

Commodity Futures Trading Commission
CEA CASES

NAME: MILLER-LANE AND COMPANY AND GEORGE C. LANE

CITATION: 33 Agric. Dec. 1765

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(No. 16,155)

In re MILLER-LANE AND COMPANY and GEORGE C. LANE. CEA Docket No. 225. Decided November 26, 1974.

Customers' funds -- failure to segregate -- False financial statements -- Reports and records -- failure to prepare and submit and to keep in accordance with regulations -- Failure to meet financial requirements -- Sanctions

Where the stipulation of respondents has been accepted, the order herein against them is issued for violations of the Act and regulations in connection with segregation of funds, false financial statements and reports and records as found herein. Both the corporate and the individual respondents are denied trading privileges for a period of six (6) months. Further, the corporate respondent's registration as a futures commission merchant under the Act is suspended for a period of six (6) months, and respondent George C. Lane's license as a floor broker under the Act is revoked.

Michael D. Weiner, for complainant.

James L. Fox, Chicago, Ill., for respondents.

Decision by Harry S. McAlpin, Administrative Law Judge.

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act, "the Act" (7 U.S.C. § 1 *et seq.*), instituted by a Complaint and Notice of Hearing, alleging that the respondent Miller-Lane & Company is now, and was at all times material herein, a registered futures commission merchant under the Act and that respondent George C. Lane, is now, and was at all times material herein, president and sole stockholder of Miller-Lane & Company and registered as a floor broker under the Act. The complaint charges that the respondents failed to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers on six specified dates, in violation of section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) and section 1.20 of the regulations issued thereunder (17 CFR 1.20). The complaint further charges that the respondents failed to meet the minimum financial requirements of section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17) on April 30, 1973 and July 31, 1973. The complaint further charges that the respondents made false statements in regard to the true financial position of the corporation on Commodity Exchange

Authority Form 1-FR as of January 31, 1973 and July 31, 1973. The complaint further charges that the respondents violated sections 1.10 and 1.35 of the regulations issued under the Commodity Exchange Act (17 CFR 1.10 and 1.35) by failing to prepare and submit net worth computations and failing to keep "full,

complete and systematic records relating to the business of commodity futures trading."

Prior to hearing the respondents agreed to a stipulation under section 0.4(b) of the Rules of Practice (17 CFR 0.4(b)) in which they (1) admit the facts hereunder as set forth in paragraphs 1 through 8 of the Findings of Fact, (2) waive oral hearing on the charges in the complaint, and (3) consent to the entry, without further proceedings, of a Decision and Order' containing the facts admitted in such stipulation as the Findings of Fact for the purposes of this proceeding only, conclusions of law based on such findings, and the Order contained herein.

FINDINGS OF FACT

1. Respondent Miller-Lane & Company, an Illinois corporation with its principal office and place of business at 343 South Dearborn Street, Chicago, Illinois 60604, is now, and was at all times material herein, a registered futures commission merchant under the Commodity Exchange Act, engaged in trading commodities for future delivery.

2. Respondent George C. Lane, an individual whose business address is the same as the corporate respondent, was at all times material herein, president and sole stockholder of Miller-Lane & Company and registered as a floor broker under the Commodity Exchange Act. At all such times, respondent Lane had responsibility for the operation and management of the corporate respondent. Subsequent to the issuance of the complaint in this proceeding, Hartford Commodities Corporation, an Illinois corporation, acquired all of the stock of respondent Miller-Lane & Company, with respondent Lane having no ownership interest in, and no management or control with respect to, Hartford Commodities Corporation.

3. At all times material herein, the respondents Miller-Lane & Company and George C. Lane were required to separately account for and segregate all money, securities, and property received to margin, guarantee, or secure the trades or contracts of commodity customers in accordance with the requirements of section 4d(2) of

the Commodity Exchange Act (7 U.S.C. 6d(2)) and section 1.20 of the regulations issued thereunder (17 CFR 1.20).

4. The segregation records of the respondent Miller-Lane & Company disclose that respondent Miller-Lane & Company failed to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers as of the respective dates as follows:

Date	Amount of Undersegregation
August 22, 1973	138,330.25
August 23, 1973	173,801.27
August 24, 1973	200,889.10
August 27, 1973	84,459.88
August 21, 1973	59,939.01
August 29, 1973	69,980.83

5. On April 30, 1973, and July 31, 1973, the respondent corporation was engaged in business as a registered futures commission merchant under the Commodity Exchange Act, notwithstanding that on both dates it failed to meet the minimum financial requirements under section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17). As of April 30, 1973, the respondent lacked approximately \$ 86,000.00 of having sufficient capital to meet such minimum financial requirements under the Act, and on July 31, 1973, it lacked approximately \$ 77,000 of having sufficient capital to meet the minimum financial requirements.

6. On June 21, 1973, the respondent corporation submitted to the Commodity Exchange Authority a financial report (Form 1-FR) as of January 31, 1973, certified by the respondent George C. Lane to reflect the true financial

position of the corporation. The said respondents made material false statements in such report by overstating the amount of adjusted excess working capital by approximately \$ 44,000. On October 31, 1973, respondent corporation submitted to the Commodity Exchange Authority a financial report (Form 1-FR) as of July 31, 1973, certified by the respondent George C. Lane to reflect the true financial position of the corporation. The said respondents made material false statements in such report by stating that the corporation had an excess of adjusted working capital when in fact it failed to meet minimum financial requirements under the Commodity Exchange Act by approximately \$ 77,000.

7. Under section 1.10 of the regulations issued pursuant to the

Commodity Exchange Act (17 CFR 1.10), the respondent corporation was obligated at all times material herein to prepare a written computation of its net worth at least once each month. Further, whenever such computation showed, or the respondent knew or had reason to believe, that its net worth declined 20 % or more from its net worth as shown in the previous report of its financial condition, the respondent corporation was obligated to immediately notify the Commodity Exchange Authority. The dates of examination of records of respondent corporation and the months the respondent corporation failed to prepare the net worth computations are as follows:

Date of Examination	Months Net Worth Computation Not Prepared
May 22, 1973	March and April, 1973
June 7, 1973	April, 1973
July 9, 1973	May, 1973
August 28, 1973	July, 1973
November 5, 1973	August and September, 1973
December 11, 1973	August, September, and October, 1973
January 10, 1974	October and November, 1973

The months respondent corporation failed to notify the Commodity Exchange Authority of the reduction in net worth of 20 % or more from the January 31, 1973 financial statement and the percentage decreases are as follows:

Month	Approximate Percentage Decrease
February, 1973	23 %
March, 1973	34 %
April, 1973	43 %
May, 1973	55 %
June, 1973	62 %

8. Section 1.35 of the regulations promulgated under the Commodity Exchange Act (17 CFR 1.35) obligated respondent corporation to keep "full, complete and systematic records . . . relating to his business of dealing in commodity futures Included among such records shall be all . . . ledgers." As of April 17, 1973, the respondent corporation had failed to post its general ledger for December 1972 through March 1973. As of August 27, 1973, the general ledger had not been posted for July 1973. As of December 11, 1973, the general ledger had not been posted for August through November 1973. As of January 10, 1974 the general ledger had not been posted for November or December 1973.

CONCLUSIONS

By reason of the facts set forth above, Miller-Lane & Company and George C. Lane have violated sections 4d, 4f, 4g, and 6(b) of the Commodity Exchange Act (7 U.S.C. 6d, 6f, 6g and 9) and sections 1.10, 1.17, 1.20, and 1.35 of the regulations promulgated under the Act (17 CFR 1.10, 1.17, 1.20, and 1.35) by failing to meet the minimum financial requirements of the Act, by making material false statements concerning the true financial position of the corporation, by failing to prepare and submit net worth computations and failing to keep "full, complete and systematic records" relating to the business of commodity futures, and by failing to segregate funds sufficient to pay the equities due all regulated commodity customers on six specified dates. It is

concluded that the Order consented to by the respondents is warranted under section 6(b) of the Act (7 U.S.C. 9) and 5 U.S.C. 558.

The complainant states that Administrative Officials of the Commodity Exchange Authority have carefully considered the stipulation submitted by the respondents. The Administrative Officials believe that the prompt entry of the proposed Order would constitute a satisfactory disposition of this case, serve the public interest, and effectuate the purposes of the Act. The complainant recommends, therefore, that the stipulation be accepted and the proposed Order be issued.

ORDER

1. Effective upon the date of service of this Order upon the respondents Miller-Lane & Company and George C. Lane, respondents shall cease and desist from (1) engaging in business as a futures commission merchant within the meaning of the Commodity Exchange Act without meeting the financial requirements prescribed by section 4f of the Commodity Exchange Act (17 U.S.C. 6f) and section 1.17 of the regulations issued thereunder (17 CFR 1.17), and (2) failing to keep funds in segregated accounts sufficient to pay the equities due all regulated commodity customers, and (3) submitting to the Commodity Exchange Authority financial reports which fail to reflect the true financial position of the corporation, and (4) failing to prepare a written computation of its net worth at least once each month, and (5) failing to notify the Commodity Exchange Authority whenever such computation shows, or the respondents

know or have reason to believe, that the corporate respondent's net worth has declined 20 % or more from its net worth as shown in the previous report of its financial condition, and (6) failing to keep "full, complete, and systematic records" as required by section 1.35 of the regulations promulgated under the Commodity Exchange Act (17 CFR 1.35).

2. Effective on the thirtieth day after the date of entry of this Order,

(a) The registration of respondent George C. Lane as floor broker is hereby revoked, and

(b) Respondent George C. Lane is prohibited from trading on or subject to the rules of any contract market for a period of six months, and all contract markets shall refuse all trading privileges to the respondent during this period, such prohibition and refusal to apply to all trading done and positions held by respondent directly or indirectly.

3. Effective on the thirtieth day after the date of entry of this Order,

(a) The registration of respondent Miller-Lane & Company as futures commission merchant under the Commodity Exchange Act is hereby suspended for a period of six months, and

(b) Respondent Miller-Lane & Company is prohibited from trading on or subject to the rules of any contract market for a period of six months, and all contract markets shall refuse all trading privileges to the respondent during this period, such prohibition and refusal to apply to all trading done and all positions held by respondent Miller-Lane & Company directly or indirectly.

4. The prohibition from trading and suspension of registration set forth in paragraph 3 above shall not become effective unless respondent Miller-Lane & Company shall have violated the Commodity Exchange Act or the regulations issued thereunder within three years from the date of issuance of this Order by reason of facts other than those constituting the basis for charges brought in this proceeding. In the event such subsequent violation should be found to have occurred, after complaint and hearing in accordance with established procedure, a supplemental Order may be issued in this proceeding, without further notice, making effective the prohibition and suspension set forth in paragraph 3 above. Such Order shall be in addition to any

sanction which may be imposed as a result of such subsequent violation.

5. A copy of this Decision and Order shall be served on each of the parties and on each contract market.

LOAD-DATE: June 9, 2008

