

Commodity Futures Trading Commission  
CEA CASES

**NAME:** HERALD E. GIBBS

**DOCKET NUMBER:** 87

**DATE:** SEPTEMBER 2, 1958

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Herald E. Gibbs, Respondent

CEA Docket No. 87

Complaint and Notice of Hearing Under Section 6(b) of the Commodity Exchange Act

There is reason to believe that the respondent, Herald E. Gibbs, has violated the provisions of the Commodity Exchange Act (7 U.S.C., 1952 ed., Chapter 1), and the rules and regulations issued thereunder (17 CFR, Part 1). In accordance with the provisions of section 6(b) of the Commodity Exchange Act (7 U.S.C., 1952 ed., § 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Herald E. Gibbs, an individual whose address is 700 Bittersweet Place, Chicago, Illinois, is now and was at all times material to this complaint a member of the Board of Trade of the City of Chicago and a registered floor broker under the Commodity Exchange Act.

II

The Board of Trade of the City of Chicago, hereinafter called the Chicago Board of Trade, is now and was at all times material to this complaint a duly designated contract market under the Commodity Exchange Act.

III

(A) On April 22, 1957, the respondent, acting as floor broker on an order received from E. F. Hutton and Company, a registered futures commission merchant, sold 10,000 bushels of old July 1957 wheat futures on the Chicago Board of Trade to one William J. Mallers, also a registered floor broker, at \$ 2.11 per bushel for the account of the said E. F. Hutton and Company, and purchased the same quantity of the same future at the same price for his personal account from the said William J. Mallers, the said trades being consummated by means of negotiation between the respondent and the said William J. Mallers, who acted for his personal account in each instance.

(B) On April 24, 1957, the respondent, acting as floor broker on an order received from the said E. F. Hutton and Company, bought 5,000 bushels of old July 1957 wheat futures on the Chicago Board of Trade from the said William J. Mallers at \$ 2.10 1/2 per bushel for the account of the said E. F. Hutton and Company, and sold the

same quantity of the same future at the same price for his personal account to the said William J. Mallers, the said trades being consummated by means of

negotiation between the respondent and the said William J. Mallers, who acted for his personal account in each instance.

The above trades were capable of being used for hedging transactions in interstate commerce in wheat or the products or by products thereof, or for determining the price basis of transactions in interstate commerce in wheat, or for delivering wheat sold, shipped, or received in interstate commerce. By reason of such transactions the respondent wilfully and knowingly, and without the prior consent of his principal, the said E. F. Hutton and Company, became the buyer with respect to a selling order of the said principal, and the seller with respect to a buying order of the said principal, in violation of section 4b(D) of the Commodity Exchange Act (7 U.S.C., 1952 ed., s 6b(D)); and failed to execute futures trades openly and competitively by open outcry in the trading pit of the Chicago Board of Trade, in wilful violation of section 1.38 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.38).

#### IV

In the transactions listed below, the respondent, having in hand orders from his principals, registered futures commission merchants,

to purchase quantities of old July 1957 wheat futures on behalf of said principals, and other orders from such principals to sell quantities of old July 1957 wheat futures on their behalf, executed such orders on the Chicago Board of Trade by selling quantities of the said future for the account of a principal to an opposite broker and, in each instance, purchasing the same quantity of the same future for the account of the same or a different principal from the opposite broker, the said trades being consummated by means of negotiation between the respondent and the respective opposite brokers. The dates, the principals for whom the respondent acted, the quantities sold and purchased, the prices, and the opposite brokers and opposite accounts were as follows:

Date	Bought (Bushels)	Sold (Bushels)	Principal	Price	Opposite Broker	Opposite Account
4/22		10,000	Hutton	\$ 2.11	W. J. Mallers	W. J. Mallers
4/22	10,000		Goodbody	2.11 1/8	W. J. Mallers	W. J. Mallers
4/23		5,000	Goodbody	2.10 1/2	W. J. Mallers	W. J. Mallers
4/23	5,000		Hutton	2.10 1/2	W. J. Mallers	W. J. Mallers
4/23		20,000	Goodbody	2.11	W. J. Griffin	W. J. Griffin
4/23	20,000		Goodbody	2.11	W. J. Griffin	W. J. Griffin
4/23		5,000	Hutton	2.10	A.A. Nolan, Jr.	A.A. Nolan, Jr.
4/23	5,000		Goodbody	2.10	A.A. Nolan, Jr.	A.A. Nolan, Jr.

The aforesaid trades were capable of being used for hedging transactions in interstate commerce in wheat or the products or by products thereof, or for determining the price basis of transactions

in interstate commerce in wheat, or for delivering wheat sold, shipped, or received in interstate commerce.

By reason of such transactions, the respondent filled orders by offset in wilful violation of section 4b(D) of the Commodity Exchange Act (7 U.S.C., 1952 ed., § 6b(D)); entered into cross trades, in wilful violation of section 4c(A) of the Commodity Exchange Act (7 U.S.C., 1952 ed., § 6c(A)); and failed to execute futures trades openly and competitively by open outcry in the trading pit of the Chicago Board of Trade, in wilful violation of section 1.38 of the rules and regulations under the Commodity Exchange Act (17 CFR 1.38).

Therefore, the said respondent, Herald E. Gibbs, is hereby notified to appear and be at a hearing to be held at 10:00 a.m., local time, on the 23rd day of October, 1958, in Room 1200, Board of Trade Building, 141 West Jackson Boulevard, Chicago, Illinois, 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 suspending or revoking the registration of respondent Herald E. Gibbs as a floor broker and directing that all contract markets refuse all trading privileges to the said respondent for such period of time as may be determined. The respondent will have twenty (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., an answer, with an original and five copies, 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 respondent at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C., this

2nd day of September, 1958.

/s/ True D. Morse

True D. Morse

Acting Secretary

**LOAD-DATE:** June 12, 2008

