UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of	
Kennith Wayne Thrasher and Kennith Luke Thrasher,	**CFTC Docket No. 14-29**
Respondents.	

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

I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that Kennith Wayne Thrasher ("Kennith Thrasher") and Kennith Luke Thrasher ("Luke Thrasher") (collectively, "Respondents") violated Section 4a(e) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 6a(e) (2012), on twelve trading days in February 2013. 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, 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

On twelve trading days in February 2013, from February 4 through February 20 (the "Relevant Period"), the aggregated positions in two accounts for which Respondents directly or indirectly controlled trading exceeded the spot month speculative position limit for live cattle futures contracts traded on the Chicago Mercantile Exchange ("CME").

B. RESPONDENTS

Kennith Thrasher is the general manager of Canadian Feedyards LLLP ("Canadian Feedyards") and is responsible for running its day-to-day operations with his son, Luke Thrasher. He owns limited liability limited partnership interests in various cattle feeding operations, including Canadian Feedyards and Pride Feeders LLLP ("Pride Feeders"). During the Relevant Period, Kennith Thrasher had power of attorney authorizing him to trade the Canadian Feedyards and Pride Feeders accounts. He has never been registered with the Commission.

Luke Thrasher is employed by Canadian Feedyards and reports directly to his father, Kennith Thrasher. Additionally, he is a limited liability limited partner in, and helps to operate, Pride Feeders. During the Relevant Period, Luke Thrasher, directly or indirectly, placed orders to buy and sell the live cattle futures contracts for the Canadian Feedyards and Pride Feeders accounts. He has never been registered with the Commission.

C. FACTS

The trading of live cattle futures and options on futures contracts is subject to speculative position limits established by the CME and approved by the Commission. During the Relevant Period, the live cattle futures position limit in the spot month was 450 contracts from the close of trading on the first business day following the first Friday of the contract month, which for the February 2013 contract was February 4, until the close of trading on the business day immediately preceding the last five business days of the contract month, which for the February 2013 contract was February 21. Any person desiring to own or control a position in excess of these speculative position limits was required to obtain an exemption from the CME. Neither Respondents nor the feed lots obtained an exemption which would permit the accounts for which they trade to hold live cattle futures positions in excess of the CME's limits.

During February 2013, the Canadian Feedyards and Pride Feeders accounts accumulated aggregate net long positions in February 2013 spot-month CME live cattle futures contracts which exceeded the CME's position limit. Those aggregated net long positions in the February 2013 CME live cattle futures contract for the accounts of Canadian Feedyards and Pride Feeders were as follows: 800 contracts from February 4 through February 6, which exceeded the position limit by 350 contracts; 840 contracts from February 7 through February 14, which exceeded the position limit by 390 contracts; 738 contracts on February 15, which exceeded the position limit by 288 contracts; and 640 contracts on February 19 and 20, which exceeded the position limit by 190 contracts.

IV.

LEGAL DISCUSSION

Section 4a(e) of the Act makes it unlawful 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 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 bylaw, rule, regulation, or resolution has been approved by the Commission." 7 U.S.C. § 6a(e) (2012).

CME is a registered entity as defined by Section la(40) of the Act, 7 U.S.C. § la(40) (2011), and a designated contract market for trading live and feeder cattle futures contracts pursuant to Section 5 of the Act, 7 U.S.C. § 7 (2011). The Commission approved the CME's speculative position limit rule for live cattle futures contracts in February 2003.

CME rules set a 450-contract spot month speculative position limit in live cattle futures from the close of trading on the first business day following the first Friday of the contract month until the close of trading on the business day immediately preceding the last five business days of the contract month. CME Rule 10102.E.

Commission Regulation 150.5(g) provides that, "[i]n determining whether any person has exceeded the limits established under this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person; such limits upon positions shall apply to positions held by two or more persons acting pursuant to an express or implied agreement or understanding, the same as if the positions were held by a single person." 17 C.F.R. § 150.5(g) (2011). Consistent with this regulation, the CME's aggregation rule provides that "all positions in accounts for which a person by power of attorney or otherwise directly or indirectly owns the positions or controls the trading of the positions" shall be included with the positions held by such person in determining whether that person has exceeded position limits. CME Rule 559.D. This CME rule also applies "to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading of the positions were done by, a single person." *Id.*

Respondents directly or indirectly controlled the trading of the live cattle futures positions set forth above for the accounts of Canadian Feedyards and Pride Feeders. Those positions were required to be aggregated for purposes of applying CME's speculative position limits for CME's live cattle futures contracts. By exceeding on an aggregated basis the CME limits set for the live cattle futures contract, Respondents violated Section 4a(e) of the Act. The Commission does not need to establish *scienter* – i.e., proof of intent to exceed the applicable speculative position limit – in order to prove a violation of the Commission's position limit provisions. *CFTC v. Hunt*, 591 F.2d 1211, 1218 (7th Cir. 1979); *Saberi v. CFTC*, 488 F.3d

1207, 1212 (9th Cir. 2007). The Act "unambiguously imposes liability" for violations of speculative position limits. *Saberi*, 488 F.3d at 1212 (rejecting trader's contention that the Division was required to prove that he intended to violate speculative position limits in frozen pork bellies futures set forth in CME Rule 8032.E) (citing *Hunt*, 591 F.2d at 1218).

V.

FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that Respondents violated Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012), on twelve trading days during the Relevant Period.

VI.

OFFER OF SETTLEMENT

Respondents have submitted an 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 (2012) and 28 U.S.C. § 2412 (2012), 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 (2013), 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 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012);

2. orders Respondents to cease and desist from violating Section 4a(e) of the Act, 7 U.S.C. § 6a(e)(2), and Commission Regulation 150.5, 17 C.F.R. § 150.5 (2013);

3. orders Respondents, jointly and severally, to pay a civil monetary penalty in the amount of five-hundred twenty-five thousand dollars ($525,000), plus post-judgment interest; and

4. orders Respondents to comply with the conditions, undertakings, and representations consented to in the Offer and as set forth in Part VII of this Order.

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

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. Respondents shall cease and desist from violating Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012).

B. Respondents, jointly and severally, shall pay a civil monetary penalty of five-hundred twenty-five thousand dollars ($525,000) within ten (10) days of the date of entry of this Order (the "CMP Obligation"). Post-judgment interest shall accrue on the 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 (2012). Respondents shall pay the 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 paying Respondent and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581 and to the Deputy Director, Division of Enforcement, Commodity Futures Trading Commission, 140 Broadway, 19th Floor, New York, NY 10005.

C. Public Statements: Respondents agree that neither they nor any of their successors and assigns, 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 and their successors and assigns 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.

D. 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, including any matter in which the Respondents have previously provided information.

E. Partial Satisfaction: Respondents understand that any acceptance by the Commission of partial payment of Respondents' 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.

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

By the Commission.

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

Dated: September 24, 2014