

Commodity Futures Trading Commission  
CEA CASES

**NAME:** SECRETARY OF AGRICULTURE V. NICHOLS & COMPANY, INC., A CORPORATION, AND NICHOLS & COMPANY, A PARTNERSHIP COMPOSED OF J. H. NICHOLS, A. O. WELLMAN, R. P. HACKETT, W. B. SOUTHWORTH, AND J. HARVEY WELLS

**DOCKET NUMBER:** 25

**DATE:** FEBRUARY 14, 1941

**DOCUMENT TYPE:** COMPLAINT

UNITED STATES OF AMERICA

BEFORE THE SECRETARY OF AGRICULTURE

CE-A DOCKET NO. 25

Secretary of Agriculture, Complainant, v. Nichols & Company, Inc., a corporation, and Nichols & Company, a partnership composed of J. H. Nichols, A. O. Wellman, R. P. Hackett, W. B. Southworth, and J. Harvey Wells, Respondents.

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

There is reason to believe that the respondents have violated the Commodity Exchange Act (7 U. S. C., 1934 ed., and Supp. V, §§ 1-17a) and the rules and regulations promulgated pursuant thereto in the following manner:

1.

Nichols & Company, Inc., is a corporation under the laws of Massachusetts, having its principal place of business in Boston, Massachusetts.

2.

Nichols & Company, Inc., since its organization, has engaged in the merchandising of wool, both grease wool and wool tops, and has traded in wool top futures under the rules of the Wool Associates of the New York Cotton Exchange, Inc.

3.

Nichols & Company is a partnership formed in July 1935, at which time the partners were J. H. Nichols, A. O. Wellman, and R. P. Hackett. These partners were at that time the principal officers of Nichols & Company, Inc. In February 1937, W.B. Southworth, an officer of Nichols & Company, Inc., was made a partner and, in June 1938, J. Harvey Wells became a partner.

4.

The partnership of Nichols & Company is, and has been, since July 1937, registered as a futures commission merchant with the Secretary of Agriculture under the Commodity Exchange Act, and has conducted the business of a futures commission merchant soliciting and accepting orders for transactions in commodity futures and accepting money to margin such transactions.

5.

The partnership of Nichols & Company is, and has been, since its organization, controlled by the corporation, Nichols & Company, Inc., the partnership being an instrumentality of the corporation and, in conducting its business, has acted as agent for the corporation.

6.

The rules of the New York Cotton Exchange and the Wool Associates of the New York Cotton Exchange, Inc., do not allow a corporation member to handle commodity futures business for others.

7.

Memberships on the New York Cotton Exchange and the Wool Associates of the New York Cotton Exchange, Inc., are held in the names of partners of Nichols & Company, and are registered for that firm, the partnership thereby enjoying the benefits of membership privileges on these exchanges, and Nichols & Company, Inc., through its agent, the partnership, enjoys these benefits.

8.

Nichols & Company, Inc., held a long position in October wool top futures contracts on the Wool Associates of the New York Cotton Exchange, Inc., a contract market designated by the Secretary of Agriculture, during the month of October 1940, which position included substantially all the open long contracts in such futures as set out in the following tabulation:

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Date	Position of Nichols & Com- pany, Inc.	Total Open Contracts
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(In thousands of pounds,  
i.e., (000) omitted)

1940		
Oct.	(Long)	
1	945	1010
2	955	1020
3	965	1045
4	965	1045
5	965	1020
7	930	965
8	930	955
9	890	915
10	840	890
11	800	850
14	785	820
15	790	810
16	740	760
17	620	640
18	470	485
19	450	465
21	450	460
22	425	430
23	400	405
24	375	380
25	375	380
26	375	380
28	310	315
29	130	135
30	60	60
31	0	0

9.

The purchases and holdings of Nichols & Company, Inc., in wool top futures contracts on the Wool Associates of the New York Cotton Exchange, Inc., resulted in the price of the October 1940 wool top contract advancing from \$ 1.17 per pound on October 16, 1940, to \$ 1.21 per pound on October 25, 1940, while the price of

the December 1940 wool top futures contract was \$ 1.10 1/2 per pound on October 16, 1940, and \$ 1.08 1/2 per pound on October 25, 1940, the price spread between the October and the December contracts widening during this period by 6 cents.

10.

The price of the October 1940 wool top futures contract during the period set forth in paragraph 9 was a price determined and caused by Nichols & Company, Inc., who were the only bidders in the market for this future at anything approximating the quoted price.

11.

On October 25, 1940, the holder of the one long October 1940 wool top futures contract (5,000 pounds) on the Wool Associates of the New York Cotton Exchange, Inc., which was not held by Nichols & Company, Inc., received a notice of delivery at the opening of the market and thereupon attempted to sell this contract in the ring. Though the holder of this contract offered it steadily downward, neither Nichols & Company, Inc., who were represented in the ring, nor any other purchaser offered to buy this contract until it had been offered down from \$ 1.24 per pound to \$ 1.10 per pound, at which price it was sold.

12.

After the contract referred to in paragraph 11 was sold, Nichols & Company, Inc., reentered the market with a bid of \$ 1.21 per pound and maintained the market price at that figure until trading ceased on the following day, making, however, no purchases at any time.

13.

During the latter part of the month of October 1940, Nichols & Company, Inc., consistently quoted spot wool top to the Boston representative of the Wool Associates of the New York Cotton Exchange, Inc., at prices substantially higher than quoted by either of the other two companies offering such quotations, which were used to establish the published price of spot wool top. On a number of days between October 15 and October 24, the quotation offered by Nichols & Company, Inc., was as much as 15 cents per pound higher than the quotation by one of the other quoting houses. At no time during the year 1940, prior to the month of October 1940, was there more than 7 cents per pound difference between the high and low quotations. The quotations made by Nichols & Company, Inc., did not represent the actual value of the commodity quoted but were arbitrarily fixed for the purpose of establishing an inflated and artificial price level. On only one occasion during the month of October did anyone purchase the offerings made by the other two reporting firms at the prices quoted, which were as much as 15 cents per pound lower than the

price quoted by Nichols & Company, Inc.

14.

Nichols & Company, Inc., during the month of October 1940, by its operation in wool top futures contracts on the Wool Top Exchange of the Wool Associates of the New York Cotton Exchange, Inc., attempted to manipulate, and did manipulate, the price of October 1940 wool top futures on the Wool Associates of the New York Cotton Exchange, Inc.

15.

Nichols & Company, Inc., during the month of October 1940, by its operations on the Wool Associates of the New York Cotton Exchange, Inc., and in relation to spot wool, attempted to manipulate, and did manipulate, the price of spot wool in interstate commerce.

16.

Nichols & Company, Inc., filed reports during the month of October 1940 with the Commodity Exchange Administration on Form 803, as required by the Commodity Exchange Act and the rules and regulations issued by the Secretary of Agriculture pursuant thereto.

17.

Between October 1 and December 31, 1940, properly accredited representatives of the Commodity Exchange Administration of the Department of Agriculture visited the offices of Nichols & Company,

Inc., and requested access to the records of the company showing full details of the wool top futures contracts reported by the company on Form 803 and all related transactions. These representatives were furnished certain information concerning futures transactions and holdings of Nichols & Company, Inc., but were not given access to records from which the spot wool position of Nichols & Company, Inc., could be determined.

18.

The representatives of the Commodity Exchange Administration requested that they be permitted access to all the company's records relating to purchases, sales and holdings of spot wool and wool top futures, in order that they might endeavor to obtain necessary information to verify the correctness of the company's report indicating a hedging position, and might determine the relationship between the company's operations in wool top futures and spot wool. Specific request was made for access to a card file showing lots of wool on hand and also to a record showing applications made on forward sales. Officials of Nichols & Company, Inc., refused access to both of these records which had been specifically requested.

19.

Nichols & Company, Inc., by its refusal to afford duly authorized representatives of the Department of Agriculture access to the records, referred to in paragraphs 17 and 18, violated the

provisions of the Commodity Exchange Act and the rules and regulations promulgated pursuant thereto.

20.

Nichols & Company, Inc., by and through the means of Nichols & Company, on numerous occasions during the year 1940, including October 21, 22, 23, and 25, became buyer with respect to selling orders of customers and, likewise, became seller in respect to buying orders of customers in violation of Section 4b(D) of the Commodity Exchange Act and the rules and regulations promulgated pursuant thereto.

21.

Nichols & Company engaged in the practice of filling orders for wool top futures transactions received from customers by offsetting such orders against the orders of other customers on numerous occasions during the period from September 1, 1939, to December 31, 1940, including September 5 and 7, 1939, February 29, 1940, April 15, 1940, and October 21 to 25, inclusive, 1940, in violation of the provisions of the Commodity Exchange Act and rules and regulations promulgated pursuant thereto.

22.

Nichols & Company engaged in the practice of adjusting funds in segregation for customers to the exact amount of the net equities, as computed daily, no consideration being given to the accounts in

deficit, resulting in the firm being under segregated during the month of October 1940, the amount of under segregation on October 26, 1940, being \$ 5,298.13, and the firm, by this practice, used the funds of wool top futures customers to margin the trades of other customers, all in violation of the Commodity Exchange Act and the rules and regulations promulgated pursuant thereto.

THEREFORE, the respondents are hereby notified to be and appear before a referee to be appointed by the Secretary of Agriculture at a hearing to be held at 10 o'clock a. m., on March 19, 1941, at Federal Building, Boston, Massachusetts, or at such other times and places as may be determined by the referee, and then and there show cause, if any there be, why an order shall not be made revoking the registration of respondent Nichols & Company as a futures commission merchant and directing that all contract markets, until further notice of the Secretary of Agriculture, refuse all trading privileges to all respondents.

IT IS ORDERED that this complaint and notice of hearing be served on each of the named respondents by delivery of true and correct copies hereof to the respondents, by an employee of the Department of Agriculture or by registered mail, at least twenty days prior to the date herein set for the hearing.

IT IS FURTHER ORDERED that the respondents shall file with the Hearing Clerk, Office of the Solicitor, Department of Agriculture

at Washington, D. C., within twenty days after the receipt of the complaint, answer signed by the respondents fully and completely stating the nature of any affirmative defense and admitting or denying specifically, in detail, each material and relevant allegation of the complaint. The failure to file such answer within said twenty-day period may be deemed an admission of the truth of the allegations of the complaint for the purpose of this proceeding.

(SEAL)

Done at Washington, D. C., this 14th day of February 1941. Witness my hand and the seal of the Department of Agriculture.

/s/ Grover B. Hill

Assistant Secretary of Agriculture.

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

