

Commodity Futures Trading Commission
CEA CASES

NAME: GREAT WESTERN DISTRIBUTORS, INC., NATHANIEL E. HESS, CHARLES S. BORDEN,
THOMAS F. HAYNES AND HARTLEY L. HARRIS

DOCKET NUMBER: 48

DATE: JULY 12, 1948

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re Great Western Distributors, Inc. Nathaniel E. Hess. Charles S. Borden,
Thomas F. Haynes and Hartley L. Harris, Respondents

CE-A Docket No. 48

Complaint and Notice of Rearing under Section 6(b) of the Commodity Exchange
Act

The Secretary of Agriculture has reason to believe that the respondents,
Great Western Distributors, Inc., Nathaniel E. Hess, Charles S. Borden, Thomas
F. Haynes and Hartley L. Harris, have violated the provisions of the Commodity
Exchange Act (7 U.S.C. Chapter 1) and the rules and regulations made pursuant to
its requirements, and have attempted to manipulate the market price of a
commodity in interstate commerce or for future delivery on or subject to the
rules of a board of trade. In accordance with the provisions of Section 6(b) of
the Commodity Exchange Act. (7 U.S.C. 9), this complaint is issued alleging as
follows:

1.

Great Western Distributors, Inc. is a corporation organized in 1933 under the
laws of the State of New York, with its principal place of business located at
99 Hudson Street, New York 13, New York, and a branch office located at 110
North Franklin Street, Chicago, Illinois. The said corporation was at all times
material to this complaint and is now registered as a futures commission
merchant

under the provisions of the Commodity Exchange Act. The said corporation had
membership trading privileges on the Chicago Mercantile Exchange at all times
mentioned in this complaint, and has such privileges at the present time.

2.

The Chicago Mercantile Exchange was, prior to the time of the transactions
described in this complaint, duly designated as a con- tract market under the
provisions of the Commodity Exchange Act and has been a contract market
continuously since that time.

3.

Nathaniel E. Hess, an individual residing at Sands Point, Long Island, New
York, was at all times material to this complaint and is now a registered floor
broker under the provisions of the Commodity Exchange Act, a member of the
Chicago Mercantile Exchange, and Vice-President of respondent Great Western
Distributors, Inc. The membership of the said Nathaniel E. Hess in the Chicago
Mercantile Exchange is registered for the use of respondent Great Western
Distributors, Inc.

4.

Charles S. Borden, an individual residing in La Grange, Illinois was at all times material to this complaint and is now a registered floor broker under the provisions of the Commodity Exchange Act, a member of the Chicago Mercantile Exchange, and manager of the aforesaid

Chicago branch office of respondent Great Western Distributors Inc. The membership of the said Charles S. Borden in the Chicago Mercantile Exchange is registered for the use of respondent Great Western Distributors, Inc.

5.

Thomas F. Haynes, an individual residing in Ralston, New Jersey, was at all times material to this complaint and is now secretary of respondent Great Western Distributors, Inc.

6.

Hartley L. Harris, an individual residing at 35 West 76th Street, New York, New York, was at all times material to this complain and is now a registered floor broker under the provisions of the Commodity Exchange Act, and an employee of the corporate respondent Great Western Distributors, Inc. The said Hartley L. Harris is presently a member of the Chicago Mercantile Exchange.

7.

At all times material to this complaint, respondents Nathaniel E. Hess, Charles S. Borden, Hartley L. Harris and Thomas F. Haynes, as officers and employees of the corporate respondent Great Western Distributors, Inc., exercised management and control over the business of the said corporate respondent, and the transactions hereinafter described were carried out under the direction and supervision and

by means of the acts of the said individual respondents in their capacity as officers and employees, respectively, of the said corporate respondent.

8.

During the months of November and December 1947, respondent Great Western Distributors, Inc. purchased large quantities of December 1947 egg futures contracts for long account and sold large quantities of January 1948 egg futures contracts for short account on the Chicago Mercantile Exchange. During such period, the said respondent kept its purchases of December 1947 egg futures open and maintained this long position at a steadily increasing percentage of the total open December contracts, with the result that, in December 1947, the said respondent attained a dominant and controlling long position in the December 1947 egg futures market. During the same period, the said respondent maintained a substantial short position in January 1948 egg futures contracts.

9.

During the month of December 1947, respondent Great western Distributors, Inc. continued to maintain and strengthen its long position in December 1947 egg futures contracts on the Chicago Mercantile Exchange, with the result that the total amount of its contracts approaching maturity was, at all times between December 10, 1947 and December 22, 1947, both inclusive, from two to three times

as large as total stocks of eggs in Chicago available for delivery on December 1947 futures contracts.

10.

During the month of December 1947, while continuing to maintain and strengthen its long position in December 1947 egg futures, respondent Great Western Distributors, Inc. stood for delivery on the long contracts which it held, as a result of which, and because of the dominant and controlling position of the said respondent in the December 1947 egg futures market, substantially all the eggs delivered on the Chicago Mercantile Exchange in December 1947 in satisfaction of futures contracts were required to be and were delivered to the said respondent.

11.

During the month of December 1947, while maintaining and strengthening its long position in December 1947 egg futures contracts and requiring and accepting delivery in satisfaction of such contracts as described above, respondent Great Western Distributors, Inc. purchased and held large quantities of each eggs (eggs in store and in position for immediate delivery), and maintained its case egg position at a steadily increasing ratio of the total quantity of deliverable eggs in stock in Chicago. The result of the aforesaid deliveries and purchases was that on December 23, 1947, at the close of trading in December 1947 egg futures, who said respondent owned and held over fifty per cent of the total stocks of 71,000 cases of eggs in Chicago, and on

December 31, 1947 the said respondent owned and held substantially all the eggs in Chicago deliverable in satisfaction of futures contracts and a major portion of the eggs in store in Indiana, Illinois, Michigan, Ohio and Wisconsin.

12.

During the month of December 1947, respondent Great Western Distributors, Inc., after having attained a dominant and controlling position in the December 1947 egg futures market and after having strengthened its cash egg position by means of the purchases and acceptance of deliveries described above continued to require delivery on its long December 1947 futures contracts with knowledge of the fact that there were insufficient- eggs in store in Chicago which could be delivered in satisfaction of such contracts, and with knowledge of the fact that a substantial proportion of the available supply of eggs in Chicago was in its own possession.

13.

During the month of December 1947, respondent Great Western Distributors, Inc. offered to sell the eggs owned and held by it as described above, but only at prices which were at a premium in relation to prevailing prices of December 1947 egg futures, so as to render it unprofitable for holders of short contracts to fulfill such contracts by the purchase of cash eggs for delivery, and thereby compelling such holders to cover their commitments by purchases in the futures market at prices fixed by the said respondent.

14.

Respondent Great Western Distributors, Inc. conducted the operations described in paragraphs 8 to 13, inclusive, for the purpose and with the intent of widening the spread between the price of December 1947 and January 1948 egg futures contracts on the Chicago Mercantile Exchange, and for the purpose of increasing or preventing a decrease in the price of eggs deliverable in satisfaction of futures contracts on such Exchange. In furtherance of such purpose and intent, the said respondent required and accepted the deliveries and made the purchases described above, obtained control of the supply of deliverable eggs in Chicago and the surrounding area, and placed itself in a position where it could and did demand such prices as it saw fit from those who had sold December 1947 egg futures contracts and were obligated to deliver eggs in fulfillment thereof or, in the alternative, to cover such sales by purchases in the futures market. The short position of the said respondent in January

1948 egg futures contracts was used to dispose of the cash eggs acquired by means of the deliveries and purchases described above.

15.

By reason of the acts described in paragraphs 8 to 14, inclusive, respondent Great Western Distributors, Inc. attempted to manipulate the price of a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade, in violation of sections 6(b) and 9 of the Commodity Exchange Act. (7 U.S.C. 9, 13).

16.

By reason of the acts described in paragraphs 8 to 14, inclusive, respondent Great Western Distributors, Inc. attempted to corner a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade, in violation of section 9 of the Commodity Exchange Act (7 U.S.C. 13).

17.

By reason of the acts described in paragraphs 3 to 14, inclusive, respondent Great Western Distributors, Inc. cornered a commodity in interstate commerce and for future delivery on or subject to the rules of a board of trade, in violation of section 9 of the Commodity Exchange Act (7 U.S.C. 13).

Therefore, the said respondents, Great Western Distributors, Inc., Nathaniel E. Hess, Charles S. Borden, Thomas F. Haynes and Hartley L. Harris, are hereby notified to be and appear at a hearing to be held at 10 o'clock A. M., central day-light saving time, on the 19th. day of August, 1948, in Room 1200, Board of Trade Building, 145 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 revoking or suspending the registration of the said Great Western Distributors, Inc. as a futures commission merchant, revoking or suspending the registration of respondents Nathaniel E. Hess, Charles S. Borden, and Hartley L. Harris as floor brokers under the Commodity Exchange Act, and directing that all contract markets refuse all trading privileges to the respondents until further notice by the Secretary of Agriculture.

The respondents will have twenty days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, 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 to each of them by an employee of the Department of Agriculture, or by registered mail, at least twenty days prior to the date set for hearing.

Done at Washington, D. C., this 12th day of July 1948.

/s/ I. W. Duggan

Acting Secretary of Agriculture

LOAD-DATE: June 16, 2008

