

Commodity Futures Trading Commission
CEA CASES

NAME: SECRETARY OF AGRICULTURE V. HUGH S. GAMBLE AND SPTEPHEN A. BURKE

DOCKET NUMBER: 8

DATE: AUGUST 5, 1938

DOCUMENT TYPE: COMPLAINT

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

C. E. A. DOCKET NO. 8

Secretary of Agriculture, Complainant, vs. Hugh S. Gamble and Sptephen A. Burke, Respondents.

Complaint and Notice of Hearing under Section C(b) of the 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. 3, Sees. 1-17a) and the rules and regulations promulgated pursuant thereto, and, therefore, issues this complaint alleging the following:

1. That Hugh S. Gamble and Stephen A. Durke are individuals residing at Sioux Falls, South Dakota.

2. That heretofore and between June 1, 1937, and December 31, 1937, at Sioux Falls, South Dakota, the said Hugh S. Gamble and Stephen A. Burke, acting by and through the means of Burke & Company, a corporation organized under the laws of the State of South Dakota, said Stephen A. Burke being the President and Hugh S. Gamble the Vice President of said corporation, did engage as futures commission merchants in soliciting and accepting orders

for the purchase and sale of commodities for future delivery, involving contracts of sale of such commodities for future delivery on or subject to the rules of the Board of Trade of the City of Chicago, a contract market designated by the Secretary of Agriculture pursuant to the provisions of the Commodity Exchange Act, and while so engaged did accept orders from various persons for the purchase and sale of grain and other commodities as defined in the Commodity Exchange Act for future delivery and did receive funds from said persons to margin and guarantee the respective trades and contracts of said persons in such commodities and, as a result of such trades, received additional funds belonging to such persons and, at such times and places and while so engaged, the respondents, Hugh S. Gamble and Stephen A. Burke, violated the provisions of section 4 d (2) of the Commodity Exchange Act, as follows:

(a) The respondents failed to account separately for the funds so received in that on January 6, 1938, there were due commodity customers funds in excess of \$ 80,000 and funds segregated for the benefit of such customers amounted to only \$ 22,673.51, leaving a shortage of approximately \$ 60,000 in the commodity customers' accounts and the respondents did in fact commingle those said funds with the funds of the said Burke & Company and the funds of security customers of said company.

(b) The respondents used the funds so received to margin and guarantee the trades contracts of Hugh S. Gamble and to extend

credit to Hugh S. Gamble in a sum in excess of \$ 50,000, which said sum was taken by said Stephen A. Burke and Hugh S. Gamble, acting as aforesaid, out of the funds received by the said Burke & Company from various persons to margin and guarantee the respective trades and contracts of said persons in grain and other commodities as defined in the Commodity Exchange Act.

(c) The respondents failed to deal with the money so received as belonging to said customers, but did in fact, on the 9th day of June, 1937, draw and cause to be drawn a certain check numbered 2999, in the amount of \$ 4500, payable to R. J. Welland, and thereby extracted the said sum of \$ 4500 from a certain account of the said Burke & Company in the First National Bank & Trust Company of Sioux Falls, South Dakota, designated "Customers' Margin Account Number 1", for the purpose of paying the personal obligation of the said Stephen A. Burke.

3. That heretofore and between January 1, 1938, and January 6, 1938, at Sioux Falls, South Dakota, the said Stephen A. Burke and Hugh S. Gamble, acting by and through the means of Burke & Company, a corporation organized under the laws of the State of South Dakota, did engage as futures commission merchants in soliciting and accepting orders for the purchase and sale of commodities for future delivery involving contracts of sale of such commodities for future delivery, subject to the rules of the Board of Trade of the City of Chicago, a contract market designated by the Secretary of Agriculture, pursuant to the provisions of the Commodity Exchange

Act, after the said Burke & Company's registration with the Secretary of Agriculture as such futures commission merchants under the Commodity Exchange Act had expired and without having re-registered pursuant to the provisions of said act, all in violation of Section 4 d (1) of the Commodity Exchange Act.

Therefore, unless the allegations contained herein are admitted and a hearing is waived, 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 17th day of August, 1938, at Room 1832 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 all contract markets, until further notice of the Secretary of Agriculture, to refuse all trading privileges to each of such respondents.

IT IS ORDERED that the 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.

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 hereto, in the City of
Washington, District of Columbia,
this 5th day of August, 1938.

Secretary's File Room

(Signed)

[SEE SIGNATURE IN ORIGINAL]

Secretary of Agriculture

