



Commodity Futures Trading Commission

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Statement

Statement of Acting Director of Enforcement Stephen Obie

(As Prepared for Delivery)

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The Commission's Enforcement Action

Today, on behalf of the Commission, we are announcing the filing of a civil enforcement action in the United States District Court for the Southern District of New York against **Optiver Holding BV**, a global proprietary trading fund headquartered in the Netherlands, and two subsidiaries – **Optiver US, LLC** (Optiver US), a Chicago-based corporation, and **Optiver VOF**, a Dutch company. The complaint also names as defendants **Christopher Dowson**, **Randal Meijer**, and **Bastiaan van Kempen**. Defendant Dowson is the head trader for Optiver US, defendant Meijer is the global head of trading for Optiver US and Optiver VOF. Defendant van Kempen is the Chief Executive Officer for Optiver US.

I want to make clear that the statements contained in the Commission's complaint, and my statements here today are allegations, and that the Commission is in the beginning stages of the litigation process.

The alleged manipulative scheme involved trading a large volume of NYMEX Crude Oil, Heating Oil, and New York Harbor Gasoline futures contracts to manipulate settlement prices for those contracts during one month in 2007. The complaint charges all defendants with 19 separate instances of attempted manipulation of these contracts on 11 days in March 2007. The complaint further alleges that at least five of those 19 attempts were successful, causing artificial prices in certain of these energy futures contracts. In three of those instances, defendants forced futures prices lower, and in two instances, defendants forced futures prices higher, each time causing an artificial settlement price for their own benefit to increase their own profits.

As alleged in the complaint, the defendants employed a manipulative scheme commonly known as "banging" or "marking" the close. "Banging the close" refers to the practice of acquiring a substantial position leading up to the closing or settlement

period, followed by offsetting the position before the end of the close of trading for the purpose of attempting to manipulate prices.

The complaint further charges Optiver US and van Kempen with concealing the manipulative scheme and making false statements in response to an inquiry from NYMEX. The Commission's case is set forth in the Complaint filed today-I will not speak beyond the allegations of the complaint but will give you two examples of the scheme.

The Manipulative Trading Scheme

I'd like to illustrate how the alleged manipulative scheme worked, using two charts.

The chart on my right shows the defendants' trading on March 2, 2007 in the New York Harbor Gasoline futures contract. The other shows the defendants' trading on March 16, 2007 in the Crude Oil futures contract.

The red line on each chart shows Optiver US's futures position for the time period 2:22 to 2:32. The blue line shows the futures price in the market for each contract as it moved over that same time period. The horizontal green line marks where the market settled for the day in each contract.

These charts illustrate three things about the alleged manipulative scheme:

First, the charts demonstrate how correlated futures prices were on these two days with the defendants' trading.

Second, the charts show that the defendants succeeded in their attempt to move futures prices on these two days.

Third, the charts show that defendants' scheme involved directional trading.

That is to say, sometimes the defendants were attempting to force the price up and sometimes they were attempting to force the price down—but always in an effort to create an artificial settlement price in order to benefit Optiver's book.

Let's take a look at the chart for the New York Harbor Gasoline contract on March 2, 2007:

Just prior to the beginning of the settlement period on March 2, 2007 the defendants took a short position of 260. Using other NYMEX contracts, Optiver US established an offsetting position to this 260 futures contract short position. Once the settlement period began at 2:28 p.m., the defendants started the snowball and continued to snowball the price down during the settlement period in an effort to bang the close. By forcing the settlement price lower, the defendants made money on all of Optiver US's futures position that were executed at a price higher than the settlement price.

The March 2, 2007 chart is indicative of the defendants' general strategy to execute a significant percentage of Optiver US's futures trades just before the close and the

remainder during the close. By so doing, Optiver US believed that it would profit handsomely. The Division has conservatively estimated that Optiver US earned a profit of over \$190,000 on March 2, 2007 as a result of its manipulative New York Harbor Gasoline trading.

As alleged in the complaint, the defendants attempted their manipulative strategy nine more times in the New York Harbor Gasoline futures market after March 2, 2007. On March 14, 2007, defendant Dowson confidently asserted “we can move the gasoline market.”

The second chart illustrates Optiver US’s Crude Oil trading on March 16, 2007. On March 16, 2007, defendant Dowson confirmed that, with regard to crude oil, he and another Optiver US trader decided to “just whack the oil.”

The chart for Optiver US’s Crude Oil trading on March 16, 2007 shows how the defendants did exactly that. As you can see, the defendants purchased 999 Crude Oil futures, forcing the price up just before the settlement period. And they continued their pushing during the settlement.

The Division has conservatively estimated that Optiver US earned a profit of over \$400,000 on March 16 through its manipulative activity in the Crude Oil contract.

The manipulative scheme occurred on other days after March 16, 2007 and the defendants wanted the manipulative scheme to continue. On March 19, 2007 defendant van Kempen told another Optiver US trader:

You should milk it for right now, as much as you can,
because you never know how long this thing is going to last.

Planning the Cover-Up: The “Fairy Story”

The defendants not only thought about how to conceal their manipulative scheme, but also devised a cover story. Less than a week into the alleged manipulative scheme, defendants Dowson and Meijer discussed the story they planned to use if, in defendant Dowson’s words, “people come... with stories about why you manipulated the market.” They agreed that, among other things, they could claim that their intent was really to buy low and sell high. In the conversation, defendant Dowson acknowledged that their explanation was a “fairy story.”

Trying to Fly Below the Radar

In addition, the defendants deliberately attempted to conceal the manipulative nature of their trading strategy. On March 9, 2007—less than one week into the scheme-- defendant Dowson stated that he was not going to push the market so dramatically that, in his words “we’re talking about it on CNBC[.]”

NYMEX Intervenes and Stops the Manipulative Scheme in Its Tracks

The U.S. futures exchanges are frontline regulators and strong partners in our collective effort to quickly detect and take action to stop illegal activity. As a result of its proactive

surveillance program, NYMEX discovered and brought to a halt the defendant's manipulative scheme.

Profits

The complaint alleges that as a result of its manipulative trading scheme, Optiver US reaped profits of over \$1 million.

NYMEX energy futures prices are used as benchmarks for energy prices worldwide and US futures markets serve a vital price discovery function. When that price discovery function is interfered with, as it was here, the Division of Enforcement will act.

Optiver's traders considered their manipulative trading scheme, in their words, a "fun game" that involved their efforts to "hammer," "influence," "push," "move," "whack," and "bully" the prices of futures contracts in Crude Oil, Heating Oil, and New York Harbor Gasoline. Today's action lets the marketplace know that the Division of Enforcement has a zero-tolerance policy for illegal gamesmanship when it comes to our nation's futures markets.

Each and every day, Commission staff carefully monitor our commodity markets, and we work zealously to ensure the fundamental integrity of the marketplace. The men and women of the Division of Enforcement are working tirelessly to pursue every investigative lead related to potential wrongdoing in the commodities markets, including our nation's vital energy markets. When we uncover violations of the Commodity Exchange Act, as we allege here, we use every resource available to us, to hold accountable those responsible, wherever they are located.

Conclusion

I would like to thank the Commission for its strong support of our Enforcement efforts in this case.

The NYMEX has done an exemplary job in this case. I would like to thank especially Thomas LaSala and his team for their cooperation with Enforcement staff.

I would also like to thank the National Crude Oil Investigation team and the entire Enforcement team who worked on this investigation, including those up here with me today.