

Commodity Futures Trading Commission  
CEA CASES

**NAME:** SECRETARY OF AGRICULTURE V. CARGILL, INC., CARGILL GRAIN COMPANY OF ILLINOIS, JOHN H. MACMILLAN, JR., E. J. GRIMES, JULIUS HENDEL, AND PHILIP C. SAYLES

**DOCKET NUMBER:** 11

**DATE:** DECEMBER 22, 1938

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

C. E. A. DOCKET NO. 11

Secretary of Agriculture, Complainant, v. Cargill, Inc., Cargill Grain Company of Illinois, John H. MacMillan, Jr., E. J. Grimes, Julius Hendel, and Philip C. Sayles, Respondents.

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

The Secretary of Agriculture has reason to believe that the respondents hereinafter named have violated the Commodity Exchange Act (7 U. S. C. and Supp. III, Secs. 1-17a) and the rules and regulations promulgated pursuant thereto, and therefore issues this complaint, alleging the following:

1.

Cargill, Inc., is a Delaware corporation having its principal place of business and office in Minneapolis, Minnesota.

Cargill Grain Company of Illinois, an Illinois corporation, is a wholly owned subsidiary of Cargill, Inc.

John H. MacMillan, Jr., E. J. Grimes, and Julius Hendel were during the time covered by this complaint and are at this time officers of Cargill, Inc.

John H. MacMillan, Jr., E. J. Grimes, and Philip C. Sayles were during the time covered by this complaint and are at this time officers of Cargill Grain Company of Illinois.

2.

Cargill, Inc., and Cargill Grain Company of Illinois were during the year 1937 and have been continuously to the present time registered as futures commission merchants under the provisions of the Commodity Exchange Act.

3.

The individuals named herein as respondents, during the year 1937, exercised management and control over Cargill, Inc., and Cargill Grain Company of Illinois as to all affairs relating to the matters and things hereinafter set forth.

4.

Cargill, Inc., and Cargill Grain Company of Illinois did, during the lives of the September and December 1937 corn futures, engage in a conspiracy with each other and with others to manipulate prices

of corn futures contracts on and subject to the rules of the Board of Trade of the City of Chicago, a duly designated contract market, hereafter referred to as

the Chicago Board of Trade, and prices of actual corn on the Chicago Board of Trade and elsewhere in interstate commerce, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

5.

Cargill, Inc., and Cargill Grain Company of Illinois did, during the times alleged in paragraph 12, manipulate prices of 1937 September corn futures and 1937 December corn futures on and subject to the rules of the Chicago Board of Trade, and also of actual corn in interstate commerce, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

6.

John H. MacMillan, Jr., E. J. Grimes, Julius Hendel, and Philip C. Sayles did, individually and by and through the means of Cargill, Inc., and Cargill Grain Company of Illinois, during the lives of the September and December 1937 corn futures, engage in a conspiracy with each other and with others to manipulate prices of corn futures contracts on and subject to the rules of the Chicago Board of Trade and prices of actual corn on the Chicago Board of Trade and elsewhere in interstate commerce, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

7.

John H. MacMillan, Jr., E. J. Grimes, Julius Hendel, and Philip C. Sayles did, individually and by and through the means of Cargill, Inc., and Cargill Grain Company of Illinois, during the times alleged in paragraph 12, manipulate prices of 1937 September corn futures and 1937 December corn futures on and subject to the rules of the Chicago Board of Trade, and also of actual corn in interstate commerce, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

8.

Cargill, Inc., and Cargill Grain Company of Illinois did, during the life of the September 1937 corn future, engage in a conspiracy with each other and with others to attempt to corner, and to corner, the 1937 September corn future on the Chicago Board of Trade, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

9.

Cargill, Inc., and Cargill Grain Company of Illinois did attempt to corner, and did corner, the 1937 September corn future on the Chicago Board of Trade, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

10.

John H. MacMillan, Jr., E. J. Grimes, Julius Hendel, and Philip C. Sayles did, individually and by and through the means of Cargill, Inc., and Cargill Grain Company of Illinois, during the life of the September 1937 corn future, engage in a conspiracy

with each other and with others to attempt to corner, and to corner, the 1937 September corn future on the Chicago Board of Trade, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

11.

John H. MacMillan, Jr., E. J. Grimes, Julius Hendel, and Philip C. Sayles did, individually and by and through the means of Cargill, Inc., and Cargill Grain Company of Illinois, attempt to corner, and did corner, the 1937 September

corn future on the Chicago Board of Trade, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant to said Act.

12.

The respondents named herein entered into a conspiracy to violate the Commodity Exchange Act and did violate the Commodity Exchange Act as alleged in paragraphs 4, 5, 6, 7, 8, 9, 10, and 11 in that:

(a) The respondents named herein did, during the months of July and August 1937, engage in heavy short sales of the 1937 December corn future on the Chicago Board of Trade, these sales aggregating more than 4,000,000 bushels during the four consecutive trading days of July 30, July 31, August 2 and August 5, 1937. These short sales resulted in a short position in excess of 10,000,000 bushels of December corn futures from August 26, 1937 to September 21, 1937, and in excess of 8,000,000 during the remainder of September 1937.

(b) The respondents named herein did, during the months of June, July and August 1937, engage in heavy buying of 1937 September corn futures on the Chicago Board of Trade. This buying resulted in a long position in excess of 8,000,000 bushels carried on the records of Cargill, Inc., from July 22, 1937 to August 12, 1937.

(c) The transactions and resulting positions in September and December corn futures described in "(a)" and "(b)" above were all, or substantially all, of a purely speculative character in that they were not offset by positions or transactions in actual corn.

(d) Between August 13 and August 31, 1937, the respondents named herein engaged in a series of transactions with Continental Grain Company, through which transactions Chicago 1937 September corn futures contracts in the approximate aggregate amount of 3,460,000 bushels were transferred from the records of Cargill, Inc., to the records of Continental Grain Company.

(e) Between August 14, 1937 and August 28, 1937, the respondents named herein engaged in a series of transactions with Uhlmann Grain Company, through which transactions Chicago 1937 September corn futures contracts in an aggregate amount approximating 3,675,000 bushels were transferred from the records of Cargill, Inc., to the records of Uhlmann Grain Company.

(f) On September 18, 1937 September corn futures contracts in the amount of 55,000 bushels were transferred back from the records of Uhlmann Grain Company to the records of Cargill, Inc. On September 23, 1937 September corn futures in the amount of 85,000 bushels were transferred back from the records of Uhlmann Grain Company to the records of Cargill, Inc. On September 24, 1937

September corn futures contracts in the amount of 3,510,000 bushels were transferred back from the records of Uhlmann Grain Company to the records of Cargill, Inc. These transfers had the effect of restoring to the records of Cargill, Inc., all of the September corn futures contracts previously transferred to the records of Uhlmann Grain Company with the exception of contracts covering 25,000 bushels sold through Uhlmann Grain Company on September 18, 1937.

(g) The respondents named herein at all times maintained control of the September corn futures contracts transferred from the records of Cargill, Inc., to the records of Continental Grain Company and Uhlmann Grain Company and these transfers were for the purpose of presenting a more confused picture of the respondents' activities in 1937 September corn and partially concealing the size of the respondents' position in this future.

(h) The total of September corn futures contracts transferred from the records of Cargill, Inc., to the records of Continental Grain Company and Uhlmann Grain Company together with such contracts remaining on the records of Cargill, Inc., amounted to more than 8,000,000 bushels from August 13 through

August 26, 1937, and to more than 9,000,000 bushels from August 27 through September 14, 1937, and at no time between September 14, 1937 and the date when trading in this future stopped on the Chicago Board of Trade did such total amount to less than 6,000,000 bushels.

(i) The transactions and resulting positions in September corn futures described in "(d)" "(e)" "(f)", "(g)", and "(h)" above were all, or substantially all, of a purely speculative character in that they were not offset by bona fide positions or bona fide transactions in actual corn.

(j) On July 30, 1937 the September corn future closed on the Chicago Board of Trade at 90 7/8 - 91 1/8 and the December corn future closed

at 68 3/4 - 69. On August 3, 1937 the September corn future closed at 94 3/8 - 1/4, while the December corn future closed at 64 7/8 - 3/4. During the three trading days, July 31, August 2 and August 3, 1937, the September future advanced between three and four cents per bushel, while the December future declined between four and five cents per bushel. During the three trading days, July 31, August 2 and August 3, 1937, Cargill, Inc., had short sales in December corn futures approximating 3,315,000 bushels.

(k) On July 30, 1937 December corn futures closed at approximately 22 cents per bushel below the September future. On September 17, 1937 December corn futures on the Chicago Board of Trade closed at approximately 50 cents below the September futures, the spread having widened approximately 28 cents per bushel during the period from July 30 to September 17, 1937. During the same period Cargill, Inc., had short sales of Chicago December corn futures of approximately 7,000,000 bushels.

(l) The average production of corn for the three crop years 1934-35, 1935-36, and 1936-37 was approximately 1,700,000,000 bushels per year, while the average annual consumption and disappearance of corn in the United States is in excess of 2,300,000,000 bushels per year. Farm stocks, commercial stocks and all sources of supply of domestic corn were close to an all time low in September 1937.

(m) Production of corn in the United States for the crop year 1937-38 was 2,644,995,000 bushels. This corn matured early, was of good quality, and was moving to market in considerable volume beginning with the last few days of September 1937, the volume increasing steadily thereafter.

(n) The establishing and maintaining by the respondents named herein of the large spread position between Chicago 1937 September corn and Chicago 1937 December corn was for the purpose of distorting the

price relationship between these two futures and, because of the conditions existing as regards actual corn described in "(l)" and "(m)" above, did accomplish that purpose. This distortion was accomplished by depressing the price of the 1937 December corn futures contract at a time when such price was readily subject to depression because of the impending heavy volume of actual corn about to come on the market. On the other hand, the artificial raising of price of the 1937 September corn future was made possible by the extremely small supplies of corn available for delivery up to the last few days in September.

(o) The operations of the respondents named herein had the effect of causing inflated price quotations in a future maturing just prior to the marketing of the 1937 corn crop and of depressing the price structure during the actual marketing of this crop.

(p) The respondents named herein did, during September 1937, buy up large quantities of actual corn in points outside of Chicago, particularly in Texas. In the buying of this corn Cargill instructed its agents in effect to pay

whatever price might be necessary to outbid those endeavoring to have corn shipped to Chicago for delivery on the 1937 September futures contract.

(q) Immediately after the time when it was possible to ship corn to Chicago for delivery on the September futures contract, the respondents named herein disposed of the corn previously bought, much of it in the same localities where it was bought and at prices lower than were paid.

(r) The dumping of actual corn described in "(q)" above caused said corn to be marketed in competition with the then maturing crop and had the effect of depressing the price received by the producer for this crop.

(s) The respondents named herein did buy large quantities of cash corn in the city of Chicago for the purpose of preventing it from being delivered in satisfaction of the September corn futures contracts, and in the buying of this corn Cargill, Inc., gave orders to its agents in Chicago to overbid those who were attempting to secure corn to deliver on the September contracts.

(t) The respondents named herein, during September 1937, offered for sale corn in terminal markets outside of Chicago with the proviso that the purchaser would agree not to ship such corn to Chicago.

(u) The respondents named herein in divers other manners contributed to the conspiracies and violations alleged in paragraphs 4, 5, 6, 7, 8, 9, 10 and 11.

13.

On August 13, 1937, and on various dates thereafter up to September 27, 1937, Cargill, Inc., and the other respondents named herein, acting by and through the means of Cargill, Inc., held or controlled open contracts in a single future of one or more commodities defined as grain in the Commodity Exchange Act, on one contract market, totaling more than 200,000 bushels and at such times filed reports with the Commodity Exchange Administration on forms 203 and 204, as required by the rules and regulations promulgated pursuant to the Commodity Exchange Act, which reports did not truly and correctly show for the dates covered thereby the amount of open contracts held or controlled by Cargill, Inc., and the other respondents named herein by and through the means of Cargill, Inc., or the amounts of such grain bought and the amounts sold by Cargill, Inc., and the

other respondents by and through the means of Cargill, Inc., for future delivery, all in violation of the rules and regulations promulgated pursuant to the Commodity Exchange Act.

14.

On March 28, 1938, and on various dates subsequent thereto, Cargill, Inc., made, and caused to be made, fictitious and wash sales in corn futures on the Minneapolis Chamber of Commerce, thereby causing to be reported a volume of trading greatly in excess of the volume of actual bona fide transactions.

15.

On March 28, 1938, and various dates subsequent thereto, Cargill, Inc., reported, and caused to be reported, to the Commodity Exchange Administration open commitments in corn futures on the Minneapolis Chamber of Commerce in connection with which Cargill, Inc., was both buyer and seller, the reported open commitments being the result of wash sales in which Cargill, Inc., was both buyer and seller.

16.

By and through the means of fictitious or wash sales in connection with which Cargill, Inc., was both buyer and seller, a false impression of activity was created for the purpose of indicating a large volume of trading in corn futures

on the Minneapolis Chamber of Commerce whereas the amount of actual trading was only nominal.

Therefore, each of the said respondents is hereby notified to be and appear at a hearing to be held at 10 o'clock a.m. on the 10th day of January, 1939, in Room 3106, South Building, Department of Agriculture, Washington, D. C., before a referee to be designated by the Secretary of Agriculture to conduct such hearing, and then and there show cause, if any there be, why an order should not be made directing that all contract markets until further notice of the Secretary of Agriculture refuse all trading privileges to each of such respondents, respectively, and, further, suspending or revoking the registrations as futures commission merchants of the corporate respondents.

IT IS ORDERED That this complaint and notice of hearing be served on each of the named respondents, by delivery of a true copy hereof to each of them, by an employee of the Department of Agriculture or by registered mail at least three days prior to the date herein set for hearing.

(SEAL)

IN WITNESS WHEREOF, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington on the 22d day of December, 1938.

H. A. Wallace

Secretary of Agriculture.

**LOAD-DATE:** June 11, 2008



