

Commodity Futures Trading Commission
CEA CASES

NAME: MYLES J. KERRIGAN, THOMPSON B. SANDERS, AND O'CONNOR GRAIN CO.

DOCKET NUMBER: 162

DATE: JUNE 18, 1969

DOCUMENT TYPE: COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Myles J. Kerrigan, Thompson B. Sanders, and O'Connor Grain Co.,
Respondent

CEA Docket No. 162

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. 1 et seq.) and the regulations made pursuant thereto (17 CFR, Chapter I), and therefore this complaint is issued stating the charges in that respect as follows:

I

Respondent Myles J. Kerrigan, an individual whose address is Room 1437, 141 West Jackson Boulevard, Chicago, Illinois 60604, is now, and was at all times material herein, a member of the Board of Trade of the City of Chicago (hereinafter called the Chicago Board of Trade) and a general partner in respondent O'Connor Grain Co. Respondent Kerrigan is now a registered floor broker under the Commodity Exchange Act (hereinafter called the act).

II

Respondent Thompson B. Sanders, an individual whose address is Room 1437, 141 West Jackson Boulevard, Chicago, Illinois 60604, is now, and was at all times material herein, a registered floor broker under the act, a member of the Chicago Board of Trade, and an employee of respondent O'Connor Grain Co.

III

Respondent O'Connor Grain Co. is a partnership whose address is Room 1437, 141 West Jackson Boulevard, Chicago, Illinois 60604. The said partnership is now, and was at all times material herein, a registered futures commission merchant under the act and a clearing member of the Chicago Board of Trade.

IV

The Chicago Board of Trade is now, and was at all times material herein, a duly designated contract market under the act.

V

The transactions referred to in this complaint were in corn futures on or subject to the rules of the Chicago Board of Trade and were capable of being used for hedging transactions in interstate commerce in corn or the products or by-products thereof, or determining the price basis of transactions in interstate commerce in corn, or delivering corn sold, shipped, or received in interstate commerce. All such transactions made for the account of respondent Myles J. Kerrigan were speculative and were carried by respondent O'Connor Grain Co.

VI

(a) On June 29, 1966, respondent Myles J. Kerrigan, acting for his own account, purchased 1,920,000 bushels and sold 1,970,000 bushels of corn futures, and reported such purchases and sales to the Commodity Exchange Authority. In addition, respondent Kerrigan, on the same date, purchased 1,000,000 bushels of March 1967 corn futures from another floor trader, John L. Georgas, not a respondent herein, at \$ 1.40 per bushel, and sold 1,000,000 bushels of May 1967 corn futures to the said John L. Georgas at \$ 1.42 per bushel. Respondent Kerrigan did not enter such purchase or sale on his trading card, or report them to the Commodity Exchange Authority. Respondent Kerrigan requested respondent Thompson B. Sanders to record such purchase and sale on his trading card as though they had been made by respondent Sanders. In compliance with such request, respondent Sanders entered on one of his trading cards a purchase of 1,000,000 bushels of March 1967 corn futures at \$ 1.40 per bushel and a sale of the same quantity of May 1967 corn futures at \$ 1.42 per bushel, and turned in such card to respondent O'Connor Grain Co. Respondent O'Connor Grain Co. showed on its records that such purchase and sale were made for the account of, and that the resulting positions were held by, respondent Sanders. In truth and in fact and as the respondents knew, the entire purchase of the 1,000,000 bushels of March 1967 corn futures and the entire sale of the 1,000,000 bushels of May 1967 corn futures were made by respondent Kerrigan for his own use and benefit and were owned and controlled by him. The false

entries on the trading card of respondent Sanders and in the records of respondent O'Connor Grain Co. were intended and made for the purpose of concealing from the Commodity Exchange Authority the fact that on June 29, 1966, respondent Kerrigan had made sales and had made purchases in corn futures, in amounts in excess of the maximum limit of 2,000,000 bushels established by the Commodity Exchange Commission (17 CFR 150.1).

(b) On June 30, July 6 and July 8, 1966, respondent Kerrigan entered on his trading cards sales of 500,000 bushels, 200,000 bushels and 300,000 bushels, respectively, of May 1967 corn futures to respondent Sanders, and purchases of the same quantities of March 1967 corn futures from respondent Sanders. Respondent Sanders entered the opposite sides of these transactions on his trading cards and entries were made by respondent O'Connor Grain Co. in its records showing such transactions. In truth and in fact and as the respondents knew, the above transactions were not bona fide sales and purchases but merely transfers from respondent Sanders' account to respondent Kerrigan's account of the sale of 1,000,000 bushels of May 1967 corn futures and the purchase of 1,000,000 bushels of March 1967 corn futures that had been made by respondent Kerrigan for his own use and benefit but placed in respondent Sanders' account, as described above.

VII

On June 30, 1966, respondent Myles J. Kerrigan, acting for his own account, made transactions in corn futures in an amount in excess of

the maximum limit of 2,000,000 bushels established by the Commodity Exchange Commission (17 CFR 150.1). In an effort to conceal such fact from the Commodity Exchange Authority, respondent Kerrigan:

(1) Included in his report to the Commodity Exchange Authority for June 30, 1966, purchases of only 1,940,000 bushels and sales of only 1,980,000 bushels, but did not include therein additional purchases of 50,000 bushels and additional sales of 50,000 bushels made by respondent Kerrigan in the December 1966 corn future at \$ 1.38 3/4 on June 30, 1966; and

(2) Deleted the entries relating to such purchases and sales in the December 1966 corn future from the fraction sheet maintained by respondent O'Connor Grain Co., for respondent Kerrigan's account.

VIII

On July 7, 1966, respondent Myles J. Kerrigan, acting for his own account, made transactions in corn futures in an amount in excess of the maximum limit of 2,000,000 bushels established by the Commodity Exchange Commission (17 CFR 150.1). In an effort to conceal such fact from the Commodity Exchange Authority, respondent Kerrigan:

(1) Included in his report to the Commodity Exchange Authority for July 7, 1966, purchases of only 1,925,000 bushels and sales of only 1,945,000 bushels, but did not include therein additional purchases of 50,000 bushels and additional sales of 50,000 bushels made by respondent Kerrigan in the September 1966 corn future on July 7, 1966. Nor did respondent Kerrigan include in such report additional purchases of

100,000 bushels and additional sales of 100,000 bushels made by him in the December 1966 corn future at \$ 1.37 3/4 per bushel on July 7, 1966;

(2) Changed the fraction sheet maintained by respondent O'Connor Grain Co. for respondent Kerrigan's account for July 7, 1966, by decreasing the entry showing the total purchases in the September 1966 corn future by 50,000 bushels and decreasing the entry showing the total sales in such future by a like amount; and

(3) Deleted the entry relating to 100,000 bushels purchased at \$ 1.37 3/4 in the December 1966 corn future and the entry relating to sales of the same quantity of the same future at the same price from the fraction sheet maintained by respondent O'Connor Grain Company for respondent Kerrigan's account for July 7, 1966.

IX

On July 14, 1966, respondent Myles J. Kerrigan, acting for his own account, made transactions in corn futures in an amount in excess of the maximum limit of 2,000,000 bushels established by the Commodity Exchange Commission (17 CFR 150.1). In an effort to conceal such fact from the Commodity Exchange Authority, respondent Kerrigan:

(1) Included in his report to the Commodity Exchange Authority for July 14, 1966, purchases of only 1,880,000 bushels and sales of only 1,770,000 bushels, but did not include therein additional purchases of 100,000 bushels and additional sales of the same quantity made by respondent Kerrigan in the December 1966 corn future on July 14, 1966, at \$ 1.41 per bushel. Nor did respondent Kerrigan include in such report

additional purchases of 100,000 bushels and additional sales of the same quantity made by him in the December 1966 corn future at \$ 1.41 1/2 per bushel on July 14, 1966; and

(2) Caused the fraction sheet maintained by respondent O'Connor Grain Company for respondent Kerrigan's account for July 14, 1966, to fail to show any entries relating to such transactions in the December 1966 corn future.

X

On July 18, 1966, respondent Myles J. Kerrigan, acting for his own account, made transactions in corn futures in an amount in excess of the maximum limit of 2,000,000 bushels established by the Commodity Exchange Commission (17 CFR 150.1). In an effort to conceal such fact from the Commodity Exchange Authority, respondent Kerrigan:

(1) Included in his report to the Commodity Exchange Authority for July 18, 1966, purchases of only 1,570,000 bushels and sales of only 1,970,000 bushels, but did not include therein additional purchases of 625,000 bushels and additional sales of 625,000 bushels made by respondent Kerrigan in the December 1966 corn future on July 18, 1966;

(2) Prepared trading cards purporting to show that such purchases and sales made in the December 1966 corn future were for the account of another partner in respondent O'Connor Grain Co., James R. Powers, not a respondent herein, and turned in such cards to respondent O'Connor Grain Co.; and

(3) Caused the fraction sheet maintained by respondent O'Connor Grain Co. for the account of James R. Powers for July 18, 1966, to purport to show that such transactions in the December 1966 corn future had been made for the account of James R. Powers, and caused the fraction sheet maintained by respondent O'Connor Grain Co. for respondent Kerrigan's account for July 18, 1966, to fail to show any entries relating to such transactions.

XI

By reason of the facts alleged in this complaint: (1) respondent Myles J. Kerrigan traded in corn futures in amounts in excess of the maximum permissible limit on the daily amount of speculative trading in such futures, in wilful violation of section 4a of the act (7 U.S.C. 6a), and the order of the Commodity Exchange Commission establishing limits on positions and trading in corn futures (17 CFR 150.1); and failed to keep required records and submitted false reports to the Commodity Exchange Authority, in wilful violation of section 4i of the act (7 U.S.C. 6i) and sections 15.01, 15.02, 15.03, 18.00 and 18.05 of the regulations (17 CFR 15.01, 15.02, 15.03, 18.00 and 18.05); and (2) all of the respondents entered into transactions which were fictitious, in wilful violation of section 4c of the act (7 U.S.C. 6c); entered false records of futures trades, in wilful violation of sections 4b and 4g of the act (7 U.S.C. 6b, 6g); and section 1.35 of the regulations (17 CFR 1.35); and made futures contracts on a board of trade and failed to evidence the same by a written record which showed the true parties

to such contracts, in wilful violation of section 4 of the act (7 U.S.C. 6) and section 1.35 of the regulations (17 CFR 1.35).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondents. 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 purpose 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 August 20, 1969, in Chicago, Illinois, 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 order should not be made suspending or revoking the registration of respondent O'Connor Grain Co. as futures commission merchant, suspending or revoking the registrations of respondents Myles J. Kerrigan and Thompson B. Sanders as floor brokers, and directing that all contract

markets refuse all trading privileges to each respondent for such period of time as may be determined.

It is ordered that this complaint and notice of hearing be served on each of the said respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D C.

June 18, 1969

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

LOAD-DATE: June 16, 2008

