

Commodity Futures Trading Commission
CEA CASES

NAME: STERLING SECURITIES, INC., PAUL J. MILLER, AND R. PETER DENKER

DOCKET NUMBER: 158

DATE: NOVEMBER 25, 1968

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Sterling Securities, Inc., Paul J. Miller, and R. Peter Denker,
Respondents

CEA Docket No. 158

Complaint and Notice of Hearing Under the Commodity Exchange Act

There is reason to believe that the respondents, Sterling Securities, Inc., Paul J. Miller and R. Peter Denker, have violated the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.; Public Law 90-258), hereinafter referred to as the act, and the regulations made pursuant thereto (17 CFR, Part 1), hereinafter referred to as the regulations. Therefore, this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

Respondent Sterling Securities, Inc., an Illinois corporation with its principal office and place of business at 308 First Avenue, Sterling, Illinois, is now, and was at all times material herein, a registered futures commission merchant under the act.

II

Respondents Paul J. Miller and R. Peter Denker, individuals whose business address is 308 First Avenue, Sterling, Illinois, are now, and were at all times material herein, the president and treasurer,

and the vice-president and secretary, respectively, of the respondent corporation. Respondent Paul J. Miller is now, and was at all times material herein, the principal shareholder of the respondent corporation. At all such times, respondents Paul J. Miller and R. Peter Denker managed and controlled the business of the respondent corporation and were responsible for the corporate acts and transactions hereinafter described.

III

At the times hereinafter stated, respondent Sterling Securities, Inc., in the regular course of its business as futures commission merchant, handled accounts of customers who traded in commodity futures. Such accounts, the trading therein, and the handling and disposition of funds in connection therewith, were subject to the provisions of the act and regulations. At all such times, prior to September 11, 1967, the respondent corporation had to its credit with a bank 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.

IV

On eight business days during the period from February 28, 1967, through April 27, 1967, respondent Sterling Securities, Inc. was undersegregated in amounts within the range of \$ 873.09 and \$ 6,087.34 -- that is, on the eight days mentioned the total amount of customers' funds held in segregation, as described in paragraph III hereof, was

from \$ 873.09 to \$ 6,087.34 less than the amount necessary to pay all credits and equities due to such customers.

V

In June 1966, and prior to the acts and omissions described above, examination of the books and records of respondent Sterling Securities, Inc. by the Commodity Exchange Authority disclosed that on 11 business days during the period from May 25, 1966 through June 9, 1966, respondent Sterling Securities, Inc. was under-segregated in amounts within the range of \$ 185.25 and \$ 3,111.50, and that on 47 business days during the period from April 4, 1966 through June 8, 1966, respondent Sterling Securities, Inc. had not prepared a daily record of customers' funds required to be held in segregation. These matters were discussed with respondent Paul J. Miller, and on June 23, 1966, the Director of the Accounting and Licensing Division of the Commodity Exchange Authority wrote a letter to respondent Paul J. Miller in his capacity as an officer of the respondent corporation, which letter read as follows:

A basic purpose of the Commodity Exchange Act is, as you know, to insure that regulated commodity customer's funds are separately accounted for and not used by the commission merchant to finance his own operations, nor may he use one customer's funds to finance the trading of another.

In order for the commission merchant and our auditors to determine compliance with these requirements, section 1.32 of the regulations under the law provides that, as of the close of the market each business day, a computation shall be made of the amount of money, securities, and property which must be placed in segregated accounts to meet the requirements of the act.

On May 10, 1966, your officers discussed the segregation and recordkeeping provisions of the regulations with Mr. G. Edward Piala of our Chicago office. Also, we sent you a leaflet on segregation and accounting procedures when you were registered as a futures commission merchant. For these reasons your responsibilities under the act were known by your management.

Our recent audit disclosed that you were undersegregated in the amount of \$ 2,900.00 on the audit date, May 31, 1966. Also, you were undersegregated on ten other business days from May 25, 1966 through June 9, 1966. Further, you failed to prepare the daily computation of segregation requirements on 47 business days during the period of April 4, 1966 through June 8, 1966.

The purpose of this letter is to inform you that these failures to observe the provisions of the law and regulations are serious and to afford you an opportunity to bring your firm into compliance.

VI

On or about May 6, 1968, respondent Sterling Securities, Inc. deposited in its bank account 199-687-5, and for a period of time used for its own benefit, funds in the sum of \$ 2,000.00 which it had received from one Alex Hogg, to margin, guarantee and secure transactions in commodity futures for the account of the said Alex Hogg.

VII

On or about June 13, 1968, respondent Sterling Securities, Inc. deposited in its bank account 199-687-5, and for a period of time used for its own benefit, funds in the sum of \$ 5,000.00 which it had received from one Archie Diehl, to

margin, guarantee and secure transactions in commodity futures for the account of the said Archie Diehl.

VIII

On or about April 4, 1968, respondent Sterling Securities Inc deposited in its bank account 199-687-5, and for a period of time used for its own benefit, funds in the sum of \$ 4,000.00 which it had received from one John C. Pignatelli to margin, guarantee and secure transactions in commodity futures for the account of the said John C. Pignatelli.

IX

On or about April 8, 1968, respondent Sterling Securities, Inc. deposited in its bank account 199-687-5, and for a period of time used for its own benefit, funds in the sum of \$ 3,500.00 which it had received from the said John C. Pignatelli to margin, guarantee and secure transactions in commodity futures for his account.

X

On June 26, 1968, the respondents filed a report on Form CEA-84 with the Commodity Exchange Authority, falsely reporting that since September 13, 1967, the accounts of the firm's customers "have been carried on a disclosed basis" with another futures commission merchant, and that all commodity futures orders, "together with all money, securities and property received to margin, guarantee or clear the trades or contracts" of such customers "are transmitted for execution or clearance direct to" such futures commission merchant.

XI

By reason of the facts alleged in this complaint, the respondents wilfully violated sections 4d(2), 4g and 6(b) of the act (7 U.S.C. 6d(2),

6g and 9, as amended by Public Law 90-258), and sections 1.20, 1.21, 1.22, 1.32 and 1.35 of the regulations (17 CFR 1.20, 1.21, 1.22, 1.32 and 1.35).

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 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 purpose of this proceeding. Failure to file an answer will constitute an admission of all 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 this complaint are admitted likewise shall constitute a waiver of hearing unless a hearing is requested. The respondents are hereby notified that unless a hearing is waived, a hearing will be held at 10:00 a.m., local time, on January 22, 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 appropriate order should

not be issued in accordance with the act, (1) 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, (2) directing that the respondents shall cease and desist from violating the act and regulations in the manner alleged

herein, and (3) suspending or revoking the registration of respondent Sterling Securities, Inc. as futures commission merchant.

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.

November 25 1968

[SEE SIGNATURE IN ORIGINAL]

John A. Schnittker

Acting Secretary

LOAD-DATE: June 16, 2008

