UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of: **Ceres Global Ag Corp.,** **Respondent.**	)	**CFTC Docket No. 24-01**

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 approximately June 13, 2016, to July 15, 2016, and January 1, 2017, to March 15, 2017 ("Relevant Period"), Respondent Ceres Global Ag Corp. ("Ceres" or "Respondent") violated Section 9(a)(2) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13(a)(2). 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

Ceres is a Minnesota-based corporation that procures, merchandises, and stores grains, oilseeds, and energy products. It is one of the largest merchandisers of oats in the United States, and it operates four of the thirteen warehouse facilities that have been designated as regular for delivery of oats by the Chicago Mercantile Exchange. From approximately June 13, 2016, to July 15, 2016, and January 1, 2017, to March 15, 2017, Ceres attempted to manipulate the price of oats futures in an effort to profit from futures trading and gain competitive advantages over their competitors by obtaining higher quality oats from the futures delivery process.

In its effort to affect oats futures prices, Ceres built large long positions at or close to the spot month speculative limits, held those long positions into the delivery period, and took delivery of oats. Senior personnel at Ceres knew about and facilitated the attempted manipulation.

B. RESPONDENT

Respondent **Ceres Global Ag Corp.** is a public company organized in Ontario, Canada with its principal place of business in Golden Valley, Minnesota. Ceres's primary business is procuring and supplying grain and oilseed in North America, including from its 13 storage facilities located in Canada and the United States. Ceres has never been registered with the Commission in any capacity.

C. FACTS

1. Ceres Attempts to Manipulate the July 2016 Oats Futures Contract

Going into June 2016, Ceres carried a short position in the July 2016 oats futures contract offered on the Chicago Board of Trade as part of its normal hedging strategy. At the time, Ceres's oats trading activity was primarily directed by a former senior officer (the "Former Officer") and executed by an oats trader ("Oats Trader 1"). The Former Officer conceived of a plan to take delivery from the futures market in July 2016, which he anticipated would increase the price of the July 2016 oats futures contract. On or about June 13, 2016, the Former Officer directed the company's oat traders to exit the company's short hedge positions in the July 2016 oats futures contract and attempt to establish a long position of 600 contracts in the July 2016 oats futures contract, or 3 million bushels, the speculative position limit set by the exchange. At that time, Ceres had no immediate need for that many bushels of additional oats: it held more than 6 million bushels of oats in its inventory, and its pending sales did not require procurement of additional oats.

In addition to building its long futures position in the July 2016 oats futures contract, the Former Officer directed Oats Trader 1 to attempt to buy back shipping certificates[2]—which the company had previously tendered to other market participants—in a way that would not "tip [their] hand" to the market about Ceres's goal of standing for delivery at contract expiration. This increased the probability that the company would be able to establish its long position at a lower cost and not reveal its intent to stand for delivery. The company anticipated that repurchasing the shipping certificates would reduce the amount of lower quality oats available to other market participants, making it more difficult for short-position holders to obtain lower quality oats to make delivery. This would potentially allow the company to take delivery of higher quality oats at delivery prices, *i.e.*, at lower costs.

By June 30, 2016, Ceres had built a long position of nearly 2.6 million bushels, or 537 contracts. In an email to the oats trading team, the Former Officer noted that this position was "not quite where we wanted to be, but big enough to benefit if this thing really inverts." On July 1, 2016, Ceres held 100% of the long open interest in the July 2016 contract. During the July 2016 delivery period, Ceres took delivery of 484 contracts and entered into offsetting transactions of an additional 53 contracts.

2. Ceres Attempts to Manipulate the March 2017 Oats Futures Contract

Ceres engaged in similar activity in connection with the March 2017 oats futures contract. In January 2017, the Former Officer wrote that Ceres was "in position to stop back all our remaining receipts," and did not "really need to stop anything else before May 1st (to supply open contracts) so from a true procurement standpoint we aren't in a position to be a strong stopper until the May. That said, we could stand on the March anyway without too much risk so we might do that, but it's a harder decision at 260 vs. 240."

By late February 2017, Oat Trader 1 explained that the company's plan was to "scale out [of some of the long position] on the way up, using our initial size as a catalyst to help boost that spread/flat price higher." In March 2017, as Ceres held its long position into delivery, certain Ceres personnel anticipated that some short-position holders might not have sufficient oats to meet their delivery obligations, and one asked the Former Officer "when will the scrambling begin for people on the other side of our March oat contract trade when we request delivery and they don't have any physical oats?" The Former Officer responded that it was "already happening." During the March 2017 delivery period, Ceres took delivery of 337 contracts and entered into offsetting transactions of an additional 224 contracts.

III. LEGAL DISCUSSION

Section 9(a)(2) of the Act makes it unlawful for "[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to

[2] Delivery of an oats futures contract is effected when a short-position holder tenders a shipping certificate (often referred to as a "delivery receipt"), which gives the recipient ownership of 5,000 bushels of oats in a designated exchange-approved delivery facility. A certificate owner has the right (but not the obligation) to cancel and load out the oats represented by the shipping certificate.

the rules of any registered entity." 7 U.S.C. § 13(a)(2). Attempted manipulation is established when a party intends to cause an artificial price of any commodity in interstate commerce and commits an overt act in furtherance of that intent. *See, e.g.*, *CFTC v. Parnon Energy Inc.*, 875 F. Supp. 2d 233, 250 (S.D.N.Y. 2012) (citing *In re Hohenberg Bros.*, CFTC No. 75-4, 1977 WL 13562 (Feb. 18, 1977)).

Ceres intended to manipulate the price of the July 2016 and March 2017 oats futures contracts in order to benefit, among other things, Ceres's derivatives positions, including futures positions on or subject to the rules of entities registered with the Commission, and its physical positions to the extent Ceres acquired higher quality oats through the delivery mechanism at below-market prices. In furtherance of that intent, Ceres built large long positions close to or at the exchange-set speculative limits and held those positions into delivery, with the specific intent of raising the prices of oats futures outside the ordinary forces of supply and demand. Through these actions, among others, traders and others at Ceres intended to cause artificial prices of oat futures contracts in July 2016 and March 2017. By this conduct, Ceres attempted to manipulate the price of the July 2016 and March 2017 oats futures contracts in violation of Section 9(a)(2) of the Act.

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Ceres violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2).

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 (2022), 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 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2);

2. Orders Respondent to cease and desist from violating Section 9(a)(2) of the Act;

3. Orders Respondent to pay a civil monetary penalty in the amount of three million dollars ($3,000,000), plus any post-judgment interest, according to the terms set forth below; 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.

F. Represents that it has already remediated and amended its policies and procedures to ensure it does not violate Section 9(a)(2) of the Act, including, but not limited to, the following:

1. Engaged third-parties to assist Respondent's review of policies, procedures, and training to ensure compliance with the Act and Regulations;

2. Implemented training for all personnel involved in trading commodity interests to ensure compliance with the Act and Regulations;

3. Implemented new policies and procedures to ensure that Respondent complies with the Act and Regulations when it takes or makes delivery of a commodity pursuant to a futures contract; and

4. Designated a Chief Compliance Officer responsible for ensuring compliance with the Act and Regulations.

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

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. Respondent and its successors and assigns shall cease and desist from violating Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2).

B. Respondent shall pay a civil monetary penalty in the amount of three million dollars ($3,000,000) ("CMP Obligation"), plus post-judgment interest. Respondent shall satisfy the CMP Obligation by making payment as follows:

   a. $1,000,000 to be paid within 10 days of the date of entry of this Order;

   b. $1,000,000 to be paid within six months of the date of entry of this Order; and

   c. $1,000,000 to be paid within 12 months of the date of entry of this Order.

   Post-judgment interest shall accrue on the unpaid portion of 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. Post-judgment interest will be waived for any amounts paid in compliance with the above deadlines.

   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-amz-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.

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 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. Cooperation, in General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement and any other governmental agency or any self-regulatory organization, 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, the subject matter of 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.

5. 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
Secretary of the Commission
Commodity Futures Trading Commission

Dated: October 23, 2023