

Commodity Futures Trading Commission  
CEA CASES

**NAME:** JOHN HENRY PHELAN, III

**DOCKET NUMBER:** 119

**DATE:** MAY 22, 1964

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: John Henry Phelan, III, Respondent  
CEA Docket No. 119

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

There is reason to believe that the respondent, John Henry Phelan, III, has violated the provisions of the Commodity Exchange Act (7 U.S.C. § 1 et seq.), and the rules and regulations made pursuant to its requirements (17 CFR, Part 1), and in accordance with the provisions of section 6(b) of the said act (7 U.S.C. § 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent, John Henry Phelan, III, is an individual whose mailing address is P. O. Box 2270, Beaumont, Texas.

II

The Board of Trade of the City of Chicago, hereinafter referred to as the Chicago Board of Trade, and the New York Mercantile Exchange are now and were at all times material to this complaint duly designated contract markets under the Commodity Exchange Act.

III

On each business day during the periods November 29, 1963, through January 27, 1964, and February 27 through March 4, 1964, the respondent held or controlled a net long or a net short position in wheat futures on the Chicago Board of Trade, which position ranged from 200,000 bushels to 250,000 bushels in a single future. By reason of the fact that such quantities were equal to or in excess of 200,000 bushels, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all wheat futures on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

IV

On December 3, 4 and 12, 1963, January 7, 8 and 9, 1964, and February 27, 1964, while the respondent was in reporting status as described in paragraph III above, and on January 28 and March 5, 1964, when the respondent's position was reduced below 200,000 bushels, transactions in wheat futures on the Chicago Board of Trade were executed on his behalf, but the respondent failed and refused to submit reports

to the Commodity Exchange Authority, in willful violation of the aforesaid sections of the Commodity Exchange Act and the regulations thereunder.

## V

On each business day during the periods December 6 through December 10, 1963, and January 3 through March 5, 1964, the respondent held or controlled a net long or a net short position in soybean futures on the Chicago Board of Trade, which position ranged from 200,000 bushels to 725,000 bushels in a single future. By reason of the fact that such quantities were equal to or in excess of 200,000 bushels, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all soybean futures on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

## VI

On December 6, 1963, January 3, 7, 9, 10, 13, 14, 15, 28 and 31, 1964, February 3, 5, 6, 11, 13, 25, 27 and 28, 1964, and on March 5, 1964, while the respondent was in reporting status as described in paragraph V above, and on December 11, 1963, and March 6, 1964, when

the respondent's position was reduced below 200,000 bushels, transactions in soybean futures on the Chicago Board of Trade were executed on his behalf, but the respondent failed and refused to submit reports to the Commodity Exchange Authority, in willful violation of the afore-said sections of the Commodity Exchange Act and the regulations thereunder.

## VII

On each business day during the period April 2 through April 22, 1964, the respondent held or controlled a net short position in potato futures on the New York Mercantile Exchange, which position ranged from 32 carlots to 102 carlots in a single future. By reason of the fact that such quantities were equal to or in excess of 25 carlots, the respondent was in reporting status and was required to report to the Commodity Exchange Authority with respect to all transactions executed and all open contract positions held or controlled by him, in all potato futures on all boards of trade on said dates and with respect to all transactions by reason of which the respondent's position was reduced below reporting levels, as provided in section 4i of the Commodity Exchange Act (7 U.S.C. § 6i) and sections 15.01, 15.02, 15.03, 18.00, 18.01 and 18.03 of the regulations thereunder (17 CFR §§ 15.01, 15.02, 15.03, 18.00, 18.01, 18.03).

## VIII

On April 2, 3, 14, 15 and 22, 1964, while the respondent was in reporting status as described in paragraph VII above, transactions in potato futures on the New York Mercantile Exchange were executed on his behalf, but the respondent failed or refused to submit reports to the Commodity Exchange Authority in willful violation of the aforesaid sections of the Commodity Exchange Act and the regulations thereunder.

WHEREFORE, it is hereby ordered that this complaint and notice of hearing be served upon the said respondent. The respondent 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 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 not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint and waiver of hearing. The respondent is hereby notified that unless hearing is waived, either expressly or by failure to file an answer, and request a hearing, a hearing will be held at 10:00 a.m., local time, on July 15, 1964, in Beaumont, Texas, at a place therein to be specified later, before

a referee designated to conduct such hearing. At such hearing the respondent will have the right to appear and show cause, if any there be, why an order should not be made directing that all contract markets refuse all trading privileges to the respondent for such period of time as may be determined.

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.

MAY 22 1964

[SEE SIGNATURE IN ORIGINAL]

Assistant Secretary

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

