

Commodity Futures Trading Commission
CEA CASES

NAME: MYERS AND COMPANY, A. H. MYERS, HARRY N. HARRISON, AND GLENN G. YANCEY

DOCKET NUMBER: 63

DATE: SEPTEMBER 3, 1954

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Myers and Company, A. H. Myers, Harry N. Harrison, and Glenn G. Yancey,
Respondents

CEA Docket No. 63

Complaint and Notice of Hearing Under the Commodity Exchange Act

The Secretary of Agriculture has reason to believe that the respondents, Myers and Company, A. H. Myers, Harry N. Harrison, and Glenn G. Yancey have violated the provisions of the Commodity Exchange Act (7 U.S.C., Chapter I) and the rules and regulations made pursuant to its requirements (17 CFR, Chapter I). In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C. 9), this complaint and notice of hearing is issued alleging as follows:

I

Respondent Myers and Company is a corporation organized under the laws of the State of Missouri, with offices at 1307 Waldheim Building, Kansas City, Missouri. At all times material to this complaint, the said corporation was a registered

futures commission merchant under the Commodity Exchange Act and at all such times the said corporation enjoyed membership trading privileges on the Kansas City Board of Trade and the Board of Trade of the City of Chicago, duly designated contract markets under the Commodity Exchange Act.

II

Respondent A. H. Myers, an individual residing at 6335 Ward Parkway, Kansas City, Missouri, is president of the respondent corporation and manages and controls its business. Respondent Harry N. Harrison, an individual residing at the Lincoln Hotel, Lincoln, Nebraska, is vice president of the respondent corporation, and respondent Glenn G. Yancey, an individual residing at 5614 Newton Road, Merriam, Kansas, is vice president in charge of cash grain operations of the said corporation.

III

The acts and transactions hereinafter described were initiated and carried out under the supervision and direction of respondents A. H. Myers, H. N. Harrison, and Glenn G. Yancey, in their capacities as officers of the respondent corporation.

IV

a. At all times between April 17, 1953, and May 27, 1954, the respondent corporation had on its books accounts of customers who were trading in commodity

futures subject to the Commodity Exchange Act and regulations, and had to its credit with a bank, with the Kansas City Board of Trade Clearing House, and with clearing or carrying brokers, varying sums of money held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits belonging to such customers.

b. On or about September 30, 1953, the respondent corporation was undersegregated to the extent of approximately \$ 51,198 - that is, the total amount of customers' funds held in segregation as above described was approximately \$ 51,198 less than the amount necessary to pay all credits and equities due to such customers.

c. On or about October 30, 1953, the respondent corporation was undersegregated to the extent of approximately \$ 44,444.

d. On 82 other business days between April 17, 1953 and November 27, 1953, the respondent corporation was undersegregated in amounts ranging from approximately \$ 230 on April 17, 1953 to approximately \$ 50,277 on October 14, 1953.

e. On a number of business days between February 26, 1954 and March 31, 1954, the respondent corporation was under-segregated in varying amounts.

f. At all times between April 1, 1954 and May 27, 1954, the respondent corporation was undersegregated in amounts ranging from approximately \$ 4,628 on April 30 to approximately \$ 20,286 on May 11, 1954.

g. In a letter dated March 10, 1949, addressed to the respondent corporation, the Commodity Exchange Authority called its attention to prior improper practices by it with respect to the handling of customers' funds, formally notified the said respondent corporation that the Commodity Exchange Act and regulations required that the trades, funds, and contracts of customers be separately accounted for and not commingled with trades, funds, and contracts of officers of the corporation, and warned the said respondent corporation that any further violation of such requirements might result in the institution of formal proceedings. By reason of the subsequent undersegregation described above, the respondent corporation knowingly and wilfully failed to treat and deal with all money received by it to margin, guarantee, and secure the trades and contracts of customers, or accruing to such customers as a result of such trades and contracts, as belonging to such customers, and used such money to

margin and guarantee the trades and contracts and to secure and extend the credit of persons other than those for whom such money was held, in violation of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)), and sections 1.20, 1.21, 1.22 of the rules and regulations thereunder (17 CFR 1.20, 1.21, 1.22).

V

On or about Friday, August 7, 1953, the respondent corporation had to its credit with a bank and other depositories, segregated and identified as customers' funds in accordance with the requirements of the Commodity Exchange Act and regulations, certain sums of money sufficient to pay all credits and equities due to such customers, plus an additional sum in the amount of approximately \$ 8,677.22, which represented a surplus or residual interest belonging to the said respondent. On or about August 10, 1953, the respondent corporation withdrew \$ 15,000 from its segregated bank account and executed a written statement purporting to indicate that such withdrawal represented a loan or investment of customers' funds in accordance with the provisions of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)), and sections 1.25, 1.26, and 1.27 of the rules and regulations thereunder (17 CFR 1.25, 1.26, 1.27). The said withdrawal did not represent a loan or investment of customers'

funds but to the extent that it exceeded the respondent corporation's residual interest above described, was an unauthorized and unlawful use of customers' money and resulted in the said corporation becoming undersegregated to the extent of approximately \$ 7,720.94. By reason of such withdrawal and use, the respondent corporation knowingly and wilfully violated the aforementioned section of the Commodity Exchange Act, and sections 1.20, 1.21, 1.22, 1.23, 1.25, 1.26, and 1.27 of the rules and regulations thereunder (17 CFR 1.20, 1.21, 1.22, 1.23, 1.25, 1.26, 1.27).

VI

On each of the following business days, the respondent corporation failed to compute and its books failed to show the amount of money, securities, and property required to be in segregation, pursuant to the provisions of section 1.32 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.32):

Month	Day
June 1953	18
Aug. 1953	10, 11, 12, 17
Sept. 1953	15
Nov. 1953	12, 13, 23, 25

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Month	Day
Dec. 1953	Entire month
Jan. 1954	4-12, inclusive
Feb. 1954	25, 26
Mar. 1954	1-8, inclusive

In the letter of March 10, 1949 described in paragraph IV, the respondent corporation was also formally notified that the Commodity Exchange Act and regulations required a daily computation of segregated funds. The respondent corporation was therefore aware of the provisions of the aforementioned section of the rules and regulations, and its failure to make the required computation as above described constituted a knowing and willful violation of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) and of the aforementioned section of the rules and regulations.

VII

On or about September 18, 1953, the respondent corporation sold 20,000 bushels of March 1954 wheat futures on the Chicago Board of Trade for the account of a customer, one Mildred S. Doyle, and carried the resulting short position open on its books for the account of the said customer. On November 17, 1953, the respondent corporation bought 10,000 bushels of March 1954 wheat

futures on the Chicago Board of Trade for the account of the said customer, and on November 30, 1953 the respondent corporation bought 30,000 bushels of March 1954 wheat futures on the Chicago Board of Trade for the account of the said customer, but failed to apply such purchases on the same days as they were made against the open short position of such customer and failed promptly to furnish to the customer a purchase and sale statement or account sale showing the financial results of such sales and purchases, as required by section 1.46 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.46). By reason of such failure the respondent corporation wilfully violated the aforementioned section of the rules and regulations.

VIII

On September 14, 1953, the respondent corporation sold 10,000 bushels of March 1954 rye futures on the Chicago Board of Trade for the account of a customer, Central Grain and Trading Company, and carried the resulting short position open on its books for the account of the said customer. On or about

January 28, 1954, the respondent corporation bought 10,000 bushels of March 1954 rye futures on the Chicago Board of Trade for the account of the said customer, but failed to apply such purchase on

the same day against the open short position of such customer and failed promptly to furnish to the customer a purchase and sale statement or account sale showing the financial results of the said sale and purchase, as required by section 1.46 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.46). By reason of such failure, the respondent corporation wilfully violated the aforementioned section of the rules and regulations.

IX

a. On or about December 24, 1953, the respondent corporation purchased 10,000 bushels of March 1954 wheat futures on the Chicago Board of Trade for the account of a customer, one Veronica Stark, and carried the resulting long position open on its books for the account of the said customer. On January 17, 1954, the respondent corporation sold 5,000 bushels of March 1954 wheat futures on the Chicago Board of Trade for the account of the said customer but failed to apply such sale on the same day against the open long position of such customer and failed promptly to furnish to the said customer a purchase and sale statement or account sale showing the financial results of the said purchase and sale, as required by section 1.46 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.46). By reason of such failure the respondent corporation wilfully violated the aforementioned section of the rules and regulations.

b. On or about January 7, 1954, the respondent corporation sold 10,000 bushels of May 1954 wheat futures on the Chicago Board of Trade for the account of the said Veronica Stark, and carried the resulting short position open on its books for her account. On January 13, 1954, the respondent corporation bought 5,000 bushels of May 1954 wheat futures on the Chicago Board of Trade and on January 14, 1954, the respondent corporation bought an additional 5,000 bushels of January 1954 wheat futures on the Chicago Board of Trade, both purchases being made for the account of the said Veronica Stark. The respondent corporation failed to apply such purchases on the same days as they were made against the open short position of the said Veronica Stark and failed promptly to furnish to her a purchase and sale statement or account sale showing the financial result of such purchase and sale, as required by section 1.46 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.46). By reason of such failure, the respondent corporation wilfully violated the aforementioned section of the rules and regulations.

Therefore, the said respondents, Myers and Company, A. H. Myers, Harry N. Harrison, and Glenn G. Yancey, are hereby notified to be and appear at a hearing to be held at 10 a.m., Central Standard Time, on the 4th day of November, 1954, in Room 854, Board of Trade Building, Kansas City, Missouri, 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 Myers and Company as a futures commission merchant, and directing that all contract markets refuse all trading privileges to all the respondents for such period of time as may be determined.

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, Washington 25, D. C., in triplicate, an answer fully and completely stating the nature of the defense and admitting or denying specifically and in detail each material and relevant allegation of this 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
3rd day of September, 1954
/s/ Earl L. Butz
Acting Secretary of Agriculture

LOAD-DATE: June 12, 2008

