

ENTERED

August 15, 2022

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

EOX HOLDINGS L.L.C. and
ANDREW GIZIENSKI,

Defendants.

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CIVIL ACTION NO. H-19-2901

FINAL JUDGMENT

In accordance with the verdict of the jury, the stipulations and agreements of the parties, the evidence at trial, and the rulings of the court, the court **ORDERS, ADJUDGES, and DECREES** that

1. Plaintiff, Commodity Futures Trading Commission ("CFTC" or "Plaintiff"), recover civil penalties of \$7,000,000 from EOX Holdings LLC ("EOX") and Andrew Gizienski ("Gizienski") (collectively, "Defendants"), jointly and severally, pursuant to the verdict of the jury on Count II.

2. CFTC recover civil penalties of \$490,000 from EOX pursuant to the verdict of the jury on Counts III and IV.

3. CFTC recover post-judgment interest on such amounts.

4. Pursuant to Section 6c of the Commodity Future Trading Act (the "Act"), 7 U.S.C. § 13a-1, EOX and Gizienski are

permanently restrained, enjoined, and prohibited from directly or indirectly:

- a. Disclosing the orders of other customers held by them or any affiliated persons, unless such disclosure is necessary to the effective execution of such order or is made at the request of an authorized representative of the CFTC, the contract market on which such order is to be executed, or a futures association registered with the CFTC pursuant to section 17 of the Act, in violation of Regulation 155.4(b)(1), 17 C.F.R. § 155.4(b)(1) (2021); and
- b. Knowingly taking, directly or indirectly, the other side of any order of another person revealed to the them or any affiliated persons by reason of their relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by or certified to the CFTC, in violation of Regulation 155.4(b)(2), 17 C.F.R. § 155.4(b)(2) (2021).

5. Pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, EOX is permanently restrained, enjoined, and prohibited from directly or indirectly failing to

- a. Make and maintain for a period of one year copies of all oral communications and for five years copies of all written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in a commodity interest and any related cash or forward transactions (but not oral communications that lead solely to the execution of a related cash or forward transaction), whether transmitted by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media (for purposes of this section, all communications described in this paragraph are referred to as "oral pre-trade communications" if transmitted orally or as "written pre-trade communications" if transmitted in writing, and all such communications are referred to collectively as "pre-trade communications"), as required by Regulation 1.35(a)(1)(iii), 17 C.F.R. § 1.35(a)(1)(iii) (2021); and
- b. Keep and maintain all other regulatory records required to be kept by the Act and Regulations for

a period of not less than five years from the date on which the record was created, as required by Regulation 1.31(b)(2)-(3), 17 C.F.R. § 1.31(b)(2)-(3) (2021); and

- c. Diligently supervise the handling by its partners, officers, employees, and agents (or persons occupying a similar status or performing a similar function) of all commodity interest accounts carried, operated, advised or introduced by EOX and all other activities of its partners, officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to its business as a CFTC registrant, as required by Regulation 166.3, 17 C.F.R. § 166.3 (2021).

6. Gizienski is restrained, enjoined, and prohibited for a period of 120 days from the entry of this Final Judgment from directly or indirectly:

- a. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40));
- b. Entering into any transactions involving "commodity interests" (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2021), for his

- own personal account or for any account in which he has a direct or indirect interest;
- c. Having any commodity interests traded on his behalf;
 - d. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
 - e. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
 - f. Applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2021); and
 - g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2021)), agent, or any other officer or employee of any person (as that term is defined in 7 U.S.C. § 1a(38)), registered, exempted from registration or required to be registered with the CFTC, except as provided for in 17 C.F.R. § 4.14(a)(9).

7. EOX is ORDERED to

Implement policies and procedures within sixty (60) days of the entry of this Final Judgment requiring:

- (1) Daily, monthly, and annual reviews of trading in any account directed by any associated person or other employee;
- (2) Mandatory training for all associated persons and other employees involved in the handling, administration, or access to records of customer orders regarding:
 - i. Handling of confidential, non-public information relating to EOX customers; and
 - ii. Conflicts of interest in brokering commodity trades.

8. The injunctive and equitable relief provisions of this Final Judgment shall be binding upon Defendants, upon any person under their authority or control, and upon any person who receives actual notice of this Final Judgment, by personal service, e-mail, facsimile, or otherwise insofar as he or she is acting in active concert or participation with Defendants.

9. The court shall retain jurisdiction of this action to ensure compliance with this Final Judgment and for all other

purposes related to this action, including any motion by Defendants to modify or for relief from the terms of this Final Judgment.

10. Costs that are allowed under 28 U.S.C. § 1920 will be taxed against Defendants EOX and Gizienski. Pursuant to Local Rule 54.2, Plaintiff shall file an application for costs within 14 days of the entry of this Final Judgment.

11. All other relief requested by Plaintiff and Defendants is DENIED.

This is a FINAL JUDGMENT.

SIGNED at Houston, Texas, on this 15th day of August, 2022.

A handwritten signature in black ink, appearing to read "S. Lake", is written over a horizontal line.

SIM LAKE
SENIOR UNITED STATES DISTRICT JUDGE