

Commodity Futures Trading Commission  
CEA CASES

**NAME:** HENRY H. CATE, JOHN J. BUTERIN, AND E. F. HUTTON & COMPANY

**CITATION:** 18 Agric. Dec. 1253

**DOCKET NUMBER:** 90

**DATE:** NOVEMBER 27, 1959

**DOCUMENT TYPE:** DECISION AND ORDER

(No. 6216)

*In re* HENRY H. CATE, JOHN J. BUTERIN, AND E. F. HUTTON & COMPANY. CEA Docket No. 90. Decided November 27, 1959.

**Stipulation -- Denial of Trading Privileges -- Consent Order**

Respondents Cate and Buterin consented to an order directing all contract markets to refuse trading privileges to these respondents for a period of eight months.

*Mr. Benj. M. Holstein*, for Commodity Exchange Authority. *Mr. Joseph J. Kelly, Jr.*, of Kansas City, Missouri, for respondents.

*Decision by Thomas J. Flavin, Judicial Officer*

**PRELIMINARY STATEMENT**

This is a disciplinary proceeding under the Commodity Exchange Act (7 U.S.C. 1958 ed., Chapter 1), instituted by a complaint and notice of hearing under section 6(b) of the Commodity Exchange Act (7 U.S.C. 1958 ed., § 9), issued by the Assistant Secretary of Agriculture on July 30, 1959.

Respondents Henry H. Cate and John J. Buterin were employed in the Kansas City office of respondent E. F. Hutton & Company, a registered futures commission merchant, at the time of the transactions described in the complaint.

Insofar as respondents Cate and Buterin are concerned, the complaint charges that they attempted to manipulate and did manipulate prices of the March and May 1959 wheat futures on the Chicago Board of Trade, and attempted to deceive and

did deceive customers in regard to orders for or transactions in such futures. These charges are based upon allegations that the said respondents initiated, managed, and carried out transactions in March and May 1959 wheat futures on behalf of customers of respondent E. F. Hutton & Company, for the purpose and with the intent of raising the prices of such futures by means of a squeeze; that this was sought to be accomplished by concentrating, in the hands of such customers, a quantity of the current wheat future sufficient to constitute the major portion of the open interest in such future and to exceed available deliverable supplies of wheat; that pursuant to such purpose and intent respondents Cate and Buterin encouraged, recommended, solicited, and accepted orders for transactions in futures which they caused to be executed through the facilities of respondent E. F. Hutton & Company; and that respondents Cate and Buterin urged such customers to retain their long positions and accept delivery of wheat upon the assurance that the futures in question were controlled by the concentrated long position of such customers on respondent Hutton's books, and that the cash wheat supply in Chicago was also under such control.

The complaint alleges further that respondents Cate and Buterin ignored customers' instructions to liquidate positions and sell cash wheat; failed to execute orders to sell futures and re-tender wheat received on delivery; and caused the execution of transactions not ordered by such customers. It is alleged that the transactions described were carried out under the direction and supervision of the said respondents, and that these transactions brought about a squeeze and caused the prices of the March and May 1959 wheat futures to be at artificial and manipulated levels during March 1959.

No hearing has been held with respect to any of the respondents. A consent order against respondent E. F. Hutton & Company was entered on August 4, 1959, concluding the proceeding as against that respondent (18 Agric. Dec. 884 (18 A.D. 884)). Respondents Cate and Buterin have withdrawn the answer heretofore filed in their behalf, and have submitted stipulations under section 0.4(b) of the rules of practice (17 CFR 0.4(b)). These stipulations admit jurisdictional facts, waive hearing, and consent to the entry of an order which would deny trading privileges to each of these respondents, directly or indirectly, for their own accounts or the account of any other person, for a period of eight months.

#### **FINDINGS OF FACT**

1. Respondent Henry H. Cate, an individual whose address is 111 West 10th Street, Kansas City, Missouri, was at all times material herein an agent and employee of respondent E. F. Hutton & Company in its Kansas City office.

2. Respondent John J. Buterin, an individual whose address is 8229 Hamilton Street, Overland Park, Kansas, was at all times material herein an agent and employee of respondent E. F. Hutton & Company in its Kansas City office.

3. The Chicago Board of Trade is now and has been at all times material herein a duly designated contract market under the Commodity Exchange Act.

4. During the period between December 1958 and April 1959, the said Henry H. Cate and John J. Buterin, in their capacities as agents and employees of E. F. Hutton & Company, a registered futures commission merchant, solicited and accepted orders from customers for transactions in wheat futures on the Chicago Board of Trade, and caused such orders to be executed through the facilities of the said E. F. Hutton & Company and the resulting positions to be carried on the books and records of the said firm.

#### **CONCLUSIONS**

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR 0.4(b)) provides as follows:

(b) Consent order. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

The facts admitted by the said respondents and set forth in the Findings of Fact are sufficient to subject each of them to the jurisdiction of the Secretary of Agriculture.

The complainant has filed a recommendation which recites that it has carefully considered the stipulations and the terms of the order to which the said respondents propose to consent. It is the view of the complainant that the proposed sanctions would be adequate, and that the prompt entry of the proposed order without further proceedings would constitute a satisfactory disposition of this case as against these respondents, serve the public interest, and

effectuate the purposes of the Commodity Exchange Act. The complainant recommends that the stipulations and waivers be accepted and that the proposed order be issued, terminating this proceeding. It is so concluded.

**ORDER**

Effective ten (10) days after the entry of this order, all contract markets are hereby directed to refuse all trading privileges to Henry H. Cate and John J. Buterin, directly or indirectly, for their own accounts or for the account of any other person, for a period of eight (8) months.

A copy of this decision and order shall be served upon each of the respondents and upon each contract market.

**LOAD-DATE:** June 8, 2008

