

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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7:06 am, Jul 22, 2013

In the Matter of:)

Panther Energy Trading LLC and)
Michael J. Coscia,)

Respondents.)
_____)

CFTC Docket No. 13-26

ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, AS AMENDED,
MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that from August 8, 2011 through October 18, 2011, Panther Energy Trading LLC and Michael J. Coscia violated Section 4c(a)(5)(C) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6c(a)(5)(C). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondents have submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondents consent to the entry of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, as Amended, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledge service of this Order.¹

¹ Respondents consent to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party, provided, however, that Respondents do not consent to the use of the Offer, or the findings or conclusions in this Order consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor do Respondents consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

Beginning on August 8, 2011 through and including October 18, 2011 (the “Relevant Period”), Panther Energy Trading LLC (“Panther”) and Michael J. Coscia (“Coscia”) (collectively, “Respondents”) engaged in the disruptive practice of “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution) through algorithmic trading utilizing a program that was designed to place bids and offers and to quickly cancel those bids and offers before execution.

Because the Respondents engaged in conduct that is, or is of the character of, or is known to the trade as, spoofing, the conduct violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C), which, *inter alia*, makes it unlawful for any person to engage in any trading, practice or conduct on or subject to the rules of a registered entity that is, is of the character of, or is commonly known to the trade as, spoofing.

B. Respondents

Panther Energy Trading LLC is a trading company organized under Delaware law with its principal place of business in Red Bank, New Jersey. It is not and has never been registered with the Commission.

Michael J. Coscia is the manager and sole owner of Panther and has been registered with the Commission as a floor broker since 1988.

C. Facts

During the Relevant Period, Respondents placed on Globex, CME Group’s electronic trading platform, algorithmic bids or offers which they intended to, and did, cancel prior to execution, and therefore engaged in a disruptive trading practice known as spoofing, in 18 futures contracts traded on four exchanges owned by CME Group. The futures contracts in which the Respondents engaged in spoofing involved a wide spectrum of commodities including energy, metals, interest rate, agricultural, stock index, and foreign currency commodities, including for example, the widely-traded Light Sweet Crude Oil futures contract as well as the Natural Gas, Corn, Soybeans, Soybean Oil, Soybean Meal, and Wheat futures contracts.

Respondents made money by employing an algorithm that was designed to rapidly place bids and offers in the market and to cancel those bids and offers prior to execution. The following example of Respondents’ trading in the Light Sweet Crude Oil futures contract is illustrative of how the algorithm worked. First, the algorithm placed a relatively small order on one side of the market at or near the best price being offered to buy or sell, in this instance a sell order for 17 contracts at a price of \$85.29 per barrel, which was a lower price than the contracts then being offered by other market participants. Thus, the Respondents’ offer was at the lowest, *i.e.* best, offered price. Second, within a fraction of a second, the Respondents entered orders to

buy a relatively larger number of Light Sweet Crude Oil futures contracts at progressively higher prices: the first bid at \$85.26, the second bid at \$85.27, and the third bid at \$85.28. The prices of Respondents' bids were higher than the contracts then being bid by other market participants. Thus, Respondents' placed their bids at the highest, *i.e.* best, prices. By placing the large buy orders, Respondents sought to give the market the impression that there was significant buying interest, which suggested that prices would soon rise, raising the likelihood that other market participants would buy the 17 lots the Respondents were then offering to sell. Although Respondents wanted to give the impression of buy-side interest, Respondents entered the large buy orders with the intent that these buy orders be canceled before the orders were actually executed.

In the above example, the program sought to capture an immediate profit from selling the 17 lots. Thus, if the program successfully filled the small 17-lot sell order, the large buy orders were immediately cancelled and the algorithm was designed to promptly operate in reverse. That is, the algorithm would then enter a small buy order in conjunction with relatively large sell orders at progressively lower prices, which sell orders Respondents intended to cancel prior to execution.

All trading using this algorithm was in an account that was owned and controlled exclusively by Coscia. The episodes of bidding, offering, canceling, and, if the program successfully filled the small order, liquidation activity, occurred over a very short time frame. In some instances, the Respondents utilized the spoofing algorithm hundreds of times in an individual futures contract in a single day. During the Relevant Period, Respondents accumulated net profits of approximately \$1.4 million using the spoofing algorithm.

IV.

LEGAL DISCUSSION

A. Respondents Violated Section 4c(a)(5)(C) Of The Act

Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C), makes it “unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that...is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).”

In this case, Respondents intended when placing bids or offers to cancel the bids or offers prior to execution. Respondents designed the algorithmic trading program to place orders on one side of the market to give the impression of market interest on that side of the market and to increase the likelihood that their smaller orders sitting on the opposite side of the market would be filled. Respondents used an algorithm designed to cancel orders prior to execution. Consequently, Respondents, engaged in trading that was spoofing, in violation of Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).

V.

FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondents violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).

VI.

OFFER OF SETTLEMENT

Respondents have submitted the Offer in which they, without admitting or denying the findings and conclusions herein:

- A. Acknowledge receipt of service of this Order;
- B. Admit the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waive:
 - 1. the filing and service of a complaint and notice of hearing;
 - 2. a hearing;
 - 3. all post-hearing procedures;
 - 4. judicial review by any court;
 - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - 6. any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;
 - 7. any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and
 - 8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

- D. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer;
- E. Consent, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. makes findings by the Commission that Respondents violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C);
 2. orders Respondents to cease and desist from violating Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C);
 3. orders Respondents to pay a civil monetary penalty in the amount of \$1,400,000, plus post-judgment interest;
 4. orders that, for a period of one year, commencing upon entry of this Order, and after full payment and satisfaction of the disgorgement obligation of \$1,400,000 (as set forth below) and civil monetary penalty obligation, each Respondent be prohibited from directly or indirectly engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a (2011)), and all registered entities shall refuse them trading privileges; and
 5. orders Respondents to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondents shall cease and desist from violating Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).
- B. Respondents shall pay a civil monetary penalty in the amount of one million, four hundred thousand dollars (\$1,400,000), plus post-judgment interest ("CMP Obligation"), within ten (10) days of the date of entry of this Order. If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the paying Respondents' CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006).
- C. Respondents shall pay their CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables --- AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment is to be made by electronic funds transfer, Respondents shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondents and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC 20581; (2) Regional Counsel, Division of Enforcement, Commodity Futures Trading Commission, 140 Broadway, 19th Floor, New York, NY 10005; and (3) the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- D. Respondents are prohibited from directly or indirectly engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a (2011)), and all registered entities shall refuse them trading privileges for a period of one year, commencing upon entry of this Order, and after full payment of the Disgorgement Obligation (as set forth below) and CMP Obligation.
- E. Respondents shall comply with the following conditions and undertakings set forth in the Offer:
1. **Disgorgement:** Respondents shall pay disgorgement in the amount of one million, four hundred thousand dollars (\$1,400,000), plus post-judgment interest (“Disgorgement Obligation”), within ten (10) days of the date of entry of this Order. If the Disgorgement Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the paying Respondents’ Disgorgement Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006).

The Disgorgement Obligation will be offset by any amounts paid to the CME Group (or any of its subsidiary exchanges) in satisfaction of any disgorgement order(s) in disciplinary actions against the Respondents captioned CME 11-8581, CBOT 11-8581, NYMEX 11-8581, and COMEX 11-8581. The CME Group has represented the following with respect to disgorgement amounts paid to the CME Group (or any of its subsidiary exchanges): “[a]ll fines and disgorgement... arising out of disciplinary action are calculated each quarter. They are used first to offset the cost of customer protection

programs (the Family Farmer and Rancher Protection Fund). To the extent the funds collected exceed the cost of the customer protection program, the excess will be contributed to the CME Trust. Also, CME Group Executive Chairman and President has discretion to instead elect to contribute all of the funds to the CME Trust. Pursuant to the terms of the Trust documents, the funds of the Trust are to be used for the purpose of providing direct or indirect assistance to customers of a member, member firm or member corporation of the Exchange (excluding any customers who have a proprietary or other interest in such member) threatened with loss of their money or securities because such member, member firm or member corporation, in the opinion of the Trustees, is insolvent or is in such financial condition that he or it may be unable without assistance to meet his or its obligations to such customers, but only to the extent that the customers' losses or threatened losses are related to futures transactions on the Exchange and then only to the extent, if any, and in such manner as the Trustees shall determine. The Trust is also prohibited from utilizing any of its funds for the purpose of satisfying any legal obligation of the Exchange."

Respondents shall provide (to the persons and addresses listed below) proof of any payment of disgorgement to the CME Group (or any of its subsidiary exchanges), including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the Disgorgement Obligation is to be reduced, within 10 days of making such payment.

Respondents shall pay their Disgorgement Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables --- AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

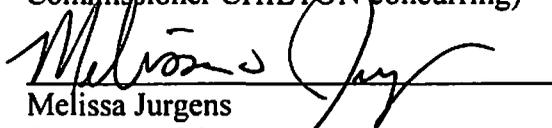
If payment is to be made by electronic funds transfer, Respondents shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the Disgorgement Obligation with a cover letter that identifies the Respondents and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC 20581; (2) Regional Counsel, Division of Enforcement, Commodity Futures Trading Commission, 140 Broadway, 19th Floor, New York, NY

10005; and (3) the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

2. **Public Statements**: Respondents agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis, provided, however, that nothing in this provision shall affect Respondents': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondents shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.
3. **Cooperation with the Commission**: Respondents shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.
4. **Partial Satisfaction**: Respondents understand and agree that any acceptance by the Commission of partial payment of Respondents' Disgorgement Obligation and CMP Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
5. **Change of Address/Phone**: Until such time as Respondents satisfy in full their Disgorgement Obligation and CMP Obligation as set forth in this Order, Respondents shall provide written notice to the Commission by certified mail of any change to their telephone number and mailing address within ten (10) calendar days of the change.

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

By the Commission (Chairman GENSLER,
Commissioners O'MALIA and WETJEN;
Commissioner CHILTON concurring)


Melissa Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: July 22, 2013