

Commodity Futures Trading Commission
CEA CASES

NAME: SECRETARY OF AGRICULTURE V. HENRY C. GATLIN

DOCKET NUMBER: 32

DATE: MAY 5, 1942

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING ADMINISTRATION
COMMODITY EXCHANGE BRANCH
WASHINGTON, D. C.
UNITED STATES OF AMERICA
BEFORE THE SECRETARY OF AGRICULTURE
CE-A Docket No. 32

Secretary of Agriculture, Complainant v. Henry C. Gatlin, Respondent
Complaint and Notice of Hearing

There being reason to believe that the respondent has violated the Commodity Exchange Act (7 U.S.C. 1940 ed. 1) and the rules and regulations promulgated pursuant thereto, this complaint is issued alleging the following:

1.

Henry C. Gatlin (hereinafter referred to as the respondent) is an individual doing business as a floor broker at Chicago, Illinois.

2.

During the year 1941, the respondent was a member of the Chicago Mercantile Exchange, a contract market designated as such by the Secretary of Agriculture under the Commodity Exchange Act.

3.

During 1941, and up to the present time, the respondent has engaged as a floor broker on the Chicago Mercantile Exchange and has been registered as a floor broker with the Secretary of Agriculture under the Commodity Exchange Act since September 4, 1941.

4.

The respondent, during the calendar year 1941, while engaged as a floor broker in executing orders for the purchase or sale of potatoes, eggs, and butter for future delivery, on and subject to the rules of the Chicago Mercantile Exchange, for and on behalf of

various clearing members, including Dauber Brothers, J. S. Bache and Company, Harris Upham and Company, and L. D. Schreiber and Company, did, without the prior consent of the customer for whom he was executing these orders, become the purchaser for his own account with respect to selling orders and the seller for his own account with respect to buying orders. Included among the trades which were so handled were the trades set forth on the two tabulations attached hereto and made a part hereof as Exhibits A and B.

5.

The contracts for the future delivery of potatoes, eggs, and butter, referred to in paragraph 4, could be used for hedging transactions in these commodities in interstate commerce.

6.

The respondent, by reason of the facts alleged in the preceding paragraphs, did willfully and knowingly, without the prior consent of his customers, become the buyer in respect to selling orders of such customers and the seller in respect to buying orders of such customers relative to contracts for the future delivery of commodities made on and subject to the rules of a contract market, all in violation of Section 4b(D) of the Commodity Exchange Act.

THEREFORE, the respondent is hereby afforded an opportunity to answer the foregoing allegations in accordance with the rules of practice and is notified to be and appear before a referee to be appointed by the Secretary of Agriculture at a hearing to be held at 10 a.m. on May 28, 1942, at Room 1200, Board of Trade Building, 141 West Jackson Boulevard, Chicago, Illinois, or at such other times and places as may be determined by the referee, and then and there show cause, if any there be, why an order should not be made suspending or revoking the registration of the respondent as a floor broker and directing that all contract markets, until further notice by the Secretary of Agriculture, refuse all trading privileges to the respondent.

IT IS ORDERED that the complaint and notice of hearing be served upon the named respondent by delivery of a true copy hereof to him by an employee of the Department of Agriculture, or by registered mail, at least three days prior to the date herein set for hearing.

(SEAL)

Done at Washington, D. C., this 5th day of May 1942. Witness my hand and the seal of the Department of Agriculture.

/s/ Thomas J. Flavin

Assistant to the Secretary of Agriculture

DEPARTMENT OF AGRICULTURE

WASHINGTON

BEFORE THE SECRETARY OF AGRICULTURE

Secretary of Agriculture, Complainant v. Henry C. Gatlin, Respondent

CE-A Docket No. 32

Proceedings, Findings of Fact, Conclusions, and Order

PROCEEDINGS

On May 5, 1942, a complaint was issued by Thomas J. Flavin, Assistant to the Secretary of Agriculture, pursuant to the Commodity Exchange Act, as amended (7 U.S.C. 1940 ed. 1 et seq.), against Henry C. Gatlin, Chicago, Illinois, the respondent.

The complaint alleged that Henry C. Gatlin, during the year 1941, was a member of the Chicago Mercantile Exchange, a contract market designated as such by the Secretary of Agriculture under the Commodity Exchange Act. While engaged in business as a floor broker and registered as such with the Secretary of Agriculture, the respondent, in executing orders for the purchase or sale of potatoes, eggs, and butter for future delivery on and subject to the rules of the Chicago Mercantile Exchange for and on behalf of various clearing members, without the prior consent of the customer for whom he was executing these orders, became the purchaser for his own account with respect to selling orders and the seller for his own account with respect to buying orders.

A hearing was set for May 28, 1942, in Chicago. Prior to the date set for hearing, Henry C. Gatlin, the respondent, executed a document entitled "Admission of Facts, Waiver of Hearing and Consent to Order" in which he acknowledged receipt of a copy of the complaint in this proceeding, admitted the allegations contained therein, waived a hearing on the complaint, and consented to the entry, without further notice to him, of an order by the Secretary of Agriculture, based upon the facts alleged in the complaint and admitted by the respondent, together with the facts stated in a statement signed by the respondent on April 23, 1942.

FINDINGS OF FACT

1. Henry C. Gatlin is an individual who, during the year 1941, was engaged in business as a floor broker at Chicago, Illinois, and is at present so engaged and has been registered with the Secretary of Agriculture as a floor broker under the provisions of the Commodity Exchange Act since September 4, 1941.

2. During the year 1941, the respondent was a member of the Chicago Mercantile Exchange, a contract market designated as such by the Secretary of Agriculture under the Commodity Exchange Act.

3. The respondent, during the calendar year 1941, while engaged as a floor broker in executing orders for the purchase or sale of potatoes,

eggs, and butter for future delivery on and subject to the rules of the Chicago Mercantile Exchange for and on behalf of various clearing members, did, without the prior consent of the customer for whom he was executing these orders, become the purchaser for his own account with respect to selling orders and the seller for his own account with respect to buying orders.

4. The contracts for future delivery of potatoes, eggs, and butter, referred to in paragraph 3, could be used for hedging transactions in these commodities in interstate commerce.

CONCLUSIONS

Based upon the foregoing facts, it is concluded that the respondent did wilfully and knowingly and without the prior consent of his customers became the buyer in respect to selling orders of such customers and the seller in respect to the buying orders of such customers relative to contracts for the future delivery of commodities made on and subject to the rules of a contract market, all in violation of section 4b (D) of the Commodity Exchange Act. These violations' by the respondent in and of themselves would warrant the denial of trading privileges on contract markets and suspension of his registration as a floor broker under the Commodity Exchange Act. However, in view of the lack of evidence of a fraudulent intent and mitigating circumstances set forth in the statement of April 23, 1942, including the manner of conducting trading on the exchange and the general practice existing prior to January 1942, it is concluded that the respondent's registration as a floor broker under the provisions of the Commodity Exchange Act should be suspended for a period of thirty days.

ORDER

IT IS ORDERED that the registration of Henry C. Gatlin as a floor broker be, and the same hereby is, suspended for a period of thirty days.

IT IS FURTHER ORDERED that a copy hereof be sent by registered mail to the respondent and to each contract market and that this order shall become effective on the 10th day of July, 1942.

(SEAL)

Done at Washington, D. C., this 25th day of June, 1942. Witness my hand and the seal of the Department of Agriculture.

(S) Thomas J. Flavin

Assistant to the Secretary of Agriculture

LOAD-DATE: June 11, 2008

