

UNITED STATES OF AMERICA
BEFORE THE
COMMODITY FUTURES TRADING COMMISSION

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Office of Proceedings
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10:52 am, Nov 25, 2013

In the Matter of: : CFTC Docket No. 14-03
:
Daniel Shak and SHK Management : **ORDER INSTITUTING PROCEEDINGS**
LLC, : **PURSUANT TO SECTIONS 6(c), 6(d) and**
: **8a OF THE COMMODITY EXCHANGE**
: **ACT AND MAKING FINDINGS AND**
: **IMPOSING REMEDIAL SANCTIONS**
Respondents. :

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that Daniel Shak (“Shak”) and SHK Management LLC (“SHK”) (collectively “Respondents”) violated 4a(e), 6(c), 6(d), 9(a)(2) of the Commodity Exchange Act, as amended (the “Act”), 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and they hereby are, instituted to determine whether Respondents engaged in the violations set forth herein.

II.

In anticipation of the institution of an administrative proceeding, Shak and SHK submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Shak and SHK acknowledge service of this Order Instituting Proceedings Pursuant to Sections 6(c), 6(d) and 8a of the Commodity Exchange Act and Making Findings and Imposing Remedial Sanctions (“Order”).¹

¹ Respondents consent to the entry of this Order, the use of these findings in this proceeding and in any other proceeding against Respondents 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 consented to in this Order, 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 consented to in the Offer or this Order, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

On two trading days in 2008, Respondents attempted to manipulate the price of Light Sweet Crude Oil (“WTI”) futures contracts traded on the New York Mercantile Exchange (“NYMEX”), which is a designated contract market. As Respondents pursued their manipulative strategy, Respondents also violated the intraday spot month speculative position limits for WTI futures contracts on those two trading days.

Specifically, on each of the trading days, Respondents established substantial net short positions in WTI futures contracts through what are known as Trading At Settlement (“TAS”) contracts that are priced at the daily settlement price. Next, Respondents intentionally traded a significant volume of long futures contracts before and during the two minute window referred to as the closing or settlement period of trading on the contract (“the Close”), in an effort to improperly influence and affect the price of the WTI futures contracts, including the settlement prices of the contracts. This strategy of trading heavily on one side of the market during the Close is commonly known as “banging the close” or “marking the close.”

In executing this trading strategy, Respondents attempted to drive the settlement price of the WTI futures contracts higher than the average cost of the long position Respondents had established before the start of trading during the Close. If successful, Respondents would profit based on a favorable price differential between the higher settlement price of its substantial short position and the lower prices at which it bought WTI futures contracts.

SHK, through Shak and another SHK trader, executed this manipulative strategy in a trading account held in the name of a pool controlled by Respondents. Shak simultaneously executed the same strategy in his personal trading account. SHK is a registered Commodity Pool Operator (“CPO”), and Shak is the controlling person and registered Associated Person (“AP”) of SHK.

Respondents’ trading on an aggregate basis on these two days resulted in positions that improperly exceeded NYMEX speculative positions limits by more than 500 contracts on the first trading day and more than 1,000 contracts on second trading day. The SHK-controlled pool account alone exceeded the legal speculative positions limits.

B. Respondents

Daniel Shak is an individual residing in Las Vegas, Nevada. Shak is registered with the Commission as a floor broker and as an AP of SHK Diversified, LLC. Shak is also the sole principal and managing member of SHK. Shak was responsible for the day-to-day operations and actions of SHK, including trading of the SHK-controlled pool and the supervision of the other trader who traded the pool and who also engaged in the manipulative trading strategy found herein. Shak is a member of NYMEX.

SHK Management, LLC was a limited liability company with a registered place of business in Las Vegas, Nevada. SHK is a registered CPO and operated a pool, SHK Diversified, LLC, which was also a limited liability company with a registered place of business in Las Vegas, Nevada.

C. Facts

1. WTI Futures Contracts and TAS Trading

A commodity futures contract, such as the WTI crude oil futures contract traded on NYMEX, is an agreement for the purchase and sale of a particular commodity for delivery on a fixed date in the future at a price that is determined at initiation of the contract, that obligates each party to the contract to fulfill the contract at the specified price, that is used to assume the price risk and that may be satisfied by delivery or offset. The settlement price of WTI futures contracts, including the TAS WTI futures contracts, is determined by the volume-weighted average price of trades executed during the Close.

Each WTI futures contract held past expiration requires actual physical delivery of 1,000 U.S. barrels, which is 42,000 gallons, of West Texas Intermediate light sweet crude oil at Cushing, Oklahoma. As such, futures contracts are rarely held past expiration. WTI prices are quoted in U.S. dollars and cents per barrel and the minimum price fluctuation—known as a “tick”—is \$0.01 per barrel. Daily settlement prices for futures contracts, such as the WTI settlement price, are determined by designated contract markets or clearinghouses at the end of each trading day to “settle” profits and losses between clearinghouse members and to determine the futures trader’s margin obligations—the amount of money or collateral that needs to be posted by the trader with the clearinghouse to maintain the commodity futures position.

In addition to trading WTI at specific prices (“outright trades”), NYMEX also allows TAS of WTI. TAS contracts are futures contracts that are priced at the daily settlement price for WTI, plus or minus a differential that ranges between -10 and +10 ticks. A TAS differential of zero is known as flat and will clear exactly at the daily settlement price. TAS WTI traders may offset TAS WTI contracts either by TAS WTI trades or WTI contracts traded at specific prices.

Selling a TAS futures WTI contract is profitable if the offsetting purchase of WTI futures contracts is done at a price less than the settlement price plus the TAS differential. Conversely, selling a TAS WTI contract loses money (or at best breaks even) if the offsetting purchase is done at the settlement price or higher.

On October 19, 2006, NYMEX issued a public compliance advisory relating to trading of TAS WTI contracts. The advisory provided that

Members are reminded that misuse of TAS (or MO) trades to acquire a position in order to unfairly affect a settlement price subject [sic] the member and/or the customer to disciplinary action for any of a number of rule violations including but not limited to attempted price manipulation, disruptive trading, wash trading, or conduct substantially detrimental to the exchange.

Investigation of suspected manipulative pricing involving T AS will focus on the percentage of TAS positions acquired by a trader, group or traders or customer(s) and whether the offset of that position during the close was disruptive, collusive, and or caused or attempted to cause aberrant price movement in the close.

The NYMEX Compliance Advisory was available to the public on NYMEX's website. As a member of NYMEX, Shak was on notice of the NYMEX Compliance Advisory.

2. Respondents' Manipulative WTI Trading Strategy

Respondents' strategy to attempt to manipulate the price of WTI futures contracts, including the settlement price of the contracts, had three key elements. First, Respondents established substantial short positions by selling TAS WTI futures contracts. Second, immediately prior to the Close, Shak and SHK offset some of their TAS positions by buying outright futures contracts at a rapid pace to start driving the price of the contracts higher. Third, Respondents bought at a rapid pace during the close.

Respondents' concerted buying of WTI futures contracts at increasingly higher prices during the Close was uneconomic. Typically, traders want to buy at low prices and sell at higher ones. However, Respondents bought at higher prices in order to ultimately benefit from pushing prices higher during the Close. Since the settlement price of WTI futures contracts is based on the volume weighted average price of trades executed during the Close, Respondents would profit if the value of their substantial short TAS position in WTI futures contracts, which is based on the settlement price, was greater than the average value of their long position in WTI futures contracts

On two trading days in 2008, SHK, through Shak and another SHK trader executed this strategy in a trading account for the SHK controlled pool. Shak simultaneously executed the trading strategy in his personal trading account.

The First Attempt to Manipulate

On the first trading day on which Respondents executed the trading strategy, Respondents accumulated a large net short TAS position of 3,457 prompt-month WTI contracts in the SHK pool trading account and Shak's personal trading account.

Over a period of three minutes, starting at 2:25 PM EST, shortly before the Close, Respondents began aggressively trading opposite this large short net TAS position through outright buys in both the SHK pool trading account and Shak's personal trading account. This buying effort accounted for 29.3% of all outright buys during those three minutes. During the two minute Close from 2:28:00 PM to 2:29:59 PM, Respondents continued their frenzied buying of WTI futures contracts to offset their large short TAS position. Respondents accounted for 52.56% of the prompt month open interest during the Close. During the Close, Respondents bought WTI futures contracts at increasingly higher prices.

The Second Attempt to Manipulate

On the second trading day, Respondents executed the same trading strategy. Respondents established a large short TAS position of 3,996 prompt-month WTI contracts in both the SHK pool trading account and Shak's personal trading account in less than one minute.

Over a period of eight minutes before the Close, Respondents began trading opposite their large short TAS position and establishing an offsetting long position in WTI futures contracts. Over a period of two minutes before the Close starting at 2:26 PM EST, Respondents significantly increased their buying and accounted for 22.01% of all outright buys during that two minutes. During the Close, Respondents bought WTI futures contracts even more rapidly and accounted for 63.55% of the prompt month open interest during the Close. Their buying during the Close represented over 70% of their outright buys on the day. During the Close, Respondents bought WTI futures contracts at increasingly higher prices.

3. Respondents' Position Limit Violations

NYMEX's position limit rule is set forth by NYMEX Rule 559. The specific position limit applicable to the WTI contract is set at 3,000 contracts. This limit applies to both intraday positions and end of day positions, and was adopted and approved by the Commission. Commission Regulation 150.5(g) provides that in determining whether a person exceeded the position limits, all accounts under that person's control, either by express or implied agreement, shall be aggregated as if the positions were held by a single person.

As a result of Respondents' trading on each of the two days, SHK, through Shak and the other trader, held short positions in prompt-month WTI futures contracts which exceeded the permissible position limits established by the NYMEX and adopted by the Commission. When aggregated with the parallel short positions in the prompt-month WTI futures contracts held by Shak in his personal account, Respondents exceeded the 3,000 contract position limit by more than 500 contracts on the first trading day and by more than 1,000 contracts on the second trading day. The SHK-controlled pool account alone exceeded the legal speculative positions limits.

4. Shak Controlled SHK

Shak controlled the day-to-day operations of SHK. Shak was the only principal of SHK. He was responsible for the trading of the pool account. He also was responsible for the employment of any SHK personnel or agents, including the other SHK trader who executed the manipulative trading strategy along with Shak.

D. Legal Discussion

1. Attempted Manipulation

Together, Sections 6(c), 6(d), and 9(a)(2) of the Act prohibit acts of attempted manipulation. Section 9(a)(2) of the Act makes it unlawful for "[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery

on or subject to the rules of any registered entity.” Sections 6(c) and 6(d) of the Act authorize the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission has reason to believe that “any person ... has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce or for future delivery on or subject to the rules of any registered entity ... or otherwise is violating or has violated any of the provisions of [the] Act.”

The following two elements are required to prove an attempted manipulation: (1) an intent to affect the market price, and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.* [1975-77 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977); *CFTC v. Bradley*, 408 F. Supp. 2d 1214 (N.D. Okla. 2005).

To prove the intent element of attempted manipulation, it must be shown that Respondents “acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand.” *In re Indiana Farm Bureau Coop. Ass’n*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,796, at 27,283 (CFTC Dec. 17, 1982). “[W]hile knowledge of relevant market conditions is probative of intent, it is not necessary to prove that the accused knew to any particular degree of certainty that his actions would create an artificial price. It is enough to present evidence from which it may reasonably be inferred that the accused ‘consciously desire[d] that result, whatever the likelihood of that result happening from his conduct.’ *See U.S. v. U.S. Gypsum Co.*, 438 U.S. [442, 445 (1978)].” *Id.* A profit motive may also be evidence of intent, although profit motive is not a necessary element of an attempted manipulation. *See In re DiPlacido* [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970, at 62,484 (CFTC Nov. 5, 2008) (citing *In re Hohenberg Bros. Co.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 21,478), *aff’d*, 364 Fed. Appx. 657, No. 08-5559-ag, 2009 WL 3326624 (2d Cir. 2009). The Commission has observed that “intent must of necessity be inferred from the objective facts and may, of course, be inferred by a person’s actions and the totality of the circumstances.” *In re Hohenberg Bros.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271, at 21,477 (CFTC Feb. 18, 1977).

An “overt act” is one that constitutes a substantial step towards the commission of the offense. *See United States v. Yang*, 281 F.3d 534 (6th Cir. 2002); *Ming Lam Sui v. INS*, 250 F.3d 105, 115 (2d Cir. 2001); *United States v. Gracidias-Ulibarry*, 231 F.3d 1188, 1192 (9th Cir. 2000); *United States v. Rosalez-Cortez*, 19 F.3d 1210, 1217 (7th Cir. 1994). Here, Respondents’ trading to establish the short TAS position and then offset that position constitutes the requisite overt acts.

Here, Respondents’ intent to affect the prices of WTI futures contracts, including the settlement prices, can be inferred from the objective and circumstantial evidence of Respondents’ trading strategy on each of the two days, including the uneconomic acts of aggressively buying WTI futures contracts at increasingly higher prices both before and during the Close. Respondents sought to make a profit by driving the settlement price and therefore the value of their short TAS positions higher, while offsetting at least some of that short position through the WTI futures contracts bought at lower prices. Respondents’ decision to establish partially offsetting long positions in the WTI futures contract right before the settlement period and then to aggressively buy contracts during the Close evidences Respondents’ motive to make a profit

from the differential between the short TAS positions which would be priced at the artificially higher settlement. Respondents' intent is also evidenced by the fact that Respondents engaged in this trading strategy while on notice of the NYMEX warnings about misuse of TAS positions and trading during the Close.

Accordingly, Respondents attempted to manipulate the price of WTI futures contracts, including the settlement prices thereof, in violation of Section 6(c), 6(d) and 9(a)(2) of the Act.

2. Position Limit Violations

Section 4a(e) of the Act provides in relevant part that:

[i]t shall be a violation of this Act for any person to violate any bylaw, rule, regulation or resolution of any contract market, derivatives transaction execution facility, or other board of trade licensed, designated, or registered by the Commission or electronic trading facility with respect to a significant price discovery contract fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such by law, rule, regulation or resolution has been approved by the Commission.

The plain language of 4a(e) "unambiguously imposes liability for violations of contract market position limit rules." *Saberi v. CFTC*, 488 F.3d 1207 (9th Cir. 2007) (citing *CFTC v. Hunt*, 591 F.2d 1211, 1219 (7th Cir. 1979)). Additionally, exceeding position limit rules is sufficient to constitute a violation of Section 4a(e); the Commission does not need to establish scienter, or intent to violate position limits, in order to prove a violation. *Id.*

NYMEX's position limit rule is set forth by NYMEX Rule 559. On October 16, 2006, NYMEX amended the Light Sweet Crude Oil Futures Contract to increase the speculative position limits from 2,000 to 3,000 contracts. This limit applies to both intraday positions and end of the day positions. Pursuant to Section 5c(e) of the CEA and Commission Regulation 40.6, the Exchange certified the amendment to the Commission. On November 21, 2006, the Commission approved the relevant speculative position limit. The Commission is empowered under Section 4a(e) of the Act to enforce Exchange-set speculative position limits if such rules have been approved.

Commission Regulation 150.5(g) provides that in determining whether a person exceeded the position limits, all accounts under that person's control, either by express or implied agreement, shall be aggregated as if the positions were held by a single person. Here, Shak was responsible for the trading of the SHK pool trading account and his personal trading account, and therefore, both accounts shall be aggregated for purposes of determining whether Respondents violated the speculative position limits for WTI futures contracts.

On each of the two trading days set forth above, Respondents violated the position limit when they reached a peak short position of at least 3,526 on the first trading day at issue, and a

peak short position of 4,071 contracts on the second trading day, by approximately 500 and 1,000 contracts respectively.

Accordingly, on each of the two trading days, Respondents violated Section 4a(e) of the Act.

3. Respondents' Derivative Liability for The Violations of the Act

Shak is liable for SHK's violations of the Act pursuant to Section 13(b). To establish liability of a controlling person pursuant to Section 13(b), the Commission must show that the person possesses the requisite degree of control and either: (1) knowingly induced, directly or indirectly, the acts constituting the violation; or (2) failed to act in good faith. *In re Apache Trading Corp.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,251 at 34,766 (CFTC Mar. 11, 1992). To establish the "knowing inducement" element of the controlling person violation, the Commission must show that "the controlling person had actual or constructive knowledge of the core activities that constitute the violation at issue and allowed them to continue." *In re Spiegel*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,103 at 34,767 (CFTC Jan. 12, 1998).

As found above, Shak was responsible for the day-to-day operations of SHK, including the hiring and firing of employees, such as the other SHK trader who participated in the attempts to manipulate the WTI futures contracts, approving trading strategies, and directing trading of the SHK pool trading account. Shak accordingly possesses the requisite degree of control over SHK and is a controlling person of SHK. As found above, Shak also directly attempted to manipulate the WTI futures contract and therefore had actual and constructive knowledge of conduct that constituted the violations at issue. Accordingly, Shak, a controlling person of SHK, knowingly induced, directly and indirectly, the underlying violative acts, or failed to act in good faith and is liable for SHK's violations of Sections 6(c), 6(d), and 9(a)(2) of the Act, as amended, 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006) of the Act, pursuant to Section 13(b) of the Act.

As Shak committed the acts described herein within the course and scope of his employment as an officer and agent of SHK, SHK is liable for Shak's violations of Sections 6(c), 6(d), and 9(a)(2) of the Act, as amended, 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006) of the Act of the Act pursuant to Section 2(a)(1)(B) of the Act as principal for its agent's violations of the Act.

IV.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Shak and SHK violated Sections 6(c), 6(d), and 9(a)(2) of the Act, as amended, 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006). The Commission further finds that Respondents violated the speculative position limits applicable to WTI futures contracts on the same two trading days in violation of Section 4a(e) of the Act, 7 U.S.C. § 6a(e).

V.

OFFER OF SETTLEMENT

Respondents have submitted an Offer which acknowledges service of this Order and admits the jurisdiction of the Commission with respect to the matters set forth in this Order and waives: (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 Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2011), 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. 104-121, §§ 201-253, 110 Stat. 847, 857-68 (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 claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief.

Respondents stipulate that the record basis on which this Order is entered consists of this Order and the findings in this Order consented to in the Offer. Respondents consent to the Commission's issuance of this Order that: (1) makes findings that Respondents violated Sections 4a(e), 6(c), 6(d), 9(a)(2) of the Act, 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006); (2) orders Respondents to cease and desist from violating Sections 4a(e), 6(c), 6(d), 9(a)(2) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006); (3) orders Respondents to jointly and severally pay a civil monetary penalty in the amount of Four Hundred Thousand Dollars (\$400,000), plus post-judgment interest if the civil monetary penalty is not paid within ten (10) days of the entry of this Order; (4) imposes trading restrictions on Respondents, as set forth below; and orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Order and as set forth in Part VI of this Order.

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

VI.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Shak and SHK shall cease and desist from violating Sections 4a(e), 6(c), 6(d), 9(a)(2) of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 6a(e), 9, 13b and 13(a)(2) (2006).
2. Shak and SHK shall, jointly and severally, pay a civil monetary penalty in the amount of Four hundred thousand dollars (\$400,000), plus post-judgment interest if the CMP is not paid within ten (10) days of the date of the entry of this Order. If this civil monetary penalty is not paid within ten (10) days of the date of the entry of this Order, then post-judgment interest shall accrue commencing 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.

Respondents shall pay this civil monetary penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, 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: Linda Zurhorst – AMZ-341
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone 405-954-5644

If payment by electronic transfer is chosen, 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 penalty with a cover letter that identifies Respondents and the name and docket number of this proceeding. Respondents shall simultaneously submit a copy of the cover letter and the form of payment to: (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street, N.W., Washington, D.C. 20581; and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the same address. In accordance with Section 6(e)(2) of the Act, as amended, 7 U.S.C. § 9a(2) (2006), if this amount is not paid in full within fifteen (15) days of the due date, Respondents shall be prohibited automatically from the privileges of all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until he has shown to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of the payment has been made.

3. SHK's registration as a CPO and Shak's registration as an AP of a CPO shall be suspended for a period of two years from the date of this Order.
4. Respondents are prohibited from the date of this Order:
 - a. Permanently from trading, directly or indirectly, on or subject to the rules of a registered entity, as the term registered entity is defined in Section 1a of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 1a, any futures contracts or options on crude oil futures contracts (including TAS contracts) or any other product or financial instrument in Crude Oil regulated presently or in the future by the Commission; and
 - b. For a period of two years, trading outright, directly or indirectly, on or subject to the rules of a registered entity, as registered entity is defined in

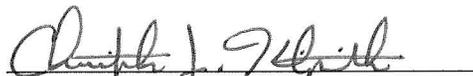
Section 1a of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. s 1a, from the beginning of the closing period for trading until the end of the closing period for any commodity futures, options on commodity futures, commodity options, security futures products, swaps, and/or foreign currency, or any other product or financial instrument regulated presently or in the future by the Commission.

All registered entities are directed to refuse such privileges consistent with the trading prohibitions imposed above until further notice of the Commission.

5. Respondents shall comply with the following undertakings:
 - a. 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 his authority or control understand and comply with this agreement.
 - b. Respondents agree that for a period of two years from the date of this Order they shall not:
 - i. apply for registration or claim exemption from registration with the Commission in any capacity, and engage in any activity requiring such registration or exemption from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011); and/or
 - ii. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a) registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011).

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

By the Commission.

A handwritten signature in black ink, appearing to read "Christopher J. Kirkpatrick", is written over a horizontal line.

Christopher J. Kirkpatrick
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: November 25, 2013