

Commodity Futures Trading Commission  
CEA CASES

**NAME:** EUGENE T. MUELLER, ROBERT J. MURPHY AND JAMES W. KOZINSKI

**DOCKET NUMBER:** 183

**DATE:** SEPTEMBER 2, 1971

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Eugene T. Mueller, Robert J. Murphy and James W. Kozinski, Respondents

CEA Docket No. 183

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, and this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

The respondents, Eugene T. Mueller, Robert J. Murphy and James W. Kozinski, are now, and were at all times material herein, registered floor brokers under the Commodity Exchange Act and members of the Chicago Mercantile Exchange, hereinafter referred to as the exchange.

II

The exchange is now, and was at all times material herein, a duly designated contract market under the Commodity Exchange Act.

III

The transactions referred to in this complaint relate to the purchase and sale of pork belly futures contracts on the exchange.

Such contracts could have been used for hedging transactions in interstate commerce in pork bellies or the products or by-products thereof, or for determining the price basis of transactions in interstate commerce in pork bellies, or for delivering pork bellies sold, shipped, or received in interstate commerce.

IV

Respondents Mueller and Kozinski, on December 30, 1968, entered into the transactions specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases and sales would be made at little or no price advantage or disadvantage to the said respondents,

(1969)	Respondent	Quantity	Price	Respondent
Future	Buying	(No. of contracts)	(Cents per pound)	Selling
February	Mueller	50	32.00	Kozinski
March	Kozinski	50	31.92 1/2	Mueller
February	Kozinski	50	32.62 1/2	Mueller
March	Mueller	50	32.55	Kozinski

V

Respondents Mueller and Murphy, on December 30, 1968, December 31, 1968 and January 2, 1969, entered into the transactions specified in the tabulation below, which transactions were wash sales or were of the character of wash sales. In entering into the said transactions the said respondents acted pursuant to, and in accordance with, an understanding or arrangement that reciprocal and offsetting purchases

and sales would be made at little or no price advantage or disadvantage to the said respondents.

Date	(1969) Future	Respondent Buying	Quantity (No. of contracts)	Price (Cents per pound)	Respondent Selling
12/30/68	February	Mueller	50	32.02 1/2	Murphy
12/30/68	March	Murphy	50	31.92 1/2	Mueller
1/2/69	February	Murphy	50	32.00	Mueller
1/2/69	March	Mueller	50	31.92 1/2	Murphy
12/31/68	March	Murphy	100	32.52 1/2	Mueller
12/31/68	August	Mueller	100	32.05	Murphy
12/31/68	March	Mueller	100	32.52 1/2	Murphy
12/31/68	August	Murphy	100	32.05	Mueller

VI

By reason of the facts alleged in this complaint, the respondents: (1) entered into transactions which were, or were of the character of, wash sales or fictitious sales, in wilful violation of section 4c of the Commodity Exchange Act (7 U.S.C. 6c); and (2) executed purchases and sales of commodities for future delivery in a manner which was not open and competitive, in wilful violation of section 1.38 of the regulations (17 CFR 1.38).

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the respondents and this proceeding shall be governed by sections 0.1, 0.2, 0.4(b), 0.5 through 0.22 and 0.28 of the rules of practice under the Commodity Exchange Act (17 CFR 0.1 0.2, 0.4(b), 0.5 through 0.22, 0.28). 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 three 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 purposes 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 October 13, 1971, 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 appropriate order should not be issued in accordance with the Commodity Exchange Act, (1) suspending or revoking the registrations of the respondents as floor brokers, (2) prohibiting the respondents from trading on or subject to the rules of any contract market, and directing that all contract markets refuse all trading privileges to the respondents

for such period of time as may be determined and (3) directing that the respondents shall cease and desist from violating the Act and regulations in the manner alleged herein.

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

Done at Washington, D. C.

September 2, 1971

[SEE SIGNATURE IN ORIGINAL]

Richard E. Lyng

Assistant Secretary

**LOAD-DATE:** June 16, 2008



