

Commodity Futures Trading Commission
CEA CASES

NAME: SECRETARY OF AGRICULTURE V. ARTHUR W. CUTTEN

DOCKET NUMBER: GFA-7

DATE: 1936

DOCUMENT TYPE: SUMMARY OF CASE

NOTE: PROCEEDING BEFORE THE GRAIN FUTURES COMMISSION UNDER THE GRAIN FUTURES ACT

GFA Docket No. 7

Arthur W. Cutten, respondent

Complaint and Notice of Hearing under the Grain Futures Act was issued by the Secretary on April 9, 1934, charging in 47 counts that during the years 1930 and 1931 respondent conspired with various persons to conceal his position and trades on the Chicago Board of Trade in an attempt to manipulate the price of grain, that he made false reports, that he failed to report his trades, that he caused firms through which he traded to keep false records and make false reports, and that his short selling of a large volume of wheat futures during this period caused a decline in the price of wheat.

A hearing in this matter began on May 14, 1934. At the conclusion of the hearing, the respondent moved to dismiss the complaint on the grounds that the Grain Futures Act was unconstitutional and the contention that the act was remedial and preventive, applying only to violations in progress and not to those completed in the past.

On February 12, 1935, it was ordered that trading privileges on all contract markets be denied respondent for a period of two years.

On February 26, 1935, a petition was filed in the United States Court of Appeals for the Seventh Circuit in behalf of Arthur W. Cutten to set aside the order denying trading privileges.

On November 25, 1935, the Circuit Court of Appeals announced its decision reversing the order of the Grain Futures Commission. The court found that the evidence was sufficient to support the findings of the commission, but that the findings did not support the order in that the section of the act relied upon did not apply to past violations; and that it was necessary for Congress to extend the application of the act by legislation rather than the courts to do so by judicial construction.

On February 6, 1936, counsel for the Grain Futures Commission filed with the United States Supreme Court a petition for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit for a review of the decision reversing the order of the Grain Futures Commission. The writ of certiorari was granted on March 9, 1936.

On May 18, 1936, the Supreme Court in an unanimous decision affirmed the ruling of the Circuit Court of Appeals on the grounds that there was no ambiguity in the language of the act and that it was not the function of the court to enlarge the scope of a law to cover what was omitted, presumably, by inadvertence.

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