Joel Starrels No. 510 Special account was intended and carried out by respondents Edward R. Byer and Joel Starrels for the purpose and with the effect of concealing from the

Commodity Exchange Authority the fact that respondent Edward R. Byer's position in oats futures on the Chicago Board of Trade was over 2,000,000 bushels.

(b) By reason of such acts, respondent Edward R. Byer traded in oats for future delivery on or subject to the rules of a contract market in an amount which resulted in a position in excess of the maximum permissible quantity, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a) and the order of the Commodity Exchange Commission established limits on trading and positions in oats for future delivery (17 CFR. 150.1); and failed to keep required records and submitted false reports to the Commodity Exchange Authority, in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(c) By reason of such acts, respondent Joel Starrels executed a futures contract on a board of trade and failed to evidence the same by a written record which showed the true parties to such contract, in wilful violation of section 4 of the Commodity Exchange Act (7 U.S.C. 6) and section 1.37 of the rules and regulations thereunder (17 CFR 1.37); wilfully entered false records of futures contracts made on behalf of another person, in violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); and submitted false reports to the Commodity Exchange Authority, in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.21).

#### XI

(a) As of December 23, 1952, there was a profit in the Joel Starrels No. 510 Special account, which had accrued as a result of the purchases described in paragraph X. On that date, respondent Joel Starrels entered on his trading card a purchase of 250,000 bushels of January 1953 soybean futures from respondent James T. McKerr and a sale of the same quantity of the same future to respondent James T. McKerr at a price two and one-half (2 1/2) cents per bushel lower, and caused such transactions to be recorded in his personal account on the books of the Uhlmann Grain Company, with the result that the loss arising therefrom was debited against the said account. Simultaneously, respondent James T. McKerr entered on his trading card a purchase of 250,000 bushels of January 1953 soybean futures from respondent Joel Starrels and a sale of the same quantity of the same future to respondent Joel Starrels at a price two and one-half (2 1/2) cents per bushel higher, and caused such transactions to be recorded in an account designated as "James T. McKerr No. 303 Special" on the books of respondent James T. McKerr and Company, with the result that the reciprocal profit arising out of such transactions was credited to the said account. On the same date, respondent James T. McKerr entered on his trading card a purchase of 250,000 bushels of March 1953 soybean futures from respondent Edward R. Byer and a sale of the same quantity of the same future to respondent Edward R. Byer at a price

two and one-half (2 1/2) cents per bushel lower, and caused such transactions to be recorded in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company, with the result that the loss arising therefrom was debited against the said account. Simultaneously, respondent Edward R. Byer entered on his trading card a purchase of 250,000 bushels of March 1953 soybean futures from respondent James T. McKerr and a sale of the same quantity of the same future to respondent James T. McKerr at a price two and one-half (2 1/2) cents per bushel higher, and caused such transactions to be recorded in the Edward R. Byer account on the books of A. J. Riffel and Company, with the result that the reciprocal profit arising out of such transactions was credited to the said account of respondent Edward R. Byer. The transactions above described were not entered into for the purpose of buying or selling commodity futures, but were intended and carried out solely for the purpose of

transferring from respondent Joel Starrels to respondent Edward R. Byer substantially the amount of the profit which had accrued as a result of the transactions described in paragraph X.

(b) By reason of such acts, respondents Edward R. Byer, Joel Starrels, James T. McKerr, and James T. McKerr and Company offered to enter into, entered into, and confirmed the execution of transactions which were wash sales or were of the character of wash sales, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c).

## XII

(a) At the close of business on February 8, 1953, respondent Edward R. Byer had a net long open contract position in oats futures on the Chicago Board of Trade of 1,545,000 bushels in his accounts carried in his own name, and 300,000 bushels in accounts carried in the names of others. On February 9, 1953, respondent Edward R. Byer, in an office trade involving the exchange of futures for a cash commodity, purchased 750,000 bushels of March 1953 oats futures, caused the transaction to be entered in his account on the books of A. J. Riffel and Company as a purchase of 435,000 bushels, and submitted reports to the Commodity Exchange Authority which showed that the said respondent had purchased 435,000 bushels and held a net long position of 1,980,000 bushels. Respondent Edward R. Byer did not report the balance of 315,000 bushels of the said purchase to the Commodity Exchange Authority, but caused false entries to be made on the trading cards of William M. Dunn and George B. O'Connell, not respondents herein, and in the accounts of the said William M. Dunn and George B. O'Connell on the books of A. J. Riffel and Company, which entries purported to show that the said William M. Dunn and George B. O'Connell had that day purchased 190,000 bushels and 125,000 bushels, respectively, of March 1953 oats futures. In truth and in fact, no such transactions had been executed, the entire purchase of 750,000 bushels of March 1953 oats futures having been made by respondent Edward R. Byer for his own use and benefit, as above described.

(b) On the same date (February 9, 1953), respondent James T. McKerr purchased 1,000,000 bushels and sold 300,000 bushels of March 1953 oats futures on the floor of the Chicago Board of Trade, entered the said purchases and sales on his trading card, caused corresponding entries to be made in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company, and submitted reports to the Commodity Exchange Authority which showed that such purchases and sales were made for the account of, and that the resulting positions were held by, respondent James T. McKerr. In truth and in fact, the said purchases and sales were made for the use and benefit of respondent Edward R. Byer and the resulting positions were held for him and were subject to his direction and control, but respondent Edward R. Byer did not include such purchases, sales, or position in reports which he submitted to the Commodity Exchange Authority.

(c) Due to the transactions described in paragraphs XII (a) and XII (b), respondent Edward R. Byer's net long open contract position in oats futures on the Chicago Board of Trade was over 2,000,000 bushels, exclusive of hedging and spreading transactions, to wit, 3,295,000 bushels. The false entries on the trading cards and in the accounts of the said William M. Dunn and George B. O'Connell were caused to be made by respondent Edward R. Byer, and the entries of the above described purchases and sales in the James T.

McKerr No. 303 Special account were intended and carried out by respondents Edward R. Byer, James T. McKerr, and James T. McKerr and Company for the purpose and with the effect of concealing from the Commodity Exchange Authority the fact that respondent Edward R. Byer's position in oats futures on the Chicago Board of Trade was over 2,000,000 bushels.

(d) By reason of such acts, respondent Edward R. Byer traded in oats for future delivery on or subject to the rules of a contract market in amount which resulted in a position in excess of the maximum permissible quantity, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a), and the order of the Commodity Exchange Commission establishing limits on trading and positions in oats for future delivery (17 CFR 150.1); and failed to keep required records and submitted false reports to the Commodity Exchange Authority, in wilful violation of Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(e) By reason of such acts, respondents James T. McKerr and James T. McKerr and Company executed futures contracts on a board of trade and failed to evidence the same by a written record which showed the true parties to such contracts, in wilful violation of section 4 of the Commodity Exchange Act (7 U.S.C. 6) and section 1.37 of the rules and regulations thereunder (17 CFR 1.37); willfully

entered false records of futures contracts made on behalf of another person, in violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); failed to keep records of a commodity futures account showing the true name of the person for whom the account was carried, in wilful violation of section 4g of the Commodity Exchange Act (7 U.S.C. 6g) and section 1.37 of the rules and regulations thereunder (17 CFR 1.37); and failed to keep required records and submitted false reports to Commodity Exchange Authority, in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20 and 2.21 of the rule's and regulations thereunder (17 CFR 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, 2.21).

#### XIII

(a) On February 13, 1953, respondent Edward R. Byer sold 300,000 bushels of March 1953 oats futures on the floor of the Chicago Board of Trade and entered the said sale on his trading card. Respondent Edward R. Byer did not report such sale to the Commodity Exchange Authority, but deleted the entry on his own trading card and caused false entries to be made on the trading cards of the above mentioned William M. Dunn and George B. O'Connell, and in their accounts on the books of A. J. Riffel and Company, which entries purported to show that the said William M. Dunn and George B. O'Connell had that day sold 190,000 bushels and 110,000 bushels,

respectively, of March 1953 oats futures on the Chicago Board of Trade. In truth and in fact, no such transactions had been executed, the entire sale of 300,000 bushels of March 1953 oats futures having been made by respondent Edward R. Byer for his own use and benefit, as above described.

(b) On the same date respondent Edward R. Byer sold an additional 300,000 bushels of March 1953 oats futures and bought 300,000 bushels of May 1953 oats futures on the floor of the Chicago Board of Trade. Respondent Edward R. Byer did not report such purchase and sale to the Commodity Exchange Authority, but caused false entries to be made on the trading cards of respondent James T. McKerr, which entries purported to show that respondent James T. McKerr had that day bought 300,000 bushels of May 1953 oats futures and sold 300,000 bushels of March 1953 oats futures on the Chicago Board of Trade. Such false entries were made with the knowledge and consent of respondent James T. McKerr, who caused similar entries to be made in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company and submitted reports to the Commodity Exchange Authority which showed that such purchase and sale were made for the account of and that the resulting positions were held by respondent James T. McKerr. In truth and in fact, no such transactions had been executed,

the purchase of 300,000 bushels of May 1953 oats futures and the sale of 300,000 bushels of March 1953 oats futures having been made by respondent

Edward R. Byer for his own use and benefit, as above described. The said entries and reports were intended to be and were made by respondents Edward R. Byer, James T. McKerr, and James T. McKerr and Company for the purpose and with the effect of concealing from the Commodity Exchange Authority the fact that the said transactions were executed for the use and benefit of respondent Edward R. Byer.

(c) By reason of such acts, respondent Edward R. Byer failed to keep required records and submitted false reports to the Commodity Exchange Authority in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(d) By reason of the acts described in paragraph XIII (b), respondents James T. McKerr and James T. McKerr and Company wilfully entered false records of futures contracts made on behalf of another person, in violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); failed to keep records of a commodity futures account showing the true name of the person for whom the account was carried, in wilful violation of section 4g of the Commodity Exchange Act (7 U.S.C. 6g) and section 1.37 of the regulations thereunder (17 CFR 1.37); and failed to keep required and submitted false reports to the Commodity Exchange Authority in wilful violation of

section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, 2.21).

#### Transactions in Wheat Futures

#### XIV

(a) At the close of business on January 24, 1952, respondent Edward R. Byer had a net long open contract position in wheat futures on the Chicago Board of Trade of 1,945,000 bushels, exclusive of hedging and spreading transactions, and so reported to the Commodity Exchange Authority. On January 25, 1952, the said respondent purchased 235,000 bushels and sold 210,000 bushels of wheat futures on the Chicago Board of Trade, including 175,000 bushels recorded as sold to respondent James T. McKerr and entered as a purchase in the James T. McKerr No. 303 Special account on the books of James T. McKerr and Company. Respondent Edward R. Byer submitted reports to the Commodity Exchange Authority which listed the aforementioned transactions and purported to show that, as a result thereof, the said respondent's net long open contract position in wheat futures on the Chicago Board of Trade as of January 24, 1952, had been increased by 25,000 bushels to a total position of 1,970,000 bushels. In truth and in fact, such position had actually been increased by 200,000 bushels

to a total position of 2,145,000 bushels because the aforementioned transaction of 175,000 bushels between respondent Edward R. Byer and respondent James T. McKerr was not a bona fide sale and purchase, but merely the transfer of a futures position from the books of A. J. Riffel and Company to the books of respondent James T. McKerr and Company, and the resulting open contracts in the James T. McKerr No. 303 Special account were intended to be and were held for the use and benefit of respondent Edward R. Byer and were subject to his direction and control. The said transaction of 175,000 bushels was intended for the purpose and had the effect of concealing from the Commodity Exchange

Authority the fact that respondent Edward R. Byer's position in wheat futures on the Chicago Board of Trade was over 2,000,000 bushels.

(b) At all times from January 25, 1952, through February 14, 1952, from February 20, 1952, through February 25, 1952, from March 20, 1952, through March 24, 1952, and from June 3, 1952 through July 1, 1952, respondent Edward R. Byer's net long open contract position in wheat futures on the Chicago Board of Trade ranged between 2,040,000 bushels and 2,750,000 bushels, exclusive of hedging and spreading transactions. On February 25, 1952, respondent Edward R. Byer entered on his trading card a purchase of 100,000 bushels of March 1952 wheat futures from respondent James T. McKerr and a sale of 100,000 bushels of December 1952 wheat futures to

respondent James T. McKerr, and reported such transactions to the Commodity Exchange Authority. On June 14, 1952, and June 18, 1952, respondent Edward R. Byer entered on his trading card sales of 175,000 bushels and 400,000 bushels, respectively, of wheat futures to respondent James T. McKerr and reported such sales to the Commodity Exchange Authority. Respondent James T. McKerr entered the opposite sides of these transactions on his trading cards, and caused similar entries to be made in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company. Respondents James T. McKerr and James T. McKerr and Company submitted reports to the Commodity Exchange Authority which showed that such transactions had been made for and that the resulting positions were held by respondent James T. McKerr. In truth and in fact the above transaction were not bona fide sales and purchases but merely transfers of futures positions between the books of A. J. Riffel and Company and the books of respondent James T. McKerr and Company, and the resulting open contracts in the James T. McKerr No. 303 Special account were intended to be and were held for the use and benefit of respondent Edward R. Byer and were subject to his direction and control. The said transactions were intended for the purpose and had the effect of concealing from the Commodity Exchange Authority the fact that respondent Edward R. Byer's position in wheat futures on the Chicago Board of Trade was over 2,000,000 bushels.

(c) On numerous other occasions during the above periods, including January 31, 1952, February 13, 1952, February 20, 1952, February 23, 1952, March 20, 1952, March 21, 1952, June 3, 1952, June 11, 1952, June 16, 1952 and June 19, 1952, transactions in wheat futures on the Chicago Board of Trade were executed by or for the use and benefit of respondent Edward R. Byer, and were entered in accounts carried in his own name, or in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company.

(d) By reason of such acts, respondent Edward R. Byer traded in wheat for future delivery on or subject to the rules of a contract market in amounts which resulted in positions in excess of the maximum permissible quantity, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a), and the order of the Commodity Exchange Commission establishing limits on trading and positions in wheat for future delivery (17 CFR 150.1) and failed to keep required records and submitted false reports to the Commodity Exchange Authority in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(e) By reason of such acts, respondents James T. McKerr and James T. McKerr and Company wilfully entered false records of

futures contracts made on behalf of another person, in violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); failed to keep records of a commodity futures account showing the true name of the person for whom the

account was carried, in wilful violation of section 4g of the Commodity Exchange Act (7 U.S.C. 6g) and section 1.37 of the rules and regulations thereunder, and failed to keep required records and submitted false reports to the Commodity Exchange Authority, in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, 2.21).

#### Transactions in Corn Futures

##### XV

(a) On July 1, 1952, on July 17, 1952, on July 18, 1952, and at all times from July 26, 1952, through August 1, 1952, and from August 6, 1952, through August 12, 1952, respondent Edward R. Byer's net open contract position in corn futures on the Chicago Board of Trade ranged between 2,100,000 bushels and 3,220,000 bushels, exclusive of hedging and spreading transactions. On July 28, 1952, and August 11, 1952, respondent Edward R. Byer entered on his trading cards sales of 300,000 bushels and 440,000 bushels, respectively, of corn futures to respondent James T. McKerr, and reported such

sales to the Commodity Exchange Authority. Respondent. James TV; McKerr entered the purchase of this transaction trading cards and caused similar entries to be made in the James T. McKerr No. 303 Special account on the books of respondent James T. McKerr and Company Respondents; James; T. McKerr and James T. McKerr. and Company submitted reports to the Commodity Exchanger Authority which showed that such purchases had been made for and that the resulting positions were held by respondent James T. McKerr. On July 1, 1952, and July 29, 1952, respondent. Edward R. Byer entered on his trading cards sales of 245,000 bushels and 600,000 bushels respectively of corn futures to respondent Charles J. McKerr, and reported such sales to the Commodity Exchange Authority Respondent Charles J. McKerr entered the purchase side of these transactions on his trading cards and caused similar entries to be made in the Charles J. McKerr Special account on the books of James T. McKerr and Company. Respondents Charles J, McKerr and Company, and the resulting open contracts in the

James T. McKerr No. 303 Special and in the Charles J. McKerr Special accounts were intended to be and were held for the use and benefit of respondent Edward R. Byer and were subject to his direction and control. The said transactions were intended for the purpose and had the effect of concealing from the Commodity Exchange Authority the fact that respondent Edward R. Byer's position in corn futures on the Chicago Board of Trade was over 2,000,000 bushels.

(b) On numerous other occasions during these periods, including July 17, 1952, July 18, 1952, July 26, 1952, August 6, 1952, August 7, 1952, and August 8, 1952, transactions in corn futures on the Chicago Board of Trade were executed by or for the use and benefit of respondent Edward R. Byer and were entered in accounts carried in his own name, or in the James T. McKerr No. 303 Special or Charles J. McKerr Special accounts on the books of respondent James T. McKerr and Company. All corn futures purportedly purchased and sold by the said James T. McKerr No. 303 Special and Charles J. McKerr Special accounts during the above described periods were entered as purchases from or sales to respondent Edward R. Byer.

(c) By reason of such acts, respondent Edward R. Byer traded in corn for future delivery on or subject to the rules of a contract market in amounts which resulted in positions in excess of the maximum permissible quantity, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a) and the order of the

Commodity Exchange Commission establishing limits on trading and positions in corn for future delivery (17 CFR 150.1); and failed to keep required records and submitted false reports to the Commodity Exchange Authority in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(d) By reason of such acts, respondents James T. McKerr, Charles J. McKerr, and James T. McKerr and Company wilfully entered false records of futures contracts made on behalf of another person, in violation of section 4b of the Commodity Exchange Act (7 U.S.C. 6b); failed to keep records of a commodity futures account showing the true name of the person for whom the account was carried, in wilful violation of section 4g of the Commodity Exchange Act (7 U.S.C. 6g) and section 1.37 of the rules and regulations thereunder (17 CFR 1.37); and failed to keep required records and submitted false reports to the Commodity Exchange Authority in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.04, 2.05, 2.06, 2.07, 2.08, 2.10, 2.11, 2.12, 2.14, 2.20, 2.21).

XVI

(a) On August 13, 1952, respondent Edward R. Byer sold 355,000 bushels of September 1952 corn futures and 1,400,000 bushels of

December 1952 corn futures on the floor of the Chicago Board of Trade and reported such sales to the Commodity Exchange Authority. On the same date, respondent Edward R. Byer sold an additional 1,000,000 bushels of December 1952 corn futures on the floor of the Chicago Board of Trade to one Vincent M. Fagan not a respondent herein, at \$ 1.75  $\frac{3}{8}$  per bushel. Respondent Edward R. Byer did not enter such sale on his trading card, or report it to the Commodity Exchange Authority, but caused false entries to be made on the trading card of respondent Gilbert D. Mathy and in the account of the said Gilbert D. Mathy on the books of A. J. Riffel and Company, which entries purported to show that respondent Gilbert D. Mathy had that day purchased for his own account 1,000,000 bushels of December 1952 corn futures at \$ 1.75  $\frac{3}{8}$  per bushel from James T. McKerr and Company, and had that day sold for his own account the same quantity of the same future at the same price to the aforementioned Vincent M. Fagan. Respondent Edward R. Byer also caused entries to be made on the trading cards of respondents James T. McKerr and Charles J. McKerr, and in the James T. McKerr No. 303 Special and Charles J. McKerr Special accounts on the books of respondent James T. McKerr and Company, which entries purported to show that the said accounts had that day sold to A. J. Riffel and Company (clearer for respondent Gilbert D. Mathy) 1,000,000 bushels of December 1952 corn futures at \$ 1.75  $\frac{3}{8}$  per bushel. The above described false entries on the

trading cards of respondent Gilbert D. Mathy and in the account of the said respondent on the books of A. J. Riffel and Company were made with the knowledge, consent, and cooperation of respondent Gilbert D. Mathy, who reported or caused to be reported to the Commodity Exchange Authority that such transactions had been executed and that the resulting positions were held by him. In truth and in fact, such transactions were fictitious and were entered into by respondent Gilbert D. Mathy not for the purpose of buying or, selling commodity futures, but solely for the purpose and with the effect of accommodating respondent Edward R. Byer and enabling him to disguise his sale to the said Vincent M. Fagan as a transaction between respondent Gilbert D. Mathy and the said Vincent M. Fagan. As a result thereof, respondent Edward R. Byer concealed from the Commodity Exchange Authority the fact that he had that day traded in corn futures in an amount in excess of 2,000,000 bushels.

(b) By reason of such acts, respondent Edward R. Byer traded in corn for future delivery on or subject to the rules of a contract market in an amount in excess of the maximum amount permitted during any one business day, in wilful violation of section 4a of the Commodity Exchange Act (7 U.S.C. 6a) and the order of the Commodity Exchange Commission establishing limits on trading and positions in corn for future delivery (17 CFR 150.1), and failed to keep required records and submitted false reports to the Commodity

Exchange Authority in wilful violation of section 4i of the Commodity Exchange Act (7 U.S.C. 6i) and sections 2.00, 2.10, 2.11, 2.12, 2.14, and 2.21 of the rules and regulations thereunder (17 CFR 2.00, 2.10, 2.11, 2.12, 2.14, 2.21).

(c) By reason of such acts, respondent Gilbert D. Mathy offered to enter into, entered into, and confirmed the execution of transactions which were fictitious, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c).

#### XVII

The transactions in oats, soybeans, wheat, and corn futures described herein were capable of being used for (1) hedging a transaction in interstate commerce in oats, soybeans, wheat, or corn, respectively, or the products or byproducts thereof, or (2) determining the price basis of a transaction in interstate commerce in oats, soybeans, wheat, or corn respectively, or (3) delivering oats, soybeans, wheat, or corn, respectively, sold, shipped, or received in interstate commerce.

Therefore, the said respondents, Edward R. Byer, Joel Starrels, James T. McKerr and Company, James T. McKerr, Charles J. McKerr, and Gilbert D. Mathy, are hereby notified to be and appear at a hearing to be held at 10:00 a.m. Central Daylight Saving Time. on the 22nd day of June 1954, in Room 1200, Board of Trade

Building, 141 West Jackson Blvd., 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 directing that all contract markets refuse all trading privileges to the respondents for. such period of time, as may be determined by the Secretary of Agriculture and suspending or revoking the registrations of those respondents who are registered as futures commission merchants or floor brokers.

The respondents will have 20 days after, the receipt of this notice of hearing to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., an answer with an original and seven copies, fully and completely stating the nature of the defense and admitting or denying specifically and 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 hearings

Done at Washington, D. C., this

14 day of April, 1954

/s/ Ezra Taft Benson

Secretary of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: Lee B. Stern

Stipulation of Compliance under the Commodity Exchange Act No. 62

The Secretary of Agriculture has reason to believe that Lee B. Stern has violated the provisions of the Commodity Exchange Act (7 U.S.C., Chapter 1) and the orders of the Commodity Exchange Commission establishing limits on positions and daily trading in rye and soybeans for future delivery. (17 CFR 150.3-150.4)

No complaint with respect to such violations has been issued and the said Lee B. Stern is desirous of disposing of the matter by entering into a stipulation of compliance as authorized by section 0.4(a) of the rules of practice under the Commodity Exchange Act (17 CFR 0.0-0.28). Therefore, the said Lee B. Stern stipulates the following facts are true:

1. Lee B. Stern, an individual whose address is 141 West Jackson Boulevard, Chicago 4, Illinois, is now and was at all times mentioned herein a registered floor broker under the Commodity Exchange Act and a member of the Board of Trade of the City of Chicago.

2. The transactions herein described were entered into by Lee B. Stern on the Board of Trade of the City of Chicago, a duly designated contract market under the Commodity Exchange Act.

3. On July 20, 1962, Lee B. Stern made the following speculative purchase of rye futures:

Futures		Bushels
July	1962	165,000
September	1962	175,000
December	1962	205,000
March	1963	75,000
May	1963	10,000
Total		630,000

4. On July 23, 1962, Lee B. Stern made speculative purchases and sales of 90,000 and 765,000 bushels, respectively, in the November 1962 soybean future, resulting in his holding a net short speculative position of 2,125,000 bushels in the November 1962 soybean future.

The purchases of rye futures by the said Lee B. Stern on July 20, 1962, were in excess of the maximum amount of such purchases permitted by the order of the Commodity Exchange Commission establishing limits on positions and daily trading in rye for future delivery. The sales of soybean futures on July 23, 1962, resulted in the said Lee B. Stern holding a position in excess of the maximum net short speculative position permitted by the order of the Commodity Exchange Commission establishing limits on positions and daily trading in soybeans for future delivery. Therefore, such trading and position were in violation of such orders and of section 4a of the Commodity Exchange Act (7 U.S.C. 6a, 17 CFR 150.3-150.4). Previous transactions made and

positions held by the said Lee B. Stern in excess of limits set by the Commodity Exchange Commission were called to his attention by the Act Administrator in a letter dated March 16, 1961.

The said Lee B. Stern agrees to desist from such acts in the future. He further understands and agrees that this stipulation is admissible as evidence of such acts in any future proceeding based upon acts or practices in addition to those referred to herein which may be brought by the Secretary of Agriculture against him under the provisions of the said act. He also understands that it

is the practice of the Commodity Exchange Authority to make stipulations of compliance a matter of public record.

Done at Chicago, Illinois, this

20th day of August 1962.

/s/ Lee B. Stern

Lee B. Stern

Witnessed by:

/s/ Robert M. Ollquist

/s/ Roger E. Harper

**LOAD-DATE:** June 12, 2008

