



## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

Respondent Catalyst Capital Advisors, LLC (“Catalyst”) operates a family of mutual funds, including the Catalyst Hedged Futures Strategy Fund (the “Fund”). The Fund traded on-exchange options on S&P Futures Contracts. Since at least 2014, the Fund’s strategy relied heavily on taking net short call options positions. From September 2013 to November 2016, the Fund grew from \$6 million in assets under management to over \$4 billion in assets under management.<sup>2</sup> By 2016, the Fund was, by far, Catalyst’s largest.

Szilagyi has been the CEO and majority owner of Catalyst since he co-founded the company in 2006.

Catalyst and its agents made representations regarding risk management that were materially misleading. Specifically, Catalyst represented that strict risk management protocols were in place, including stop-loss measures to limit losses. Moreover, the Fund’s portfolio manager told investors or investment advisors that he took specific steps to stress-test the portfolio and to limit losses to 8% of assets under management. Catalyst also told investment advisors that risk metrics were reviewed by a dedicated risk manager on a daily basis. These statements were false or misleading. No stop-loss measures were in place. Due to large net short options positions throughout 2016, the Fund was frequently at risk of losing well over 8% of its value on a relatively modest increase in the underlying market.

Catalyst’s misstatements and those of its agents, including through the portfolio manager, violated Section 4o(1)(B) of the Act, 7 U.S.C. § 6o(1)(B) (2012). Further, Catalyst failed to implement a supervisory system designed to ensure that statements made in its marketing materials and by its agents about risk management were consistent with how the Fund’s risk was actually managed. This failure violated Regulation 166.3, 17 C.F.R. § 166.3 (2019). As a control person of Catalyst who failed to establish an adequate system of supervision, Szilagyi is liable for Catalyst’s violations of Section 4o(1)(B) and Regulation 166.3.

### B. RESPONDENTS

Since 2013, Catalyst has been registered with the Commission as a Commodity Pool Operator (“CPO”).

Respondent Jerry Szilagyi is the CEO of Catalyst Capital Advisors, LLC, and its majority owner. Szilagyi has been a listed Principal of Catalyst since the company’s registration as a CPO in 2013.

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<sup>2</sup> Catalyst charged an advisory fee that was equal to a percentage of the Fund’s assets under management.

## C. FACTS

From November 2014 through February 2017, Catalyst and its agents made representations about how the Fund managed risk that were not consistent with how the Fund's risk was actually managed. Such representations were made in writing, including in Fund marketing materials, and orally by the Fund's portfolio manager. For example, the Fund's written marketing presentations stated that the Fund had "portfolio level stop loss trigger points to limit drawdowns" or "aggregate portfolio stop loss measures." Catalyst's marketing materials also stated that the Fund's risk metrics were monitored or overseen by a dedicated risk manager. On at least two occasions, investment advisors were told that such monitoring occurred on a daily basis.

On "open house" conference calls with investment advisors (who had discretion over client portfolios), the Fund's portfolio manager stated that he used sophisticated options modeling software to stress test the portfolio, and that when the stress tests showed him that the portfolio was at risk of losing more than 8% of the Fund's net asset value, he hedged to remove that risk before it could materialize. For example, on November 4, 2014, the portfolio manager stated:

I use risk management to control losses to roughly 8%; that's the number I use in stress testing . . . I have very sophisticated options pricing models. I plug the portfolio into these models each day. I stress the portfolio for a series of [underlying] price movements up to 10%. I stress the portfolio for volatility movements . . . and then I look over five different time frames . . . I'll vary those time frames to match up to different times that are important to options—expirations for part of the portfolio, for example. So I . . . identify what's the impact on the portfolio value at these stress points, and *if the impact is greater than my 8% limit, then I'll go in and I'll hedge the portfolio to bring it back in line.*

(Emphasis added.)

On other occasions in 2015 and 2016, the portfolio manager made similar statements, emphasizing that he stress tested the portfolio against 5% and 10% increases in the underlying market, and that when these tests showed him that the Fund was at risk of losing more than 8%, he traded until that risk went away. He told investment advisors that "we're never in a situation where . . . we're sitting waiting for that 8% to get triggered."

These representations were false or misleading. The Fund's risk management protocols did not include "aggregate portfolio stop loss measures." Moreover, the portfolio manager on various occasions did not, in fact, take the risk-limiting steps that he told investment advisors he did, and would, take. Rather, for extended periods from 2014 to 2017, the Fund was at risk of double digit losses if the underlying S&P 500 were to increase just a few percentage points. For

example, on February 1, 2017, the portfolio manager's software would have indicated that a 5% increase in the S&P Futures market would result in significant, double-digit losses to the Fund. Yet, contrary to what investors had been told, the Fund did not enter any trades from February 1 through February 8, 2017, to mitigate that risk. From February 9 through March 1, 2017, the market rose roughly 4.4% and the Fund lost over 19% of its value.

Moreover, Catalyst's risk manager did not review the Fund's risk metrics on a daily basis.

Catalyst failed to take adequate steps to deter the making of the foregoing misstatements regarding the Fund's risk management or to ensure that the Fund was managed in such a way as to make them accurate. Specifically, Catalyst did not implement or maintain procedures designed to ensure that "stop-loss" measures and other risk-limiting tools described to investors or investment advisors were actually utilized. Neither the risk manager, nor anyone else at Catalyst, took proactive steps to override the portfolio manager to limit the Fund's loss exposure until it was too late. Nor did Catalyst implement or maintain adequate procedures designed to ensure that those acting on its behalf did not make misrepresentations to investors or investment advisors, or to correct misrepresentations that were made.

As the CEO of Catalyst at all relevant times, Szilagyi directly or indirectly controlled all aspects of Catalyst's business, including the Fund. He had the power and authority to establish and implement a supervisory system designed to detect and prevent the violations described above.

### III. LEGAL DISCUSSION

#### A. Catalyst's Misstatements Operated as a Fraud

Section 4o(1)(B) of the Act, 7 U.S.C. §6o(1)(B) (2012), states:

It shall be unlawful for a . . . commodity pool operator, or associated person of a commodity pool operator by use of . . . any means or instrumentality of interstate commerce, directly or indirectly . . . (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

To prevail on a Section 4o(1)(B) claim, the Commission must prove the CPO or associated person thereof made a misrepresentation or omission that was material. *CFTC v. Heffernan*, 245 F. Supp. 2d 1276, 1292 (S.D. Ga. 2003). The focus of Section 4o(1)(B) is on whether the respondent's conduct "had the effect of a fraud upon a customer or potential customer." *Id.* at 1290. The Commission need not prove that the respondent acted with *scienter*. *Messer v. E.F. Hutton & Co.*, 847 F.2d 673, 677 (11th Cir. 1988); *Heffernan*, 245 F. Supp. 2d at 1292; *see also CFTC v. Savage*, 611 F.2d 270, 285 (9th Cir. 1980) ("If the [CPO] intended to do what was done and its consequence is to defraud the client or prospective client that is enough to constitute a violation of section 4O 1)").

“A representation or omission is “material” if a reasonable investor would consider it important in deciding whether to make an investment.” *CFTC v. Kratville*, 796 F.3d 873, 895 (8th Cir. 2015) (quoting *CFTC v. R.J. Fitzgerald*, 310 F.3d 1321, 1328-29 (11th Cir. 2002) (citations omitted)). Importantly, “misrepresentations concerning profit and risk go to the heart of a customer’s investment decision and are therefore material as a matter of law.” *CFTC v. Noble Wealth Data Info. Servs., Inc.*, 90 F. Supp. 2d 676, 686 (D. Md. 2000), *aff’d in part and vacated in part on other grounds*, 278 F.3d 319 (4th Cir. 2002).

Catalyst violated Section 4o(1)(B) of the Act because it made the false or misleading statements described above regarding strict risk management protocols, stop-loss measures, and the role of the risk manager. Because these statements concerned the risk of investing in the Fund, they were inherently material. Catalyst is also liable for the misstatements of the portfolio manager, as he was speaking within the scope of his position or office with Catalyst. *See* Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012); Regulation 1.2, 17 C.F.R. § 1.2 (2018).

## **B. Catalyst Failed To Supervise**

Regulation 166.3, 17 C.F.R. § 166.3 (2019), imposes on every Commission registrant (except associated persons who have no supervisory duties) an affirmative duty to “diligently supervise the handling by its partners, officers, employees and agents . . . of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents . . . relating to its business as a Commission Registrant.” In order to prove a violation of Regulation 166.3, the Commission must demonstrate that either: (1) the registrant’s supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re GNP Commodities, Inc.*, CFTC No. 89-1, 1992 WL 201158, at \*19 (Aug. 11, 1992), *aff’d sub nom. Monieson v. CFTC*, 996 F.2d 852 (7th Cir. 1993). A violation under Regulation 166.3 is an independent violation for which no underlying violation is necessary. *See, e.g., In re Collins*, CFTC No. 94-13, 1997 WL 761927, at\*10 (Dec. 10, 1997) (“It is well settled that a violation under Rule 166.3 is ‘an independent and primary violation for which no underlying violation is necessary.’” (citation omitted)); *GNP Commodities*, 1992 WL 201158, at \*17 n.11 (“Rule 166.3 establishes failure to supervise as an independent and primary violation . . . .” (citation omitted)).

“[A] showing that the registrant lacks an adequate supervisory system can be sufficient to establish a breach of duty under Rule 166.3.” *Collins*, 1997 WL 761927, at \*10 (citing *In re First Nat’l Trading Corp.*, CFTC Nos. 90-28, 92-17, 1994 WL 378010, at \*10 (July 20, 1994), *aff’d without op. sub nom. Pick v. CFTC*, 99 F.3d 1139 (6th Cir. Oct. 21, 1996)). The lack of an adequate supervisory system can be established by showing that the registrant failed to develop proper procedures for the detection of wrongdoing. *CFTC v. Trinity Fin. Grp, Inc.*, No. 92-cv-6832, 1997 WL 820970, at \*29 (S.D. Fla. Sept. 29, 1997) (controlling person failed to establish or maintain meaningful procedures for detecting fraud by firm’s employees and controlling person knew of specific incidents of misconduct, yet failed to take reasonable steps to correct the problems), *aff’d in part, vacated in part, and remanded sub nom. CFTC v. Sidoti*, 178 F.3d 1132, 1137 (11th Cir. 1999).

Evidence of violations that “should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly,” is probative of a failure to supervise. *Paragon Futures*, CFTC No. 88-18, 1992 WL 74261, at \*14. The duty to supervise “expands a registrant’s focus beyond the consequences of its agents’ wrongful acts to include the broader goals of detection and deterrence of possible wrongdoing by a [registrant’s] agents.” *Lobb v. J.T. McKerr & Co.*, CFTC No. 85R-185, 1989 WL 242384, at \*11 (Dec. 14, 1989). Accordingly, under Regulation 166.3, registrants have a “duty to develop procedures for ‘the detection and deterrence of possible wrongdoing by its agents.’” *Sansom Refining Co. v. Drexel Burnham Lambert, Inc.*, CFTC No. 82-R448, 1990 WL 282783, at \*11 (Feb. 16, 1990) (quoting *Lobb v. J.T. McKerr & Co.*, 1989 WL 242384, at \*11).

Because Catalyst did not have an adequate supervisory system in place to detect and deter false or misleading statements it, or its agents, made to investors about risk management, it violated Regulation 166.3.

### **C. Szilagyi Is Liable as a Control Person for Catalyst’s Misconduct**

Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), provides that “any person who, directly or indirectly, controls any person who has violated any provision of this Act . . . may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person.” For liability to attach, the Commission also “has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.” *Id.* To prove lack of good faith, the Division may show that a controlling person “did not maintain a reasonably adequate system of internal supervision and control over the [primary violator] or did not enforce with any reasonable diligence such a system.” *Monieson*, 996 F.2d at 860; *see also CFTC v. Sentinel Mgmt. Grp. Inc.*, No. 08-2410, 2012 WL 3234277, at \*5 (N.D. Ill. Aug. 6, 2012).

Because Szilagyi controlled Catalyst and failed to “maintain a reasonably adequate system of internal supervision” designed to prevent the violations described above, Szilagyi is liable for Catalyst’s violations of Section 4o(1)(B) of the Act and Regulation 166.3.

## **IV. FINDINGS OF VIOLATION**

Based on the foregoing, the Commission finds that Catalyst and Szilagyi violated Section 4o(1)(B) of the Act, 7 U.S.C. § 6o(1)(B) (2012), and Regulation 166.3, 17 C.F.R. § 166.3 (2019).

## **V. OFFER OF SETTLEMENT**

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

- A. Acknowledge 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 it 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 Regulations, 17 C.F.R. pt. 148 (2019), relating to, or arising from, this proceeding;
  7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), 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, including this Order;
- 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; and
- 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 4o(1)(B) of the Act, 7 U.S.C. § 6o(1)(B) (2012), and Regulation 166.3, 17 C.F.R. § 166.3 (2019);
  2. Orders Respondents to cease and desist from violating Section 4o(1)(B) and Regulation 166.3;
  3. Orders Respondent Catalyst to pay a civil monetary penalty in the amount of one million three hundred thousand dollars (\$1,300,000), plus post-judgment interest within ten days of the date of entry of this Order;
  4. Orders Respondent Szilagyi to pay a civil monetary penalty of three hundred thousand dollars (\$300,000), plus post-judgment interest within ten days of the date of the entry of this Order;

5. Orders Respondent Catalyst to pay disgorgement of advisory fees in the amount of eight million one hundred seventy-six thousand seven hundred twenty-two dollars (\$8,176,722), plus prejudgment interest of seven hundred thirty-one thousand seven hundred fifty-nine dollars (\$731,759), for a total of eight million nine hundred eight thousand four hundred eighty-one dollars (\$8,908,481); and
6. Orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order.

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

## **VI. ORDER**

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

- A. Respondents shall cease and desist from violating Section 4o(1)(B) of the Act, 7 U.S.C. § 6o(1)(B) (2012), and Regulation 166.3, 17 C.F.R. § 166.3 (2019).
- B. Respondent Catalyst shall pay a civil monetary penalty in the amount of one million three hundred thousand dollars (\$1,300,000) (“Catalyst CMP Obligation”), within ten days of the date of the entry of this Order. If the Catalyst CMP Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the Catalyst 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).

Respondent Catalyst shall pay the CMP Obligation and any post-judgment interest 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:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
6500 S. MacArthur Blvd.  
HQ Room 181  
Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondent Catalyst shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent Catalyst shall accompany payment of the Catalyst CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent



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 Sam Wasserman and Candice Aloisi, Commodity Futures Trading Commission, 140 Broadway, New York, NY 10005.

Payment, up to the amount of \$1,300,000, made by Respondent Catalyst in satisfaction of the CMP order entered in the *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("SEC Order")*, in the proceeding captioned *In the Matter of Catalyst Capital Advisors, LLC and Jerry Szilagyi*, brought by the Securities and Exchange Commission (including payments to an escrow account as provided in the SEC Order) shall offset (dollar-for-dollar) Respondent Catalyst's CMP Obligation identified herein.

- C. Respondent Szilagyi shall pay a civil monetary penalty in the amount of three hundred thousand dollars (\$300,000) ("Szilagyi CMP Obligation"), within ten days of the date of the entry of this Order. If the Szilagyi CMP Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the Szilagyi 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).

Respondent Szilagyi shall pay the Szilagyi CMP Obligation and any post-judgment interest 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:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
6500 S. MacArthur Blvd.  
HQ Room 181  
Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondent Szilagyi shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent Szilagyi shall accompany payment of the Szilagyi CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent 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 Sam Wasserman and

Candice Aloisi, Commodity Futures Trading Commission, 140 Broadway, New York, NY 10005.

Payment, up to the amount of \$300,000, made by Respondent Szilagyi in satisfaction of the CMP order entered in the *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("SEC Order")*, in the proceeding captioned *In the Matter of Catalyst Capital Advisors, LLC and Jerry Szilagyi*, brought by the Securities and Exchange Commission (including payments to an escrow account as provided in the SEC Order) shall offset (dollar-for-dollar) Respondent Szilagyi's CMP Obligation identified herein.

D. Respondents and their successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. **Public Statements:** Respondents agree that neither they nor any of their successors and assigns, agents or employees under its 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' and/or their agents' and/or employees': (i) testimonial obligations; or (ii) right to take positions in other proceedings to which the Commission is not a party. Respondents and their successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under their authority or control understand and comply with this agreement.<sup>3</sup>
2. **Disgorgement:** Respondent Catalyst agrees to pay disgorgement in the amount of eight million one hundred seventy-six thousand seven hundred twenty-two dollars (\$8,176,722), plus prejudgment interest of seven hundred thirty-one thousand seven hundred fifty-nine dollars (\$731,759), for a total of eight million nine hundred eight thousand four hundred eighty-one dollars (\$8,908,481) ("Disgorgement Obligation"), representing advisory fees received in connection with such violations, within ten days of the date of the entry of this Order. If the Disgorgement Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the 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 (2012).

Payment, up to the full amount of \$8,908,481, made by the Respondent Catalyst in satisfaction of the disgorgement order entered in the *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e)*,

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<sup>3</sup> To the extent that the Commission brings an enforcement action against any employee or agent of Respondents arising from the same nexus of facts as this Order, this provision shall not apply to actions or public statements by such employee made in connection with that enforcement action.

203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("SEC Order"), in the proceeding captioned *In the Matter of Catalyst Capital Advisors, LLC and Jerry Szilagyi*, brought by the Securities and Exchange Commission (including payments to an escrow account as provided in the SEC Order) shall offset (dollar-for-dollar) Respondents' Disgorgement Obligation identified herein.

Respondent Catalyst shall pay the Disgorgement Obligation and any post-judgment interest 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:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
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Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Marie Thorne 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 paying Respondent and the name and docket number of this proceeding. The paying 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.

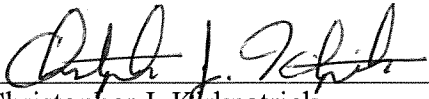
3. Cooperation, in General: Respondents shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement ("Division"), in this action, and in any current or future Commission investigation or action related thereto ("Commission Related Matters"). Respondents shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action ("Subject Related Matters"). Respondents' cooperation shall continue for a period of five years from the date of the entry of this Order, or until any Commission Related Matters or Subject Related Matters are concluded, whichever is longest. As part of such cooperation, Respondents, through their agents where applicable, agree to:

- a. preserve and produce to the Commission in a responsive and prompt manner, as requested by the Division's staff, all non-privileged documents, information, and other materials wherever located, in the possession, custody, or control of Respondents;
  - b. utilize their knowledge and skill to explain transactions, interpret information and terminology, or identify new and productive lines of inquiry;
  - c. prepare and appear for interviews and testimony at such times and places as requested by the Division's staff;
  - d. respond completely and truthfully to all inquiries and interviews, when requested to do so by the Division's staff;
  - e. identify and authenticate relevant documents, execute affidavits or declarations, and testify completely and truthfully at depositions, trial, and other judicial proceedings, when requested to do so by the Division's staff;
  - f. accept service by mail, electronic mail, or facsimile transmission of notices or subpoenas for documents and/or testimony at depositions, hearings, or trials;
  - g. appoint Respondents' attorney as agent to receive service of such notices and subpoenas;
  - h. waive the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules in connection with requests or subpoenas of the Division's staff; and
  - i. serve by hand delivery or by next-day mail all written notices and correspondence required by or related to this Agreement to the Director of the Division of Enforcement, United States Commodity Futures Trading Commission, 1155 21st Street, NW, Three Lafayette Centre, Washington, DC 20581, unless otherwise directed in writing by the Division's staff.
4. **Partial Satisfaction:** Respondents understand and agree that any acceptance by the Commission of any partial payment of Respondent Catalyst's Disgorgement Obligation or of Respondents respective CMP Obligations (as those obligations may be reduced by payments to the SEC consistent with the terms of this Order) 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 respective CMP Obligations as set forth in this Order, Respondents shall provide written notice to the Commission by certified

mail of any change to their telephone numbers and mailing addresses within ten calendar days of the change.

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

By the Commission.

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

Dated: January 27, 2020