

Commodity Futures Trading Commission
CEA CASES

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

DOCKET NUMBER: 90

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: Henry H. Cate, John J. Buterin, and E. F. Hutton & Company, Respondents
CEA Docket No. 90

Complaint and Notice of Hearing under Section 6(b) of the Commodity Exchange Act

There is reason to believe that respondents Henry H. Cate and John J. Buterin attempted to manipulate and did manipulate the price of a commodity for future delivery on or subject to the rules of a board of trade, and deceived or attempted to deceive customers in regard to orders or contracts for the sale of a commodity for future delivery on or subject to the rules of a contract market, in wilful violation of the Commodity Exchange Act (7 U.S.C. 1958 ed., Chapter 1). There is also reason to believe that respondent E. F. Hutton & Company, because of its responsibility as the employer of respondents Cate and Buterin, and its responsibility as a registered futures commission merchant and a clearing member of the Chicago Board of Trade, also attempted to manipulate and did manipulate the price of a commodity for future delivery on or subject to the rules of a board of trade, in wilful violation of

the said act. In accordance with section 6(b) of the said act (7 U.S.C. 1958 ed., § 9), this complaint and notice of hearing is issued stating the charges in that respect as follows:

I

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

II

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

III

Respondent E. F. Hutton & Company, hereinafter called Hutton, is a partnership with offices at 61 Broadway, New York 6, New York, and 111 West 10th Street, Kansas City, Missouri. The said respondent is now and has been at all times material to this complaint a

clearing member of the Chicago Board of Trade and a registered futures commission merchant under the Commodity Exchange Act.

IV

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

V

The transactions hereinafter described were carried out under the direction and supervision and by means of the acts of the said individual respondents in their capacities as agents and employees of the respondent partnership. Respondent Hutton, in its capacity as a futures commission merchant and clearing member, and as the employer of the individual respondents, was aware at all times of the results of the acts of the said individual respondents, executed the transactions ordered by them, cleared such transactions, carried the resulting positions on its books, and financed the wheat received on long positions in March 1959. Respondent Hutton was able at all times to control, change, and

direct the acts of the individual respondents insofar as they pertained to transactions made through respondent Hutton's positions carried on the books of respondent Hutton, and deliveries received and made pursuant to such positions.

VI

Between December 1958 and April 1959, respondents Cate and Buterin, as agents for respondent Hutton, engaged in active solicitation and acceptance of orders from customers for speculative transactions in March and May 1959 wheat futures on the Chicago Board of Trade, which orders were executed through the facilities of respondent Hutton. As the result thereof, respondent Hutton traded extensively in such futures during the said period for the accounts of such customers, and for agents and employees of the said firm, and developed large, concentrated, and dominant positions in such futures, which positions were carried on its books.

VII

As the result of the trading in March 1959 wheat futures described in paragraph VI, on December 31, 1958 respondent Hutton held a long position for customers in the March 1959

Chicago wheat future in the amount of 6,300,000 bushels, representing 18.8 percent of the total open interest in such future on the Chicago Board of Trade. By February 27, 1959, this position had increased to approximately 9,000,000 bushels, representing 54 percent of the total open interest on the Chicago Board of Trade. Subsequent to February 27, 1959, respondent Hutton's holdings in the March 1959 wheat future were reduced, but at a rate less rapid than the reduction in the positions of other clearing members, with the result that respondent Hutton's proportion of the total open interest increased, and on March 18, 1959, the day before the expiration of trading in such future, it held 65 percent of the total open interest in such future on the Chicago Board of Trade. During the above period, the long position of the Kansas City office of the said respondent in such future ranged between approximately 84 percent and 92 percent of the entire long position in such future on the books of the said firm.

VIII

As a result of the respondent partnership's trading in the May 1959 wheat future, described in paragraph VI, on December 31, 1958, the said respondent held a long position in such future in

the amount of 10,794,000 bushels, representing about 33 percent of the total open interest in that future on the Chicago Board of Trade. Subsequent thereto, the said respondent increased such position, and on March 19, 1959, it held over 27,000,000 bushels long in the said future, or 62.6 percent of the total open interest in the May 1959 future on the Chicago Board of Trade. Between December 31, 1958 and March 31, 1959, the long position in such future of the Kansas City office of the said respondent ranged between 63.8 percent and 81.9 percent of the entire long position in such future on the books of the said firm.

IX

During March 1959, respondent Hutton took delivery of 3,920,000 bushels of wheat in satisfaction of long positions in March 1959 Chicago wheat futures carried by its Kansas City office for the accounts of customers, agents, and employees. Such deliveries constituted approximately 99 percent of all deliveries in the March 1959 wheat future on the Chicago Board of Trade, and as of March 27, 1959, represented approximately 93 percent of the total stocks of wheat available in Chicago for delivery on futures contracts.

X

Due wholly or in part to the transactions of respondent Hutton in March 1959 and May 1959, Chicago wheat futures, described above, the price of the March 1959 Chicago wheat future advanced approximately 14 cents and the price of the May 1959 Chicago wheat future advanced approximately 10 cents. Such increases did not reflect conditions of supply and demand in the wheat market but were caused by the large, concentrated, and dominant interest in such futures carried by respondent Hutton.

XI

The trading in March and May 1959 wheat futures, described above, was initiated, managed, and carried out through the efforts of respondents Cate and Buterin, who solicited and accepted orders from customers and entered such orders for execution. In the course of such solicitation, respondents Cate and Buterin urgently recommended the purchase and holding of March 1959 and May 1959 wheat futures, and assured their customers that such futures were controlled by the concentrated and dominant long positions on the books of respondent Hutton, that the available cash wheat

supply in Chicago was also under its control, and that traders who were short in such futures would therefore be unable to deliver wheat in satisfaction of their contracts and would be compelled to come to the customers of respondent Hutton in order to buy futures to cover outstanding short positions, which would enable the respondents to fix the price at which sales of such futures would be made. Respondents Cate and Buterin, in the course of such solicitation, urged the said customers to retain their positions in March 1959 wheat futures, and to accept delivery of wheat in satisfaction thereof. The said respondents ignored the instructions of customers to liquidate such positions, failed to execute orders of customers to sell March futures and retender the wheat received on delivery, executed or caused the execution of transactions for the accounts of such customers which were not ordered by the customers, and failed to make sales of cash wheat of customers, despite instructions by such customers to do so.

XII

Respondents Cate and Buterin carried out the acts described above for the purpose and with the intent of raising the prices of the March 1959 and May 1959 wheat futures on the Chicago Board of

Trade and the price of deliverable wheat in Chicago by means of a squeeze, which was intended to be brought about by concentrating in the hands of the agents,

employees, and customers of respondent Hutton a quantity of the current wheat future sufficient to constitute the major portion of the open interest in such future and to exceed supplies of wheat available for delivery in satisfaction thereof. Futures transactions in the March and May futures were made by the individual respondents for that purpose and with that intent, and customers were encouraged to make similar transactions with the expectation that such customers would be influenced by the example, suggestions, advice and recommendations of the individual respondents, would rely upon their superior knowledge of trading techniques, and would follow their lead in the hope of profiting financially, and such customers were in fact so influenced and did in fact so rely and did follow the said respondents' lead. The receipt of wheat in March 1959, described in paragraph IX, was encouraged and directed by respondents Cate and Buterin, or caused by these respondents to be undertaken and carried out, for the purpose and with the intent of aiding the squeeze by gaining control of the deliverable supply of wheat in Chicago and thereby increasing or preventing a decrease in the

price of the March and May futures. The acts of the respondents brought about a squeeze and caused the price of March 1959 and May 1959 wheat futures on the Chicago Board of Trade to be at artificial and manipulated levels during March 1959.

XIII

By reason of the acts described above, respondents Cate, Buterin, and Hutton attempted to manipulate and did manipulate the price of a commodity for future delivery on or subject to the rules of a board of trade, in wilful violation of sections 6(b) and 9 of the Commodity Exchange Act (7 U.S.C. 1958 ed., §§ 9, 13). By reason of such acts, respondents Cate and Buterin attempted to deceive and did deceive customers with regard to orders or contracts for the sale of a commodity for future delivery on or subject to the rules of a contract market, in wilful violation of section 4b of the said act (7 U.S.C. 1958 ed., § 6b).

Therefore, it is hereby ordered that this complaint and notice of hearing be served upon each of the said respondents. The respondents will have twenty (20) days after the receipt of this notice of hearing in which to file with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., an answer with an original and seven copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material and relevant allegation of this complaint. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this complaint and a waiver of hearing. The respondents are hereby notified that unless hearing is waived either expressly or by failure to file an answer, a hearing will be held at 10:00 a.m., local time, on the 15th day of September 1959, in New York, N. Y., at a place therein to be designated later, before a referee designated to conduct such hearing. At such hearing, the respondents will have the right to appear and show cause, if any there be, why an order should not be made directing that all contract markets refuse all

trading privileges to the respondents for such period of time as may be determined, and suspending or revoking the registration of respondent E. F. Hutton & Company as a futures commission merchant.

It is ordered that this complaint and notice of hearing be served on the respondents at least twenty (20) days prior to the date set for hearing.

Done at Washington, D. C., this
30th day of July, 1959.

/s/ Clarence L. Miller
Clarence L. Miller
Assistant Secretary

LOAD-DATE: June 12, 2008

