

Commodity Futures Trading Commission
CEA CASES

NAME: SECRETARY OF AGRICULTURE V. GREAT WESTERN DISTRIBUTORS, INC., HARRY HARRIS, NATHANIEL E. HESS, AND CHARLES S. BORDEN

DOCKET NUMBER: 21

DATE: MARCH 10, 1941

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UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

CE-A Docket No. 21

Secretary of Agriculture, Complainant, v. Great Western Distributors, Inc., Harry Harris, Nathaniel E. Hess, and Charles S. Borden, Respondents.

Proceedings, Findings of Fact, Conclusions, and Order.

PROCEEDINGS

On September 28, 1940, complaint was issued by the Acting Secretary of Agriculture, pursuant to the provisions of the Commodity Exchange Act (7 U. S. C. and Supp. V, §§ 1-17a), charging Great Western Distributors, Inc., Harry Harris, Nathaniel E. Hess, and Charles S. Borden, the respondents, with manipulating the price of and cornering butter in Chicago and March 1940 butter futures on the Chicago Mercantile Exchange, a contract market; with cheating, falsely reporting to, and deceiving customers in connection with butter futures contracts; and with failing to account separately for customers' funds in connection with butter futures contracts.

A hearing was set for October 28, 1940, and the respondents were required to answer the complaint by October 17.

For the purpose of enabling counsel to confer on the possibility of stipulating the facts, the referee, from time to time, postponed the hearing and extended the time in which an answer might be filed. On February 28, 1941, an answer was filed, in which the respondents admitted some of the facts alleged in the complaint, denied some of them, and explained some. A stipulation was filed, signed by counsel for the Government and counsel for the respondents, in which most of the facts in issue were stipulated. The respondents waived a hearing, a referee's report, the making of formal findings of fact, and their right of appeal, conditioned upon the issuance by the Secretary, within twenty days after February 25, 1941, of an order requiring contract markets to refuse the respondents trading privileges for a period of ten days from a date to be fixed by the Secretary.

No hearing was held and no referee's report was made. This order is issued on the basis of the pleadings, the stipulation, and the respondents' waiver.

FINDINGS OF FACT

1. Great Western Distributors, Inc., is a New York corporation having its principal place of business in New York, New York, and a branch office in Chicago, Illinois. Harry Harris is its president, Nathaniel E. Hess is its vice-president, and Charles S. Borden is manager of its Chicago office. It is registered with the Secretary

of Agriculture as a futures commission merchant.

2. Nathaniel E. Hess is registered with the Secretary of Agriculture as a floor broker.

3. Nathaniel E. Hess and Charles S. Borden are members of the Chicago Mercantile Exchange, a contract market, and their memberships are registered for the use of Great Western Distributors, Inc.

4. Nathaniel E. Hess and Harry Harris are members of the New York Mercantile Exchange, a contract market, and their memberships are registered for the use of Great Western Distributors, Inc.

5. The facts stated in the four preceding paragraphs are applicable to the year 1940 and thereafter.

6. Great Western Distributors, Inc., in March 1940, manipulated the price of butter for future delivery in March 1940 on the Chicago Mercantile Exchange, a contract market.

7. Great Western Distributors, Inc., in March 1940, reported figures to customers different from the true figures for items in connection with their butter futures contracts, but it does not appear that the customers suffered resulting losses.

8. Great Western Distributors, Inc., on March 30 and April 1, 1940, failed to keep complete records showing the amount of money which should have been segregated for customers in connection with their butter futures trades.

9. Great Western Distributors, Inc., from January 1 to May 9, 1940, failed to obtain a written waiver from the bank in which customers' funds

were deposited, but the account was designated as "Customers Commodity Account*"

10. Harry Harris, Nathaniel E. Hess, and Charles S. Borden, during 1940, exercised management and control over Great Western Distributors, Inc., as to all matters mentioned in these findings.

CONCLUSIONS

The facts disclosed by the record, as set out herein, show that the respondents failed to comply with various provisions of the act and the rules and regulations thereunder. These violations, for which all respondents are responsible, authorize revocation of the registrations of the two respondents registered, and denial of the trading privileges of all of the respondents. However, it is not deemed necessary to revoke or suspend the registrations, nor to require refusal of trading privileges for a period greater than that to which the respondents have consented.

ORDER

IT IS ORDERED that all contract markets refuse Great Western Distributors, Inc., Harry Harris, Nathaniel E. Hess, and Charles S. Borden, and each of them, all trading privileges thereon for a period of ten days, beginning Monday, March 17, 1941, and ending Wednesday, March 26, 1941, including both days.

IT IS FURTHER ORDERED that a copy hereof be sent by registered mail to each of the respondents and to each contract market, and that this order shall be effective on and after its date.

(SEAL)

Done at Washington, D. C., this 10th day of March 1941. Witness my hand and the seal of the Department of Agriculture.

/s/ Grover B. Hill

Assistant Secretary of Agriculture.

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