

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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: CFTC Docket No. 02-13  
In the Matter of :  
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CARMELO CONTRINO, ROBERT DISARRO, :  
WILLIAM OVERLAND, AND PERSIO PAULINO :  
:   
: Respondents. :  
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WASHINGTON, D.C.

**ORDER MAKING FINDINGS AND IMPOSING SANCTIONS**

**I.**

On July 16, 2002, the Commodity Futures Trading Commission ("Commission") filed a Complaint and Notice of Hearing ("Complaint") against Carmelo Contrino, Robert Disarro, William Overland, Persio Paulino (the "Settling Respondents") and two other respondents. The Complaint charges that Contrino violated Sections 4b(a)(i)-(iv), 4c(a)(1), and 4g of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6b(a)(i)-(iv), 6c(a)(1) and 6g (1994), and Sections 1.35(d) and 1.38 of the Commission's regulations promulgated thereunder (the "Regulations"), 17 C.F.R. §§ 1.35(d) and 1.38 (2001), and aided and abetted violations of Section 4c(a)(1) of the Act. The Complaint charges Disarro and Paulino with violating Sections 4b(a)(i), (iii) & (iv), and 4c(a)(1) of the Act and Section 1.38 of the Regulations, and aiding and abetting violations of Section 4c(a)(1) of the Act. The Complaint charges that Overland violated Section 4c(a)(1) of the Act and Section 1.38 of the Regulations.

**II.**

In order to dispose of the allegations and issues raised in the Complaint as to them, the Settling Respondents have submitted Offers of Settlement ("Offers"), which the Commission has determined to accept. Without admitting or denying any of the allegations of the Complaint or the findings herein, the Settling Respondents acknowledge service of this Order Making Findings and Imposing Sanctions ("Order"). The Settling Respondents consent to the use of the findings contained in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party.<sup>1</sup>

<sup>1</sup> The Settling Respondents do not consent to the use of the Offers or the findings in this Order, or consented to in the Offers, as the sole basis for any other proceeding brought by the Commission, other than a proceeding brought to enforce the terms of this Order. The Settling Respondents also do not consent to the use of the Offers or the findings in the Order by any other person or entity in this or in any other proceeding. The findings made in the Order are not binding on any other person or entity named as a defendant or respondent in this or any other proceeding.

### III.

The Commission finds the following:

#### **A. SUMMARY**

From January 4, 2000 through October 17, 2000, Contrino, Disarro, and Paulino fraudulently executed trades in the coffee futures ring of the Coffee, Sugar & Cocoa Exchange, ("CSCE"), a Division of the New York Board of Trade ("NYBOT"), by trading for their own accounts indirectly opposite their customer orders. As a result, Contrino, Disarro, and Paulino engaged in fraud and deception in violation of Section 4b(a)(i) and (iii) of the Act, indirect bucketing in violation of Section 4b(a)(iv) of the Act, trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, and noncompetitive trading, in violation of Section 1.38 of the Regulations. Contrino and Paulino also fraudulently executed customer orders by trading ahead of executable customer orders in violation of Section 4b(a)(i) and (iii) of the Act. Contrino also allocated trades to his personal account at better prices than those received by his customers, in violation of Section 4b(a)(i) and (iii) of the Act. In addition, Contrino, Disarro, Overland, and Paulino entered into wash sales to accommodate indirectly bucketed trades, in violation of Section 4c(a)(1) of the Act. Contrino also noncompetitively filled a customer order by altering the quantity on a trade so as to give a favorable price to another broker who was trading for his personal account. In addition, Contrino changed the price on a trade to a worse price for his customer and a better price for the broker trading for his personal account. Based on this conduct, Contrino engaged in fraud and deception in violation of Section 4b(a)(i) and 4b(a)(iii) of the Act, willfully making a false record in violation of Section 4b(a)(ii) of the Act, trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, and noncompetitive trading in violation of Commission Regulation 1.38. Contrino also failed to record required trading information on trading cards in violation of the recordkeeping requirements of Section 4g of the Act and Section 1.35(d) of the Regulations.

#### **B. RESPONDENTS**

CARMELO CONTRINO, of Marlboro, New Jersey 07746, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Contrino was associated with Spectrum Commodities, Inc. ("Spectrum"), a floor brokerage firm on the CSCE. Contrino executed orders for Spectrum customers and traded for his personal account, primarily in coffee futures on the CSCE.

ROBERT DISARRO, of North Brunswick, New Jersey 08902, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Disarro was the sole principal of B & F Trading, Inc. ("B & F"), a floor brokerage firm on the CSCE. Disarro executed orders for B & F customers and traded for his personal account, primarily in coffee futures on the CSCE.

WILLIAM OVERLAND, of Andover, New Jersey 07821, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. In 2000, Overland traded both for his personal account and for customers of B & F in coffee futures on the CSCE.

PERSIO PAULINO, of Hoboken, New Jersey 07030, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Paulino was associated with B & F. Paulino executed orders for B & F customers and traded for his personal account, primarily in coffee futures on the CSCE.

### **C. FACTS**

During the time period from January 4, 2000 through October 17, 2000, Contrino, Disarro, Overland, and Paulino traded for their personal accounts and for customers in coffee futures on the CSCE.

#### **1. Indirect Bucketing**

From January 4, 2000 through October 17, 2000, Contrino, Disarro, and Paulino indirectly bucketed their customer orders by noncompetitively trading for themselves and for customers with the aid of an accommodating trader. As a result, they ended up with positions for their own accounts opposite positions for their customers.

Contrino noncompetitively executed customer orders for coffee futures to engage in indirect bucketing on twenty-two occasions. Disarro engaged in indirect bucketing on thirty-one occasions, and Paulino did so twenty-nine times. In each case, Contrino, Disarro, or Paulino bought and sold noncompetitively in the same contract month at or about the same price and time opposite another trader (the "Accommodator") trading for his own account. Each broker traded to fill a customer order on one of the trades and traded for his own account on the other trade. Routinely, the Accommodator took the other side of both trades for his own account and broke even or made a profit. Contrino, Disarro, or Paulino ended with a position opposite his customer order. In addition, on two occasions Contrino traded for his own account opposite the customer order of an affiliated broker.

#### **2. Trading Ahead of Executable Customer Orders**

From January 4, 2000 through October 17, 2000, Contrino and Paulino knowingly or recklessly traded coffee futures for their personal accounts while holding executable customer orders on the same side of the market. These trades for their personal accounts were at better prices than the trades that filled the executable customer orders. The time stamps on the order tickets and the trade times on his trading cards demonstrate that Contrino and Paulino held the customer orders while they traded for themselves. Contrino engaged in trading ahead of his executable customer orders on four occasions, and Paulino did so on one occasion.

### **3. Allocation**

In two instances when Contrino traded ahead, his conduct also constituted allocation of trades to his personal account at better prices than those received by the customers. The evidence shows that Contrino originally filled the customer order, then crossed out the original indicator that the trade was a customer trade, and allocated the trade to his personal account. The customer order was then filled on the next line at a price that was worse than the price received by the broker.

### **4. Wash Sales and Accommodation Trades**

From January 4, 2000 through October 17, 2000, Overland, Contrino, Disarro, and Paulino also accommodated other traders to indirectly bucket their customer orders. Overland accommodated the indirect bucket of another trader on sixty-six occasions. Contrino and Disarro each accommodated another broker three times, and Paulino did so once. In so doing, Overland, Contrino, Disarro, and Paulino engaged in wash sales and accommodation trades. Each broker engaged in wash sales and accommodation trades by simultaneously or nearly simultaneously purchasing and selling for his own account the same future noncompetitively to assist a broker in taking the opposite side of his customer order.

### **5. Fraudulent and Non-Competitive Price Change Transaction**

From January 4, 2000 through October 17, 2000, on at least one occasion, Contrino changed the price on a trade for a customer after execution to a worse price for his customer and a better price for another broker trading opposite the customer for his personal account. Thus, the customer was deprived of the better original price obtained on the transaction and did not receive competitive execution of his order.

### **6. Noncompetitive Fill of Customer Order**

From January 4, 2000 through October 17, 2000, on at least one occasion, Contrino noncompetitively filled a customer order by altering the quantity on a trade so as to give a favorable price to another broker, who was trading for his personal account. Thus, the customer was deprived of the competitive execution of his order.

### **7. Money Passes**

In addition to the fraudulent execution of customer orders, Disarro, Paulino, and Overland noncompetitively executed purchases and sales of the same contract and future for their own accounts, resulting in the transfer of money between Overland, Disarro, and Paulino.

## 8. Recordkeeping Violations

Members of contract markets are required by the Act and the Regulations to prepare and retain certain records. In particular, Section 1.35(d) of the Regulations requires that members prepare a trading card or other record detailing the trades executed by them.

From January 4, 2000 through October 17, 2000, Contrino routinely omitted the date, hour and/or minute of the transaction on numerous trading cards.

## D. LEGAL DISCUSSION

### 1. CHEATING, DEFRAUDING AND DECEIVING CUSTOMERS AND BUCKETING OR OFFSET OF ORDERS

Contrino cheated or defrauded, or attempted to cheat or defraud or willfully deceived customers in connection with the execution of his customer orders by indirectly bucketing his customers' orders, trading ahead of executable customer orders, allocating trades to his personal account to his customers' detriment, engaging in a fraudulent price change transaction to a customer's detriment, and engaging in the noncompetitive fill of a customer order.

Disarro and Paulino cheated or defrauded, or attempted to cheat or defraud or willfully deceived customers in connection with the execution of their customer orders by indirectly bucketing their customers' orders and trading ahead of executable customer orders.

Executing floor brokers are subject to the anti-fraud provisions of Section 4b of the Act.<sup>2</sup> Fraud under the Act requires a showing of scienter.<sup>3</sup> Scienter is established when a respondent commits a wrongful act intentionally or with reckless disregard.<sup>4</sup> A reckless act is one where there is so little care that it is "very difficult to believe the [actor] was not aware of what he was doing."<sup>5</sup> Scienter cannot be avoided by ignorance brought about by willfully or recklessly ignoring the truth.<sup>6</sup>

Contrino, Disarro, and Paulino cheated, defrauded, and deceived their customers by indirectly taking the opposite side of their customer orders through noncompetitive trades.

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<sup>2</sup> *In re Murphy*, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,798 at 31,151 (CFTC Sept. 25, 1985).

<sup>3</sup> *In re Staryk*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,206, at 45,810 (CFTC Dec. 18, 1997). See also *Reddy v. CFTC*, 191 F.3d 109, 119 (2d Cir. 1999).

<sup>4</sup> *Hammond v. Smith Barney, Harris Upham & Co.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,617 at 36,659 (CFTC Mar. 1, 1990).

<sup>5</sup> *Do v. Lind-Waldock & Co.*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,516, at 43,321 (CFTC Sept. 27, 1995); *Drexel Burnham Lambert, Inc. v. CFTC*, 850 F.2d 742, 748-49 (D.C. Cir. 1988).

<sup>6</sup> See *Hammond v. Smith Barney*, ¶ 24,617 at 36,659; see also *Do v. Lind-Waldock & Co.*, ¶ 26,516, at 43,321 (an employee acted recklessly by failing to ascertain the status of an order prior to advising the customer that it was too late to cancel).

Noncompetitive executions of customer orders constitute cheating and defrauding of customers.<sup>7</sup> The prices these customers received were not the result of arm's length trading. As illustrated above, the customers were deprived of the competitive process. Moreover, they may have purchased at higher prices or sold at lower prices as a result of the misconduct of Contrino, Disarro, and Paulino.

The Seventh Circuit reached a similar conclusion in upholding mail and wire fraud convictions in a Chicago Board of Trade soybean traders case. The court observed that "by picking customer prices and opposing traders, the defendants removed their customers from the pit's competitive marketplace and forced the customers to accept the results they selected . . . denying the customer the opportunity to obtain a better price." *United States v. Ashman*, 979 F.2d 469, 477 (7<sup>th</sup> Cir. 1992). The court in *Ashman* further stated, "even though customers may not be entitled to any specific price, deliberate refusal to pursue the best price the broker can obtain can constitute a scheme to defraud." *Id.* at 478.

Analysis of trading patterns may be the basis for establishing noncompetitive trading.<sup>8</sup> The Commission has found that "a pattern marked by characteristics unlikely to occur in an open and competitive market [is] indicative of noncompetitive trading." *Rouso*, ¶ 27,133, at 45,308. Where such a pattern exists, a court may infer that the trades that form the pattern were intentionally achieved by noncompetitive means.<sup>9</sup>

However, the Division must show that "it is more likely than not that the respondents engaged in noncompetitive trading." *Rouso*, ¶ 27,133 at 45,308. In *Rouso*, the Division presented evidence of 143 noncompetitive trades involving four respondents over a six-month period. The Division's expert identified repeated instances fitting the indirect bucketing pattern occurring on approximately 40% of the trading days examined. Accordingly, the Commission upheld the ALJ's finding that the *Rouso* respondents knowingly participated in noncompetitive trading in violation of Section 4b(a)(i).

Contrino and Paulino also cheated, defrauded and deceived their customers by intentionally and recklessly trading for their own accounts while holding executable customer orders. A broker violates the fiduciary duty to his customer and commits fraud when he chooses to act on behalf of himself (or someone other than his customer) to the disadvantage of his customer.<sup>10</sup> The evidence establishes that at the time that Contrino and Paulino traded for their personal accounts, they held executable customer orders in the same futures in which they traded personally. Further, Contrino and Paulino acted with scienter because they knowingly or

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<sup>7</sup> *In re Murphy*, ¶ 22,798 at 31,151; *In re Julian Marks*, 22 A.D. 761, 773 (1964) (customers "entitled to have the orders executed on their merits.").

<sup>8</sup> *In the matter of Rouso*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,133, at 45,308 (CFTC Jul. 29, 1997); *In the matter of Buckwalter*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,995, at 37,684 (CFTC Jan. 25, 1991); *In the matter of Rosenberg*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,992, at 37,643 (CFTC Jan. 25, 1991).

<sup>9</sup> *Rouso*, ¶ 27,133, at 45,308; *See In re Collins*, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,982 at 31,900 n. 16 (CFTC Apr. 4, 1986).

<sup>10</sup> *In re Murphy*, ¶ 22,798 at 31,351-52.

recklessly disregarded the fact that they held executable orders at the times that they traded at better prices for themselves. In so doing, they unlawfully “traded ahead” of their customers’ orders in violation of Sections 4b(a)(i) and 4b(a)(iii) of the Act. In *United States v. Dial*, 757 F.2d 163, 167-70 (7<sup>th</sup> Cir. 1985), the Court held that “trading ahead” of customer orders constitutes fraud.

Contrino also allocated a favorable trade to his personal account while filling a customer order at unfavorable prices in violation of Section 4b(a)(i) and 4b(a)(iii). The Commission has held that “Section 4b of the Act prohibits . . . allocation of winning and losing trades.”<sup>11</sup>

In addition, Contrino changed the price on a trade to a worse price for his customer and a better price for the broker trading opposite the customer for his personal account. Similarly, on another occasion Contrino noncompetitively filled a customer order by altering the quantity on a trade so as to give a favorable price to another broker who was trading for his personal account. Such noncompetitive executions of customer orders constitute fraud.<sup>12</sup>

Contrino and Paulino had a duty to their clients to execute their orders in a manner where they would not personally profit at their clients’ expense. Their reckless disregard of their obligations to their customers in both trading ahead of customer orders and, along with Disarro, trading opposite customer orders constitutes fraud.

## 2. WILLFULLY MAKING A FALSE RECORD

Section 4b(a)(ii) makes it unlawful for any person in connection with a customer order “willfully to enter or cause to be entered for such person any false record thereof.” Once a trader alters a record so that the record reflects a transaction that did not occur as initially recorded, that record becomes a false record.<sup>13</sup> Thus, in those trades where Contrino changed the information on his trading card regarding the quantity or price of a trade to fill a customer’s order, he created a false record in violation of Section 4b(a)(ii).

## 3. ENTERING INTO WASH SALES OR ACCOMMODATION TRADES

Overland, Contrino, Disarro, and Paulino violated the prohibition in Section 4c(a)(1) against wash sales and accommodation trades. Wash sales are trades undertaken for the purpose of giving the appearance that trades have been executed without positions actually being taken in the market, or without any actual change in the account holder’s market position. In *In re Bear Stearns*, [1990-1992 Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶ 24,994 at 37,663 (CFTC Jan. 25, 1991), the Commission explained:

<sup>11</sup> *In re GNP Commodities Inc.*, [1990 – 1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,360 at 39,214 (CFTC Aug. 11, 1992) citing *In re Lincolnwood Commodities, Inc.*, [1982 – 1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,986 at 28,246 (CFTC Jan. 31, 1984); see also *In re Shahrokh Nikkhah*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶28,129 at 49,885 (CFTC May 12, 2000).

<sup>12</sup> *In re Murphy*, ¶ 22,798 at 31,151; *In re Julian Marks*, 22 A.D. 761, 773 (1964) ( customers “entitled to have orders executed on their merits.”)

<sup>13</sup> See *Reddy v. CFTC*, 191 F.3d 109 (2d Cir. 1999) (upholding ALJ’s determination that alteration of records to show a trade that did not originally occur as denoted violates the Act’s prohibition on creating a false record).

In a wash sale, for example, a trader gives the appearance of making independent decisions to buy and then sell (or sell and then buy) one or more futures contracts. His actual intention at the time he initiates the transaction, however, is to both buy and sell the contract at the same or a similar price – in other words, to create a financial and position nullity extraneous to the price discovery and risk shifting functions of the futures market.

The round-turn accommodation trading by Overland, Contrino, Disarro, and Paulino for their own accounts are classic wash sales. In these trades, they had no position in the market. Accommodation trading consists of noncompetitive trades entered into by one trader to facilitate another trader in making trades prohibited by the Act or Regulations.<sup>14</sup>

#### 4. NONCOMPETITIVE TRADING

By failing to execute their trades openly and competitively, Contrino, Disarro, Overland, and Paulino violated Section 1.38 of the Regulations. Noncompetitive trades are generally transacted in accordance with expressed or implied agreements or understandings between the traders and include illegal price changes. Trades can be noncompetitive even though they were executed in the pit.<sup>15</sup> “The Commission has found that in appropriate circumstances a pattern marked by characteristics unlikely to occur in an open and competitive market [is] indicative of noncompetitive trading.” *Rouso* ¶ 27,133 at 45,308. The indirect bucketing configuration permits the inference that the pattern of trades with that configuration was achieved by intentionally noncompetitive means. *Id.* By indirectly bucketing their customer orders, and accommodating other brokers to do so, Contrino, Disarro, Overland, and Paulino engaged in noncompetitive trading in violation of Section 1.38 of the Regulations. Similarly, in altering the price and quantity information contained on his trading cards, Contrino executed trades noncompetitively in violation of Section 1.38 of the Regulations.

#### 5. NON BONA FIDE PRICES

Contrino, Disarro, Overland, and Paulino violated Section 4c(a)(1) of the Act, which makes it unlawful to confirm the execution of any commodity futures transaction “if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price.”<sup>16</sup> Bona fide prices are only those prices that result from competitive trading. Contrino, Disarro, Overland, and Paulino executed trades noncompetitively and thus the prices that were reported on their trading cards, to their customers and to CSCE were not bona fide.<sup>17</sup> Such trades are not “bona fide” for purposes of Section 4b(a)(1), even if they accurately

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<sup>14</sup> See *In re Reddy*, 191 F.3d at 115; *Sundheimer v. Commodity Futures Trading Commission*, 688 F.2d 150, 152 (2d Cir. 1982), cert. denied, 460 U.S. 1022 (1983); *In re Eisen*, 22 A.D. 758 (1963).

<sup>15</sup> *In re Buckwalter*, ¶ 24,995 at 37,683 (citing *Laiken v. Dep’t of Agriculture*, 345 F.2d 784, 785 (2d Cir. 1965)).

<sup>16</sup> *In re Gilchrist*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,993 at 37,653 (CFTC Jan. 25, 1991).

<sup>17</sup> See *In re Gilchrist*, ¶ 24,993 at 37,653.

reflect the current price prevailing in the pit.<sup>18</sup> Accordingly, Contrino, Disarro, Overland, and Paulino violated Section 4c(a)(1) of the Act.

## 6. RECORDKEEPING VIOLATIONS

Section 4g of the Act and Section 1.35(d) of the Regulations are violated by members of a contract market who fail to record required information on their trading cards or similar records. Section 1.35(d) of the Regulations specifies that members of contract markets prepare trading cards or similar records documenting their trades and requires, among other things, that for each transaction executed by the member, the trading card or other record state the date, hour and minute of the transaction. Contrino routinely failed to record this trade information in violation of Section 1.35(d) of the Regulations.

## IV.

### OFFERS OF SETTLEMENT

Contrino, Disarro, Overland, and Paulino each have submitted an Offer in which each, without admitting or denying the findings herein: (1) acknowledges service of the Complaint and the Order; (2) admits the jurisdiction of the Commission with respect to the matters set forth herein; (3) waives a hearing, all post-hearing procedures, judicial review by any court, any objection to the staff's participation in the Commission's consideration of the Offer, all claims which he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (1994) and 28 U.S.C. § 2412 (1994), as amended by Pub. L. No. 104-121, §§ 231-32, 110 Stat. 862-63 (1996), and Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2003), relating to or arising from this action, and any claim of Double Jeopardy based upon institution of this proceeding or the entry of any order imposing a civil monetary penalty or any other relief; (4) stipulates that the record basis on which the Order may be entered shall consist solely of the Complaint, Order and findings in the Order consented to in the Offer; and (5) consents to the Commission's issuance of the Order, which makes findings as set forth below and: (a) orders Contrino, Disarro, Overland, and Paulino to cease and desist from violating the provisions of the Act and Regulations that they have been found to have violated; (b) imposes a civil monetary penalty upon Contrino of \$90,000, upon Disarro of \$50,000, upon Overland of \$60,000, and upon Paulino of \$60,000; (c) suspends the registration of Contrino for four months and the registrations of Disarro, Overland, and Paulino for six months; (d) prohibits Contrino, Disarro, and Paulino from executing trades for customers; and (e) orders Contrino, Disarro, Overland, and Paulino to comply with their undertakings consented to in their Offers.

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<sup>18</sup> *Id.* at n.25; *see also United States v. Winograd*, 656 F.2d 279, 283 (7<sup>th</sup> Cir. 1981); *CFTC v. Savage*, 611 F.2d 270, 284 (9<sup>th</sup> Cir. 1979); *In re Goldwurm*, 7 A.D. 265 at 275-276 (1948).

V.

**FINDINGS OF VIOLATIONS**

Solely on the basis of the consents evidenced by the Offers, and prior to any adjudication on the merits, the Commission finds that Contrino violated Sections 4b(a)(i)-(iv), 4c(a)(1), and 4g of the Act, 7 U.S.C. §§ 6b(a)(i)-(iv), 6c(a)(1) and 6g, and Sections 1.35(d) and 1.38 of the Regulations, 17 C.F.R. §§ 1.35(d) and 1.38, and aided and abetted violations of Section 4c(a)(1) of the Act. The Commission also finds that Disarro violated Sections 4b(a)(i), (iii) & (iv), and 4c(a)(1) of the Act and Section 1.38 of the Regulations, and aided and abetted violations of Section 4c(a)(1) of the Act. In addition, the Commission finds that Overland violated Section 4c(a)(1) of the Act and Section 1.38 of the Regulations. Finally, the Commission finds that Paulino violated Sections 4b(a)(i), (iii) & (iv), and 4c(a)(1) of the Act and Section 1.38 of the Regulations, and aided and abetted violations of Section 4c(a)(1) of the Act.

VI.

**ORDER**

Accordingly, it is hereby ordered that:

A. Contrino

1. Contrino shall cease and desist from violating Sections 4b(a)(i)-(iv), 4c(a)(1), and 4g of the Act, 7 U.S.C. §§ 6b(a)(i)-(iv), 6c(a)(1) and 6g, and Sections 1.35(d) and 1.38 of the Regulations, 17 C.F.R. §§ 1.35(d) and 1.38;
2. Contrino shall pay a civil monetary penalty ("CMP") in the amount of ninety thousand dollars (\$90,000). Payment shall be made as follows:
  - a. Contrino shall pay thirty thousand dollars (\$30,000) within ten (10) days of the date of this Order.
  - b. Contrino shall pay the next thirty thousand dollars (\$30,000) within one year of the date of this Order.
  - c. Contrino shall pay the remainder of the CMP, thirty thousand dollars (\$30,000), within two years of the date of this Order.

Payments must be made by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Contrino and the name and docket of this proceeding. Contrino shall simultaneously transmit a copy of the cover letter and the form of payment to

Gregory Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2), if Contrino fails to pay the full amount of any portion of this penalty within fifteen (15) days of the due date, he shall be automatically prohibited from the privileges of all registered entities until he shows to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of payment has been made;

3. Contrino's registration as a floor broker will be suspended for a period of four months beginning three (3) business days following entry of the Commission Order accepting the Offer;
4. Contrino is prohibited from executing trades for customers on or subject to the rules of any registered entity;

B. Disarro

5. Disarro shall cease and desist from violating Sections 4b(a)(i), (iii) & (iv), and 4c(a)(1) of the Act and Section 1.38 of the Regulations;
6. Disarro shall pay a civil monetary penalty within ten (10) days of the date of this Order in the amount of fifty thousand dollars (\$50,000), to be made by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Disarro and the name and docket of this proceeding. Disarro shall simultaneously transmit a copy of the cover letter and the form of payment to Gregory Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2), if Dissarro fails to pay the full amount of this penalty within fifteen (15) days of the due date, he shall be automatically prohibited from the privileges of all registered entities until he shows to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of payment has been made;
7. Disarro's registration as a floor broker will be suspended for a period of six months beginning on the first Monday after the entry of the Commission Order accepting the Offer;
8. Disarro is prohibited from executing trades for customers on or subject to the rules of any registered entity;

C. Overland

9. Overland shall cease and desist from violating Section 4c(a)(1) of the Act and Section 1.38 of the Regulations;
10. Overland shall pay a civil monetary penalty ("CMP") in the amount of sixty thousand dollars (\$60,000). Payment shall be made as follows:
  - a. Overland shall pay twenty thousand dollars (\$20,000) within ten (10) days of the date of this Order.
  - b. Overland shall pay the next twenty thousand dollars (\$20,000) within one year of the date of this Order.
  - c. Overland shall pay the remainder of the CMP, twenty thousand dollars (\$20,000), within two years of the date of this Order.

Payments must be made by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Overland and the name and docket of this proceeding. Overland shall simultaneously transmit a copy of the cover letter and the form of payment to Gregory Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2), if Overland fails to pay the full amount of any portion of this penalty within fifteen (15) days of the due date, he shall be automatically prohibited from the privileges of all registered entities until he shows to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of payment has been made;

11. Overland's registration as a floor broker will be suspended for a period of six months beginning on the first Monday after the entry of the Commission Order accepting the Offer;

D. Paulino

12. Paulino shall cease and desist from violating Sections 4b(a)(i), (iii) & (iv), and 4c(a)(1) of the Act and Section 1.38 of the Regulations;
13. Paulino shall pay a civil monetary penalty ("CMP") in the amount of sixty thousand dollars (\$60,000). Payment shall be made as follows:

- a. Paulino shall pay twenty thousand dollars (\$20,000) within ten (10) days of the date of this Order.
- b. Paulino shall pay the next twenty thousand dollars (\$20,000) within one year of the date of this Order.
- c. Paulino shall pay the remainder of the CMP, twenty thousand dollars (\$20,000), within two years of the date of this Order.

Payments must be made by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Paulino and the name and docket of this proceeding. Paulino shall simultaneously transmit a copy of the cover letter and the form of payment to Gregory Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2), if Paulino fails to pay the full amount of any portion of this penalty within fifteen (15) days of the due date, he shall be automatically prohibited from the privileges of all registered entities until he shows to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of payment has been made;

14. Paulino's registration as a floor broker will be suspended for a period of six months beginning on the first Monday after the entry of the Commission Order accepting the Offer;
15. Paulino is prohibited from executing trades for customers on or subject to the rules of any registered entity;

\* \* \*

E. All Respondents

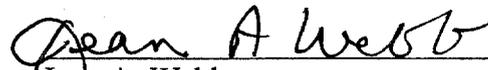
16. Contrino, Disarro, Overland, and Paulino each acknowledge that failure to comply with the Order shall constitute a violation of the Order and may subject them to administrative or injunctive proceedings, pursuant to the Act;
17. Contrino, Disarro, Overland, and Paulino are directed to comply with their undertakings:
  - a. neither Contrino, Disarro, Overland, nor Paulino nor any of their agents or employees shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in the Order, or creating, or tending to create, the impression that the Order is without a factual

basis; provided, however, that nothing in this provision affects their: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Contrino, Disarro, Overland, and Paulino shall take all steps necessary to ensure that their agents or employees, if any, understand and comply with this undertaking.

- b. to cooperate fully with the Commission's Division of Enforcement in this proceeding and any investigation, civil litigation and administrative proceeding related to this proceeding by, among other things: (i) responding promptly, completely, and truthfully to any inquiries or requests for information; (ii) providing authentication of documents; (iii) testifying completely and truthfully; and (iv) not asserting privileges under the Fifth Amendment of the United States Constitution in this proceeding.

The provisions of this Order shall be effective on this date.

By the Commission



Jean A. Webb  
Secretary to the Commission  
Commodity Futures Trading  
Commission

Dated: January 6, 2004