

Commodity Futures Trading Commission  
CEA CASES

**NAME:** MARTIN T. DYKE, MARTIN T. DYKE, III, AND DYKE & CO.

**DOCKET NUMBER:** 168

**DATE:** MARCH 3, 1970

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Martin T. Dyke, Martin T. Dyke, III, and Dyke & Co., Respondents

CEA Docket No. 168

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., Chapter 1, 1964 ed., as amended, Supp. IV, 1969) and the regulations made pursuant thereto, and in accordance with the provisions of sections 6(b) and 6(c) of the said Act (7 U.S.C. 9 and 13b, Supp. IV, 1969), this complaint is issued stating the charges in that respect as follows:

I

Respondents Martin T. Dyke and Martin T. Dyke, III, individuals, are now, and were at all times material to this complaint, the sole partners in respondent Dyke & Co., a New York partnership with offices at 82 Wall Street, New York, New York 10005. At all times material herein up to August 28, 1969, the said partnership, acting in the capacity of futures commission merchant under the Commodity Exchange Act, was engaged in trading in commodities for future delivery for

the accounts of customers. Throughout the year 1969, the said partnership was registered as futures commission merchant under the Commodity Exchange Act. In accordance with the provisions of section 4f of the said Act (7 U.S.C. 6f, Supp. IV, 1969) and section 1.16 of the regulations thereunder (17 CFR 1.16), such registration expired on December 31, 1969, and the said partnership is not now so registered.

II

At the times hereinafter stated, respondent Dyke & Co., in the regular course of the partnership business, had on its books accounts of customers who were trading in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the Commodity Exchange Act and the regulations issued thereunder. At all such times, respondent Dyke & Co. had to its credit with banks or other depositories sums of money in varying amounts, held in segregated accounts and identified as customers' funds, representing deposits of margin by and trading profits belonging to such customers.

III

On June 2, 1969, and between July 9 and August 19, 1969, both inclusive, respondent Dyke & Co. was undersegregated in amounts ranging from approximately \$ 20,000 on June 2, 1969, to approximately

\$ 93,000 on August 15, 1969, that is, the total amount of customers' funds held in segregation by the firm as described in paragraph II, was from approximately \$ 20,000 to approximately \$ 93,000 less than the amount necessary to pay all credits and equities due to such customers.

## IV

(a) On each business day during the period from July 31, 1969, through August 7, 1969, both inclusive, respondent Dyke & Co. prepared and kept a record purporting to show the amount required to be held in segregation, and the amount segregated, which record indicated that the respondent firm had excess funds in segregation, whereas, in truth and in fact, the said firm was undersegregated as specified in paragraph III.

(b) As of August 15, 1969, respondent Dyke & Co. had failed to prepare and maintain a daily segregation record, as of the close of business on August 8, 11, 12, 13, and 14, 1969, of the amount of money, securities, and property required to be held in segregation in order to pay all credits and equities due to its customers as provided in section 1.32 of the regulations issued under the Commodity Exchange Act (17 CFR 1.32).

## V

On three occasions in 1967 and on two occasions in 1968, and prior to the acts and omissions described above, examination of the books and records of respondent Dyke & Co. by the Commodity Exchange

Authority disclosed that the respondent firm was not properly preparing a daily permanent record of customers' funds required to be in segregation. The Commodity Exchange Authority called these matters to the respondents' attention and they assured the Commodity Exchange Authority that corrective measures would be taken so that the records of the respondent firm would comply with the provisions of the Commodity Exchange Act and the regulations thereunder.

## VI

During the period from August 15, 1969, through August 28, 1969, both inclusive, while engaged as a registered futures commission merchant under the Commodity Exchange Act, respondent Dyke & Co. failed to meet the minimum financial requirements prescribed by section 1.17 of the regulations (34 F.R. 599) issued by the Secretary of Agriculture under the said Act. Examination of the records of respondent Dyke & Co. by the Commodity Exchange Authority disclosed that as of August 15, 1969, the respondent firm had current liabilities which totalled \$ 502,637.68 while its current assets totalled only \$ 260,276.65.

## VII

By reason of the facts alleged in this complaint, the respondents wilfully violated sections 4d, 4f, and 4g of the Commodity Exchange Act (7 U.S.C. 6d, 6f, and 6g, Supp. IV, 1969), and sections 1.17,

1.20, 1.21, 1.22, 1.23, 1.32 and 1.35 of the regulations thereunder (34 F.R. 599, 17 CFR 1.20, 1.21, 1.22, 1.23, 1.32 and 1.35).

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 four 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 April 28, 1970, 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) 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 (2) 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.

March 3, 1970

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

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

