

**UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION**

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9:10 am, Sep 26, 2022

In the Matter of:

Tanius Technology, LLC,

Respondent.

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) **CFTC Docket No. 22-34**
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that between October 1, 2020 and June 30, 2021 (“Relevant Period”), Tanius Technology, LLC (“Respondent” or “Tanius”) violated Section 4c(a)(5)(C) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6c(a)(5)(C). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Tanius engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Tanius has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Tanius consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.¹

¹ Respondent consents to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, on over 1,000 occasions, Randy Chen, who was at the time a Tanius employee trading on Tanius's behalf, engaged in spoofing activity in various futures contracts, including Treasuries, on the Chicago Mercantile Exchange ("CME"), the Chicago Board of Trade ("CBOT"), and The Commodity Exchange Inc. ("COMEX") (together, the "CME Exchanges"), which are futures exchanges and designated contract markets owned and operated by the CME Group Inc. Chen's conduct violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C). Tanius is derivatively liable for Chen's misconduct.

In accepting Tanius's Offer, the Commission recognizes the self-reporting and substantial cooperation of Tanius in connection with the Division's investigation of this matter. The Commission also acknowledges Respondent's representations concerning its remediation in connection with this matter. The Commission's recognition of Tanius's self-reporting, substantial cooperation, and appropriate remediation is further reflected in the form of a substantially reduced penalty.

B. RESPONDENT

Tanius is a California limited liability company ("LLC") proprietary trading firm based in California. Tanius has never been registered with the Commission.

C. FACTS

1. Spoofing

During the Relevant Period, Chen, who was at the time an employee of Tanius, traded on behalf of Tanius in California. Chen's duties on behalf of Tanius during the Relevant Period included trading futures contracts on the CME Exchanges. Chen accessed these markets through a Tanius trading platform.

During the Relevant Period, Chen engaged in spoofing activity in 12 different futures contracts—primarily but not exclusively Treasury futures contracts—on the CME Exchanges. Chen's typical spoofing pattern involved placing one or more small orders (often between 1-5 lots) on one side of the market followed almost immediately by placing multiple 20-lot orders on the opposite side of the market that he intended to cancel before execution. Shortly after placing the 20-lot orders, Chen's smaller order(s) on the opposite side would often get filled. Chen cancelled most of these 20-lot orders within five seconds. He would occasionally repeat the process of placing and cancelling multiple 20-lot orders until he had induced a fill on the opposite side. Chen engaged in this pattern on over 1,000 separate occasions during the Relevant Period.

2. Tanius's Self-Reporting, Cooperation, and Remediation

Once aware of Chen's misconduct, Tanius promptly secured Chen's resignation from Tanius and reported the conduct to the Division. Tanius provided this self-report prior to the completion of its internal review and data analysis. Tanius voluntarily conducted an internal review that exceeded the scope of the initial indications of Chen's misconduct. Tanius provided information to the Division, and responded to the Division's inquiries, in a manner that significantly aided the Division in separately securing a resolution with Chen. As such, Tanius's efforts greatly expedited and enhanced the Division's investigation.

At the same time, Tanius represents that it has engaged in substantial remediation efforts. Among other things, Tanius launched an overhaul of its systems and controls and implemented a variety of enhancements to detect and prevent similar misconduct. Most significantly, Tanius represents that it has implemented a respected, commercially available surveillance tool from a third-party vendor, with whom Tanius worked to tailor the tool to Tanius's trading activities. Tanius represents that it manually reviews every potentially suspicious order generated by the system. This surveillance tool differs from those used by Tanius's clearing firms, which will bring diversity to the surveillance systems analyzing Tanius's trading.

In recognition of Tanius's self-reporting, cooperation, and remediation, the Commission imposes a significantly reduced civil monetary penalty.

III. LEGAL DISCUSSION

A. Section 4c(a)(5)(C) of the Act – Spoofing Violations

Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C), makes it unlawful for “[a]ny person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” *See, e.g., United States v. Coscia*, 866 F.3d 782, 792-93 (7th Cir. 2017) (holding that because the Act clearly defines spoofing, it provides adequate notice of prohibited conduct), *cert. denied*, 138 S. Ct. 1989 (2018).

As described above, during the Relevant Period, Chen placed bids and offers for futures contracts listed on the CME Exchanges, which are futures exchanges and designated contract markets, with the intent to cancel those bids and offers before they were executed. By engaging in this conduct, Chen violated Section 4c(a)(5)(C) of the Act. *See, e.g., In re Delovitch*, CFTC No. 20-71, 2020 WL 5876728, at *1-2 (Sept. 30, 2020) (consent order) (finding that trader who placed bids and offers for futures contracts listed on registered exchanges with the intent to cancel those bids and offers before they were executed violated Section 4c(a)(5)(C) of the Act); *CFTC v. Oystacher*, 203 F. Supp. 3d 934, 942 (N.D. Ill. 2016) (denying motion for judgment on the pleadings, holding that allegations of placing “both bids and offers with the intent to cancel those bids or offers before execution” constitutes “trading behavior [that] falls within the Spoofing Statute’s defined prohibition”).

B. Respondent Tanius is Liable for the Acts of Its Agent

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Commission Regulation (“Regulation”) 1.2, 17 C.F.R. § 1.2 (2021), provide that the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his or her employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust. Under Section 2(a)(1)(B) and Regulation 1.2, principals are strictly liable for the actions of their agents. *See Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986) (principals are strictly liable for the acts of their agents); *see also Dahmen-Ramirez v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988) (same); *CFTC v. Byrnes*, 58 F. Supp. 3d 319, 324 (S.D.N.Y. 2014) (same). Chen’s spoofing was committed within the scope of Chen’s employment with Tanius. *See, e.g., CFTC v. Int’l Fin. Services (New York) Inc.*, 323 F. Supp. 2d 482, 499 n.12 (S.D.N.Y. 2004) (analyzing scope of employment based on the totality of the circumstances). Therefore, Tanius is liable for the acts, omissions, and failures of Chen, as described above, that constituted violations of Section 4c(a)(5)(C) of the Act.

IV. FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges service of this Order;
- B. Admits 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. Waives:
 - 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, and 28 U.S.C. § 2412, and/or the rules promulgated by the

Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2021), 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, §§ 201–53, 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. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer;
- E. Consents, solely on the basis of the Offer, to the Commission’s entry of this Order that:
1. Makes findings by the Commission that Respondent violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C);
 2. Orders Respondent to cease and desist from violating Section 4c(a)(5)(C) of the Act;
 3. Orders Respondent to pay a civil monetary penalty in the amount of six hundred thousand dollars (\$600,000), plus post-judgment interest within thirty days of the date of entry of this Order; and
 4. Orders Respondent and its 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. Respondent shall cease and desist from violating Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).
- B. Respondent shall pay a civil monetary penalty in the amount of six hundred thousand dollars (\$600,000) (“CMP Obligation”), within thirty days of the date of the entry of this Order. If the CMP Obligation is not paid in full within thirty days of the date of entry of this Order, then 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.

Respondent 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
6500 S. MacArthur Blvd.
HQ Room 266
Oklahoma City, OK 73169
9-amc-ar-cftc@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact Tonia King or her successor at the above email address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondent and the name and docket number of this proceeding. 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 Charles Marvine, Deputy Director, Commodity Futures Trading Commission, 2600 Grand Boulevard, Suite 210, Kansas City, MO 64108.

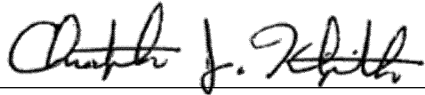
- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. **Public Statements:** Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action 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 Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
 2. **Cooperation, in General:** Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.
 3. **Partial Satisfaction:** Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its 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.

4. Change of Address/Phone: Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.

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 26, 2022