

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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Office of Proceedings  
Proceedings Clerk  
11:50 am, Dec 18, 2014

In the Matter of	)	CFTC DOCKET NO. SD 15 - 03
	)	
ALEKS A. KINS	)	<b>OPINION AND ORDER</b>
	)	<b>ACCEPTING OFFER OF</b>
Registrant.	)	<b>SETTLEMENT OF</b>
	)	<b>ALEKS A. KINS</b>

I.

On this date, the Commodity Futures Trading Commission (“Commission”) issued a Notice of Intent to Suspend, Revoke, or Restrict Registration (“Notice”) against Aleks A. Kins (“Kins”). The Notice alleged that Kins’s registration as an associated person (“AP”) is subject to statutory disqualification pursuant to Section 8a(3)(C) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 12a(3)(C) (2012). To resolve this matter, Kins has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept.

II.

Kins acknowledges service of this Opinion and Order Accepting Offer of Settlement (“Order”). To effect settlement of the matters alleged in the Notice and this Order, without taking testimony and prior to any adjudication on any issue of fact or law by the Commission, Kins consents to the entry of this Order and to the use of the findings in this Order only in this proceeding and in any proceeding brought by the Commission or to which the Commission is a party.<sup>1</sup>

<sup>1</sup> Kins consents 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 Kins does 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 does Kins 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

Kins was the President and CEO of AlphaMetrix, LLC (“AlphaMetrix”), a registered commodity pool operator (“CPO”) and commodity trading advisor (“CTA”), and AlphaMetrix Group LLC (“AMG”), AlphaMetrix’s parent company. Kins was also registered with the Commission as an AP of AlphaMetrix.

AlphaMetrix entered into agreements to rebate certain fees charged to participants of commodity futures pools (the “pool participants”) operated by AlphaMetrix by reinvesting the rebates in the pools in the name of and on behalf of the pool participants. AlphaMetrix failed to reinvest these rebates and instead transferred them to the bank accounts of its parent company, AMG, and AMG used the funds to meet obligations of AMG. In addition, account statements that AlphaMetrix emailed to these pool participants during this time period reflected increases in the net asset value of the pool participants’ investment as if the rebates had been reinvested in the pools, even though they were not. The activities were carried out at the direction of officers and employees of AlphaMetrix and AMG who were subject to Kins’s supervision and resulted in violations of the Act. Kins failed reasonably to supervise these officers and employees with a view to preventing violations of the Act.

These alleged facts constitute grounds for statutory disqualification of Kins’s registration under Section 8a(3)(C) of the Act, 7 U.S.C. § 12a(3)(C)(2012).

#### B. REGISTRANT

**Aleks A. Kins** has been registered with the Commission as an AP of AlphaMetrix since July 2005.

### **C. FACTUAL ALLEGATIONS**

During the ordinary course of its business as a CPO, AlphaMetrix agreed to rebate certain fees to participants of commodity pools (the “pool participants”) operated by AlphaMetrix by reinvesting the rebates in the pools in the name of and on behalf of the participants. Between January 1, 2013 and October 31, 2013, AlphaMetrix was obligated to reinvest approximately \$2.8 million of rebates in this manner. However, instead of reinvesting the rebates, AlphaMetrix transferred the funds to bank accounts of AMG to meet AMG’s financial obligations. Account statements that AlphaMetrix emailed to the pool participants during this time period reflected increases in the net asset value of the pool participants’ investment as if the rebates had been reinvested in the pools, even though they were not. These activities were carried out at the direction of officers and employees of AlphaMetrix and AMG subject to Kins’s supervision in an effort to resolve financial difficulties at AMG and resulted in violations of the Act.

### **D. LEGAL DISCUSSION**

Kins’s registration is subject to statutory disqualification under the Act. Pursuant to Section 8a(4) of the Act, 7 U.S.C. § 12a(4)(2012), the Commission may revoke the registration of any person if cause exists under Section 8a(3) of the Act which would warrant a refusal of registration of such person.

Section 8a(3)(C) of the Act authorizes the Commission to refuse to register any person if it is found, after opportunity for hearing, that “such person failed reasonably to supervise another person, who is subject to such person’s supervision, with a view to preventing violations of this Act, or of ... [the securities acts], or of any of the rules, regulations or orders thereunder, and the person subject to supervision committed such a violation ...” The officers and employees who carried out the rebate reinvestment activities at AlphaMetrix and AMG were subject to Kins’s

supervision, and he failed reasonably to supervise them. Kins's failure to supervise forms the basis for a statutory disqualification under Section 8a(4) of the Act.

#### IV.

#### OFFER OF SETTLEMENT

Kins has submitted an Offer in which, without admitting or denying the allegations in the Notice or this Order, he: (1) acknowledges service of the Notice and Order; (2) admits the jurisdiction of the Commission with respect to the matters set forth in the Notice and Order; (3) waives a hearing, all post-hearing procedures, judicial review by any court, and any objection to the staff's participation in the Commission's consideration of the Offer; and (4) stipulates that the record basis on which this Order is entered consists of the Notice and the findings to which Kins consented in his Offer, which are incorporated in this Order. In addition, Kins waives all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006) and Part 148 of Commission Regulations, 17 C.F.R. §§ 148 *et seq.* (2013), relating to, or arising from, this action.

#### V.

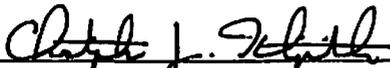
#### ORDER

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

1. Kins's registration as an associated person is hereby revoked.
2. Kins shall comply with the undertaking set forth in the Offer that he agrees that neither he nor any of his agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Notice or this Order, or creating or tending to create the impression that the Notice or Order are without a factual basis; provided, however, that nothing in this provision shall affect Kins': (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Kins shall undertake all steps necessary to ensure that all of his agents and employees under his authority or control understand and comply with this agreement.

The provisions of this Order shall be effective immediately. A copy of this Order shall be served on Kins, on all contract markets, and on the National Futures Association.

By the Commission.

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

Dated: December 18, 2014