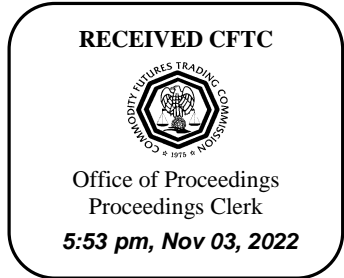


UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



_____))
In the Matter of:))
))
Jeremy Rounsville,))
))
Respondent.))
))
_____))

CFTC Docket No. 23-02

**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 from May, 2018 to 2019, Jeremy Rounsville (“Respondent”) violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Commission Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1 (a)(1)-(3) (2021) of the Commission Regulations (“Regulations”) promulgated thereunder. Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent 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, Respondent 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, Respondent 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

From at least in or about May 2018 to 2019 (the “Relevant Period”), Respondent Jeremy Rounsville (“Rounsville”), aka David Peterson, publicly held himself out as the Chief Executive Officer (CEO) of Arbitraging.co (“Arbitraging”), which operated a website offering virtual currency trading (“website”).

During the Relevant Period, Rounsville participated in a scheme to solicit customers for the alleged managed trading of virtual currencies, claiming to take advantage of arbitrage opportunities across virtual currency trading platforms to lock in immediate profits for its customers, by falsely misrepresenting that he was the CEO of Arbitraging and fraudulently soliciting customers on behalf of Arbitraging. That solicitation included claims to have developed a “highly advanced arbitrage bot” to engage in what was self-described as seamless automated arbitrage trading. However, those representations were fraudulent: Arbitraging’s supposed bot, called the “aBOT,” never actually executed trades on behalf of customers. Ultimately, as a result of being unable to withdraw their funds, customers lost their invested funds.

Rounsville solicited, met with, and communicated directly with customers in person, through newsletters, Telegram, email, and through videos posted on the internet. Customers asked Rounsville about the arbitrage trading and Rounsville purported to show at least one customer the actual trading of the aBOT when Rounsville knew that there were no automated virtual currency trades executed on behalf of customers. Through this conduct, Respondent violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Commission Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2021).

In accepting Respondent’s Offer, the Commission recognizes the Respondent’s substantial cooperation with the Division of Enforcement’s investigation of this matter and such cooperation resulted in a reduction in the civil monetary penalty.

B. RESPONDENT

Jeremy Rounsville, aka David Peterson,² is an individual residing in Texas. Rounsville has never been registered with the Commission. During the Relevant Period, Rounsville did business under the name of Arbitraging, posing as its CEO.

C. FACTS

During the Relevant Period, Rounsville, doing business as and posing as the CEO of the unformed alleged entity named Arbitraging, participated in a scheme to purportedly engage in managed trading of virtual currencies on behalf of its customers. Specifically, the scheme included representations that Arbitraging could generate immediate profits for its customers

² David Peterson was an alias used to conceal his true name, Jeremy Rounsville.

through arbitrage trading by “buying a coin/token in one exchange at a low price and instantly selling it in another exchange for a higher price to immediately lock in a profit!” The scheme included advertising and soliciting customers using representations of past profitability, promises of future profits based on seamless automated arbitrage trading, and the promise of immediate access to those profits and investment.

In order to participate in the scheme, customers would create an account on the website and then transfer ether to an Ethereum blockchain address controlled by Arbitraging. In exchange, customers would allegedly receive Arbitraging’s native token, called ARB, which they would then lend to Arbitraging. Arbitraging would purportedly invest the proceeds of the transaction into arbitrage trades using the aBOT.

The website represented that customers using the automated “aBOT” would be paid daily trade profits in ARBs and that the aBot averaged approximately .7 percent per day in returns. It represented that that it was possible for the aBot to generate an average of thirty percent profits per month. According to a white paper posted on the website, customers were to receive their profits directly to their personal wallets. The white paper represented that “you will be able to unlock your capital deposit of ARB back in the form of ARB at the current market value any time, you can choose to stay running with aBOT and continue receiving daily arbitrage trade profits or end using aBOT at anytime.” These representations were false. The aBot never executed any trades on behalf of its customers. Arbitraging was merely redistributing ARBs to customers to conceal that the aBOT was not generating profits. Although Arbitraging was able to conceal this scheme for several months, allowing some customers to withdraw a portion or all of their initial investment, it was ultimately unable to meet customer demands for returns of profits or even their initial investment, and, as a result of being unable to withdraw their funds, customers lost their invested funds.

During the Relevant Period, Rounsville was publicly listed and held himself out as the CEO of Arbitraging. As purported CEO, Rounsville solicited, met with, and communicated directly with customers in person and through newsletters, Telegram, and emails. Rounsville appeared in at least one YouTube video in which he was introduced as the CEO of Arbitraging, spoke on behalf of Arbitraging, referred potential customers to Arbitraging’s platform and touted Arbitraging’s trading capacities and ability to make profits. Rounsville met with customers at a conference and purported to demonstrate the trading of the aBot. Rounsville’s demonstration of and representations about aBot’s automated trading of virtual currencies on behalf of Arbitrage’s customers were false. Despite Rounsville’s representation to customers about Arbitraging’s trading capacities, Rounsville knew, based on information he gathered as a promoter of Arbitraging, that Arbitraging did not actually execute automated virtual currency trades on behalf of its customers.

As the purported CEO of Arbitraging he was responsible, among other things, for the representations of Arbitraging in, among other things, its website and white paper as well as the management of Arbitraging. Ultimately, Rounsville failed to perform the duties of a CEO, including the daily management of Arbitraging and ensuring the accuracy of its website. Rounsville now disavows his title of CEO and asserts that he had no responsibility for the daily operation of Arbitraging and received no salary for holding himself out as CEO. Rather,

Rounsville had agreed with the apparent creator of Arbitraging to appear as CEO, believing that he would eventually receive compensation for doing so but never did.

III. LEGAL DISCUSSION

Customers were to invest funds for the alleged managed trading of various virtual currencies. Virtual currencies are a type of digital asset, such as bitcoin or ether, which are digital representations of value that function as mediums of exchange, units of account, and/or stores of value. Certain digital assets including the virtual currencies alleged herein, are “commodities” as defined under Section 1a(9) of the Act, 7 U.S.C. § 1a(9). *See CFTC v. McDonnell*, 287 F. Supp. 3d 213, 217 (E.D.N.Y. 2018) (“Virtual currencies can be regulated by CFTC as a commodity They fall well-within the common definition of ‘commodity’ as well as the [Act’s] definition of ‘commodities’ as ‘all other goods and articles . . . in which contracts for future delivery are presently or in the future dealt in.’”); *McDonnell*, 332 F. Supp. 3d at 650–51 (entering judgment against Proposed Defendant following bench trial); *CFTC v. My Big Coin Pay, Inc.*, 334 F. Supp. 3d 492, 495–98 (D. Mass. 2018) (denying motion to dismiss; determining that a non-bitcoin virtual currency is a “commodity” under the Act).

Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), makes it unlawful for any person, directly or indirectly, to:

[U]se or employ, or attempt to use or employ, in connection with . . . a contract of sale of any commodity in interstate commerce . . . any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after [July 21, 2010, the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act]

Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2021), provides in relevant part:

It shall be unlawful for any person, directly or indirectly, in connection with . . . contract of sale of any commodity in interstate commerce . . . to intentionally or recklessly:

- (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;
- (2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading;
- (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person

The Commission has broad anti-fraud and anti-manipulation authority over commodities in interstate commerce. *See* Section 6(c)(1) of the Act, and Regulation 180.1(a)(1)–(3). These provisions together make it unlawful to knowingly or recklessly use or attempt to use any manipulative device, scheme, or artifice to defraud, make material misrepresentations and omissions, or engage or attempt to engage in acts or practices that operate or would operate as a fraud. The Commission has stated that it “intends to interpret and apply CEA Section 6(c)(1) and final Rule 180.1 ‘not technically and restrictively, but flexibly to effectuate its remedial purposes,’” and that, for example, the Commission may exercise its authority under Section 6(c)(1) and Regulation 180.1 against an entity that employed a deceptive device to sell commodities in interstate commerce to customers as a way for the customers to speculate on the value of such commodities. *See Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation*, 76 Fed. Reg. 41,398, 41,400–01 & n.37 (July 14, 2011) (citing *SEC v. Zandford*, 535 U.S. 813, 819 (2002)).

By the conduct described above, Rounsville violated Section 6(c)(1) of the Act and Regulation 180.1(a)(1)-(3) by, among other things, in connection with contracts of sale of commodities in interstate commerce, intentionally or recklessly making or attempting to make untrue or misleading statements of material fact or omitting to state or attempting to omit material facts necessary in order to make statements made not untrue or misleading. Specifically, among other things, Rounsville knowingly or recklessly misrepresented that he was the CEO of Arbitraging and solicited customers for the aBOT trading program while failing to disclose, and omitting, that Arbitraging’s aBOT automated trading did not exist and did not generate any profits for customers.

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2021).

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, §§ 201–253, 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. 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; and
- 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 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2021);
 2. Orders Respondent to cease and desist from violating Section 6(c)(1) of the Act and Regulation 180.1(a)(1)-(3);
 3. Orders Respondent to pay a civil monetary penalty in the amount of one hundred and seventy-seven thousand dollars (\$177,000.00), plus post-judgment interest, within ten days of the date of entry of this Order;
 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:

1. Respondent shall cease and desist from violating Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2021);
2. Respondent shall pay a civil monetary penalty in the amount of one hundred and seventy-seven thousand dollars (\$177,000.00) (“CMP Obligation), within ten days of the date of entry of this Order. If the 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 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 731699
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 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 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.

3. 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 and its 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 its authority or control understand and comply with this agreement.

2. Respondent agrees that he shall never, directly or indirectly:
 - a. enter into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2021) or virtual currencies, for Respondent’s own personal account[s] or for any account[s] in which Respondent has a direct or indirect interest;
 - b. have any commodity interests or virtual currencies traded on Respondent’s behalf;
 - c. control or direct 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 or virtual currencies;
 - d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests or virtual currencies;
 - e. apply for registration or claim exemption from registration with the Commission in any capacity, and engage in any activity requiring such registration or exemption from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2021); and/or
 - f. act 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 Section 1a(38) of the Act, 7 U.S.C. § 1a(38)), registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9).

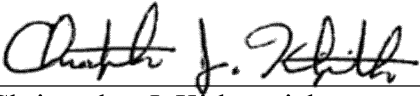
3. Cooperation, in General: Respondent shall cooperate to cooperate fully and expeditiously with the Commission, including the Commission’s Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action. As part of such cooperation, Respondent agrees to:
 - a. preserve and produce to the Commission in a responsive and prompt manner as requested by Division’s staff, all relevant non-privileged documents, information, and other materials wherever located, in the appropriate possession, custody, or control of Respondent;

- b. utilize his 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 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 Respondent's 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: 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.
 5. 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.
 6. Until such time as Respondent satisfies in full its CMP Obligation, upon the commencement by or against Respondent of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondent's debts, all notices to creditors required to be furnished to the Commission under Title 11 of the United States Code or other applicable law with respect to such insolvency, receivership bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

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

By the Commission.



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

Dated: November 3, 2022