

Commodity Futures Trading Commission  
CEA CASES

**NAME:** SECRETARY OF AGRICULTURE V. P. S. MCMUNN

**DOCKET NUMBER:** 20

**DATE:** NOVEMBER 27, 1940

**DOCUMENT TYPE:** DECISION AND ORDER

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

CE-A Docket No. 20

Secretary of Agriculture, Complainant, v. P. S. McMunn, Respondent.

Proceedings, Findings of Fact, Conclusions, and Order.

PROCEEDINGS

On September 12, 1940, complaint was issued by the Secretary of Agriculture, pursuant to the provisions of the Commodity Exchange Act (7 U.S.C. and Supp. V. §§ 1-17a), against P. S. McMunn. It was alleged that McMunn, the respondent, was registered as a futures commission merchant for the year 1940 and, acting as such, failed to segregate his commodity customers' funds, but used these funds for himself and others, leaving a shortage therein in May 1940; and that, as a member of the Chicago Open Board of Trade, a contract market, from August 1, 1936, to May 19, 1940, he deceived and falsely reported to his commodity customers. The respondent was directed to show why

his registration should not be revoked and his trading privileges on contract markets denied, at a hearing in Washington, D. C., on September 20, 1940.

The complaint was served on the respondent by registered mail on September 16, 1940, with a letter in which it was stated that the hearing was postponed to September 30 and that, if he preferred a hearing at a place other than Washington, he should file a request therefor. In an undated letter, received in the Hearing Clerk's office on September 24, 1940, the respondent waived a hearing and consented to the entry of an order revoking his registration, but did not admit the allegations in the complaint. He said that his insolvency was brought about by a drastic market decline, and that his customers suffered no loss.

As the facts alleged had not been admitted, a hearing was held in Washington on September 30, 1940, before Jack W. Bain, a referee designated by the Under Secretary. Charles W. Bucy, Office of the Solicitor, Department of Agriculture, appeared for the Government. There was no appearance for the respondent. The only witness called was Douglas B. Bagnell, in charge of the Division of Investigations, Commodity Exchange Administration, who produced the report of an examination of the respondent's records made by a Government accountant. This report, admitted in evidence, and Mr. Bagnell's testimony, showed the facts alleged in the complaint

and hereinafter set forth in the findings of fact. At the close of the hearing, the referee announced that 20 days would be allowed for filing suggested findings of fact. The time elapsed, and none was filed.

The referee's report, containing proposed findings and conclusions and a recommended order, was served by registered mail upon the respondent on November 2, 1940. It was also served upon the Commodity Exchange Administration and Government counsel. The time allowed for filing exceptions, briefs, and request for oral argument before the Secretary has expired, and nothing was filed.

#### FINDINGS OF FACT

1. P. S. McMunn, the respondent, formerly doing business under the firm name of P. S. McMunn & Company, at Chicago, Illinois, registered with the Secretary of Agriculture as a futures commission merchant for the year 1940, and his registration has not heretofore been suspended or revoked.

2. From January 1 to May 20, 1940, the respondent engaged as a futures commission merchant and accepted orders for the purchase and sale of wheat and other commodities named in the Commodity Exchange Act for future delivery on the Chicago Open Board of Trade, a contract

market, without separately accounting for funds received from and accruing to customers in connection with such orders. He used such customers' funds for himself and to extend the credit of other customers. These acts resulted in a shortage of \$ 7,441.51 in customers' funds on May 18, 1940.

3. The respondent, while a member of the Chicago Open Board of Trade, a contract market, willfully deceived and falsely reported to his customers in connection with their futures contracts on the Chicago Open Board of Trade in commodities named in the Commodity Exchange Act, in that he reported to them that he was holding greater balances for them than he was actually holding. He did not report various items of currency withdrawn from and, in some instances, returned to their accounts. As an example of such practices, between September 4, 1936, and September 2, 1939, inclusive, twelve items of \$ 10 each and one of \$ 20 were withdrawn from the account of James E. McCall, a customer, and one item of \$ 30 and one of \$ 10 were credited to the account, none of which was reported to the customer, with the result that a balance of \$ 199.05 was reported to the customer on September 2, 1939, whereas the actual balance was \$ 99.05. Other customers were similarly treated.

4. The Chicago Open Board of Trade suspended the respondent as a member thereof on May 20, 1940. That exchange arranged for the

liquidation of the business of the respondent, then insolvent, and put up more than \$ 7,000 from its own funds to make up the deficiency in customers' funds, thus preventing loss to customers.

#### CONCLUSIONS

The evidence shows that the respondent failed to segregate his commodity customers' funds and falsely reported to his customers, in violation of the requirements of the Commodity Exchange Act. It is concluded that, because of these violations, his registration should be revoked and his trading privileges on contract markets denied.

#### ORDER

IT IS ORDERED that the registration of P. S. McMunn as a futures commission merchant for the year 1940 be, and it is hereby, revoked.

IT IS FURTHER ORDERED that all contract markets refuse P. S. McMunn all trading privileges thereon until further notice by the Secretary of Agriculture.

IT IS FURTHER ORDERED that a copy hereof be sent by registered mail to the respondent and to each contract market, and that this order shall become effective 10 days after its date.

(SEAL)

Done at Washington, D. C., this 27th day of November, 1940. Witness my hand  
and the seal of the Department of Agriculture.

/s/ Paul H. Appleby

Under Secretary of Agriculture

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

