

Commodity Futures Trading Commission
CEA CASES

NAME: MILLER-LANE & CO., AND GEORGE C. LANE

CITATION: 29 Agric. Dec. 679

DOCKET NUMBER: 171

DATE: JUNE 16, 1970

DOCUMENT TYPE: DECISION AND ORDER

(No. 13,225)

In re MILLER-LANE & Co., and GEORGE C. LANE. CEA Docket No. 171. Decided June 16, 1970.

Financial requirements -- Customers' funds -- Records -- Cease and desist -- Stipulation

Respondents consented to the issuance of an order requiring them to cease and desist from failing to segregate customers' funds, failing to prepare daily records of funds which must be in segregated account, and failing to meet prescribed minimum financial requirements.

Earl L. Saunders for Commodity Exchange Authority.

Schultz, Hennessy & McGrath, Chicago, Ill., for respondents.

Decision by Thomas J. Flavin, Judicial Officer

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C., Chapter 1, 1964 ed., as amended, Supp. IV, 1969), instituted by a complaint and notice of hearing issued on April 24, 1970, under section 6(c) of the Act (7 U.S.C. Supp.

IV, 13b). The respondents are charged with violating sections 4d, 4f and 4g of the Act (7 U.S.C. Supp. IV, 6d, 6f and 6g), and sections 1.10, 1.17 (34 F.R. 599), 1.20, 1.21, 1.22, 1.23, 1.32 and 1.35 of the regulations thereunder (17 CFR 1.20, 1.21, 1.22, 1.23, 1.32 and 1.35).

No hearing has been held in this proceeding. On June 12, 1970, the respondents filed a stipulation under section 0.4(b) of the rules of practice (17 CFR 0.4(b) in which they (1) withdraw their answer previously filed, (2) admit the facts hereinafter set forth in paragraphs 1 and 2 of the Findings of Fact, (3) admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in paragraphs 3 through 5 of the Findings of Fact, (4) waive the report of the Hearing Examiner, and (5) consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent Miller-Lane & Co., an Illinois corporation with its principal offices at 343 South Dearborn Street, Chicago, Illinois 60604, is now, and was at all times when it is mentioned herein, a registered futures commission merchant under the Commodity Exchange Act, with membership privileges on the Chicago Open Board of Trade, a duly designated contract market under the Commodity Exchange Act.

2. Respondent George C. Lane, an individual whose business address is the same as that of the respondent corporation, is now, and was at all times material herein, the president of the respondent corporation. At all such times, the operations of the respondent corporation were under the direction and control of respondent George C. Lane.

3. a. At the times hereinafter stated, the respondent corporation, in the regular course of its business as futures commission merchant, carried accounts of customers who traded in commodity futures on contract markets subject to the provisions of the Commodity Exchange Act and regulations. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the said act and regulations. At all such times, the respondent corporation 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 accruing to such customers.

b. On September 30, 1969, the respondent corporation was undersegregated in the amount of \$ 18,887.60 -- that is, the total amount of customers' funds held in segregation as above described, was insufficient, by the aforesaid sum, to pay all credits and equities due to such customers.

c. On the daily segregation record that was prepared and kept by the respondent corporation to meet the requirements of the regulations issued under the Commodity Exchange Act, the said respondent showed that on September 30, 1969, it had excess funds in segregation in the amount of \$ 5,047.19, whereas, in truth and in fact, it was undersegregated as specified above.

d. On each business day between January 15 and January 23, 1970, both inclusive, the respondent corporation was undersegregated in amounts ranging from \$ 4,553.58 on January 16 to \$ 6,606.99 on January 20 -- that is, the total amount of customers' funds held in segregation as above described, was insufficient, by the aforesaid sums, to pay all credits and equities due to such customers.

4. As of September 30, 1969, the respondent corporation, while engaged in business as a registered futures commission merchant under the Commodity Exchange Act, 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 respondent corporation's books and records by the Commodity Exchange Authority as of September 30, 1969, revealed a deficiency in adjusted working capital of \$ 17,671.21, when computed in accordance with the above-cited section of the regulations. The analysis is as follows:

Unadjusted Working Capital	
Current Assets	\$ 168,975.31
Current Liabilities	127,027.49
Unadjusted Working Capital	41,947.82
Adjusted Working Capital	
Total charges against	
Unadjusted Working Capital	356.44
Adjusted Working Capital	41,591.38
Minimum Adjusted Working Capital	
Required	59,262.59
Deficiency in Adjusted Working	
Capital	17,671.21

5. During the period from August 1 through September 30, 1969, the respondent corporation failed to prepare and maintain

a monthly computation of its net worth, as required by section 1.10 of the regulations issued under the Commodity Exchange Act (34 F.R. 599). Prior to September 30, 1969, examination of the books and records of Roberts, Lane & Co.,

a predecessor firm to the corporate respondent, by the Commodity Exchange Authority as of March 28, 1969, disclosed that the said firm was not preparing and maintaining such a computation and this failure was called to the attention of the firm in writing on August 20, 1969, and to the attention of respondent George C. Lane in a letter dated August 25, 1969.

CONCLUSIONS

By reason of the facts set forth in the Findings of Fact, it is concluded that, as charged in the complaint, the respondents violated sections 4d, 4f and 4g of the Commodity Exchange Act and sections 1.10, 1.17, 1.20, 1.21, 1.22, 1.23, 1.32 and 1.35 of the regulations thereunder. The complainant states that the administrative officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by the respondents. The administrative officials believe that the prompt entry of the proposed order would constitute a satisfactory disposition of this case, serve the public interest and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation be accepted and the proposed order be issued. It is concluded that the complainant's recommendation should be adopted.

ORDER

Respondent Miller-Lane & Co. shall cease and desist from: (1) failing to treat and deal with customers' funds as belonging to such customers as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and the regulations thereunder; (2) failing to hold customers' funds in segregated accounts as required by section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and the regulations thereunder; (3) failing to prepare and maintain (a) an accurate record as of the close of the market on each business day of the amount of money, securities and property which must be in segregated account in order to comply with the requirements of section 4d of the Commodity Exchange Act (7 U.S.C. 6d, Supp. IV, 1969) and the regulations thereunder, (b) a monthly computation of its net worth as required by section 1.10 of the regulations (34 F.R. 599), and (c) such other books and records relating to dealing

in commodity futures in such form and manner and for such period as may be required by the Secretary of Agriculture; and (4) engaging as futures commission merchant within the meaning of the Commodity Exchange Act without meeting the minimum financial requirements prescribed by section 1.17 of the regulations (34 F.R. 599) issued under the Commodity Exchange Act.

Respondent George C. Lane shall cease and desist from wilfully causing, aiding, counseling, commanding or inducing respondent Miller-Lane & Co., or any other futures commission merchant, to engage in any act or practice from which the said respondent corporation is directed to cease and desist by this order.

This order shall become effective on the date of service of a copy thereof upon respondents.

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