

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of

DONALD R. VAN PATTEN,

Registrant.

CFTC DOCKET NO. SD 04-02

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COMMERCIAL
REGISTRATION
DIVISION

NOTICE OF INTENT TO REVOKE, SUSPEND OR CONDITION REGISTRATION
PURSUANT TO SECTION 8a(3) OF THE COMMODITY EXCHANGE ACT

I.

The Commodity Futures Trading Commission ("Commission") has received information from its staff which tends to show, and the Commission's Division of Enforcement alleges and is prepared to prove that:

1. Donald R. Van Patten ("Van Patten") resides in Antioch, Illinois 60002.
2. Since at least December 13, 1996, Van Patten has been registered with the Commission as a floor broker, pursuant to Sections 4e and 4f of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6e and 6f (2001).
3. From at least December 13, 1996 through April 22, 2003, Van Patten owned a MidAmerica Commodity Exchange ("MACE") membership, which entitled him to trade MACE products on the Chicago Board of Trade ("CBOT"). Additionally, from January 2002 until February 2003, Van Patten leased an Index, Debt and Energy Market ("IDEM") membership, which entitled him to trading privileges at the CBOT.

4. From at least January 2001 through February 2003 (the "relevant period"), Van Patten worked for E.M. Combs & Sons ("Combs"), a registered futures commission merchant ("FCM"), as its Operations Manager.

5. As Operations Manager, Van Patten was responsible for Combs' back office operations including, among other things, balancing the firm's books and reconciling the firm's outside carrying broker accounts to its internal mirror accounts, paying the firm's bills and maintaining its payroll account. To carry out these duties, Van Patten had access to all of Combs' trading, banking and operating accounts.

6. During the relevant period, Van Patten traded the MACE Soybean, Corn, Soybean Meal, Wheat and 30-Year Treasury Bond contracts at the CBOT for his own futures trading account. Van Patten's futures trading account was carried and cleared by Combs.

7. On September 26, 2003, the CBOT Business Conduct Committee ("BCC") charged Van Patten with the following misconduct: 1) changing the execution prices for trades in his account on at least eleven dates between June 2002 and January 2003, thereby crediting his trading account a total of \$164,593.75 and misappropriating that amount from Combs; 2) making adjustments to Combs' books to balance with the Board of Trade Clearing Corporation's ("BOTCC") records during the relevant period; 3) making numerous miscellaneous credit adjustments to his account during the period January 2002 and February 2003 totaling approximately \$251,000, thereby misappropriating that amount from Combs; and 4) making miscellaneous credit adjustments to his account during the period January 2001 through December 2001, which involved misappropriations from Combs of approximately \$61,000.

8. As a result of the misconduct alleged in Paragraph 7, the BCC charged Van Patten with violating the following CBOT Rules: CBOT Rule 500.00, in that he engaged in fraud,

dishonorable or dishonest conduct, or in conduct inconsistent with just and equitable principles of trade; CBOT Rule 504.00, in that he engaged in acts detrimental to the interest or welfare of the Exchange; and CBOT Rule 506, in that he engaged in reckless and unbusinesslike dealing inconsistent with just and equitable principles of trade.

9. On December 19, 2003, the BCC found that Van Patten violated CBOT Rules 500.00, 504.00 and 506.00. The BCC accepted Van Patten's Offer of Settlement, submitted without admitting or denying the allegations against him, and ordered that Van Patten "be permanently barred from association with any CBOT member or member firm" and ordered that he "not reapply for membership or in any other capacity at the Exchange."

10. The facts underlying the disciplinary action set forth in Paragraphs 7 through 9 constitute a basis for statutory disqualification from registration under Sections 8a(3)(J) and (M) of the Act, 7 U.S.C. §§ 12a(3)(J) and (M) (2001), pursuant to which Van Patten's registration as a floor broker may be suspended, conditioned or revoked.

II.

Pursuant to Section 3.60(a), 17 C.F.R. § 3.60(a) (2003), Van Patten is hereby notified that a public proceeding shall be conducted in accordance with the provisions of Commission Regulation 3.60, 17 C.F.R. § 3.60 (2003), on the following questions:

1. Whether Van Patten is subject to statutory disqualification under Sections 8a(3)(J) and (M) of the Act, as set forth in Section I, above; and
2. If the answer to question 1 is affirmative, whether the registration of Van Patten as a floor broker should be suspended, restricted or revoked. Such proceeding shall be held before an Administrative Law Judge, in accordance with Commission Regulation 3.60, and all

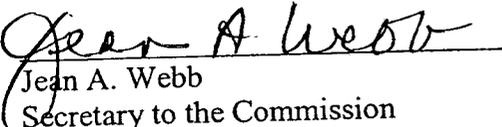
post-hearing procedures shall be conducted pursuant to Commission Regulation 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2003).

In accordance with the provisions of Commission Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2003), Van Patten is entitled to file a response challenging the evidentiary bases of the statutory disqualification or show cause why, notwithstanding the accuracy of the allegations, his registration should not be suspended, revoked, or restricted. Such response must be filed with the Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and served upon Diane M. Romaniuk, Senior Trial Attorney, Division of Enforcement at 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661, within thirty (30) days after the date of service of this Notice upon Van Patten in accordance with the provisions of Commission Regulation 3.60(b). If Van Patten fails to timely file a response to this notice, the allegations set forth herein shall be deemed to be true and the presiding officer may issue an Order of Default in accordance with the provisions of Commission Regulation 3.60(g), 17 C.F.R. § 3.60(g) (2003).

III.

The Hearing Clerk shall serve this Notice of Intent to Suspend, Revoke, or Restrict Registration by registered or certified mail pursuant to Commission Regulation 3.50, 17 C.F.R. § 3.50 (2003).

By the Commission.


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

Date: March 25, 2004