



UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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**In the Matter of:** )  
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**Isaac Tivon and HedgeFund4U LLC,** ) **CFTC DOCKET NO. 18-22**  
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**Respondents.** )  
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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 from in or about June 2013 to February 2018 (“Relevant Period”), HedgeFund4U LLC (“HF4U”) violated Section 4m(1) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6m(1) (2012), and that Isaac Tivon (“Tivon”) violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Tivon and HF4U (together, “Respondents”) 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, Respondents have submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondents consent 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 acknowledge service of this Order.<sup>1</sup>

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<sup>1</sup> Respondents consent 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 agree that they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondents do 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. Respondents do 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, HF4U, by and through its officer, employee, or agent Tivon, acted as an unregistered commodity trading advisor (“CTA”) by directing, via power of attorney, the trading in the commodity interest accounts of eight clients in exchange for a percentage of profits realized from those trades. During the Relevant Period, HF4U, by and through Tivon, held itself out generally to the public as a CTA by soliciting clients, directly and indirectly, and offering trading advisory services, including managed accounts. During the Relevant Period, HF4U maintained a publicly available Internet website at hedgefund4u.com (“website”). HF4U has never been registered with the Commission and was not exempt from the requirement to register as a CTA. Through these actions, HF4U violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012). Tivon has never been registered with the Commission. Through his actions on behalf of HF4U, Tivon violated Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2012).

### B. RESPONDENTS

**Isaac Tivon** is an individual who resides in Los Angeles, California. Tivon is the trader, chief executive officer, and agent for service of process for HedgeFund4U LLC. Tivon has never been registered with the Commission in any capacity.

**HedgeFund4U LLC** is a limited liability company organized in March 2013 the state of California, with its principal place of business in Beverly Hills, California. HF4U has never been registered with the Commission in any capacity.

### C. FACTS

During the Relevant Period, Tivon exercised discretionary authority over the commodity interest accounts of eight individuals and entities, and traded primarily options on S&P 500 futures contracts in those accounts. From in or about November 2011 to March 2013, Tivon operated under the name HedgeFund4U. From March 2013 to February 2018, Tivon operated as an officer, employee, or agent of the limited liability company HF4U. During the Relevant Period, Tivon used means or instrumentalities of interstate commerce in connection with HF4U’s business as a CTA by communicating with clients via email message, relaying trade orders and allocation instructions for the clients’ accounts to Chicago-based staff of a registered futures commission merchant via telephone and email message, and receiving compensation via wire transfer.

In November 2011, Tivon registered the Internet domain name hedgefund4u.com and a website was publicly available at that domain name as early as February 2012. During the Relevant Period, the website described HF4U as “a private consulting company that gives advice for investors” and “executes a proprietary system which was developed after extensive research of derivatives.” Quoting a release by CME Group Inc., a Commission-regulated designated contract market, the website noted, “Recent growth in managed futures has been substantial . . .

.” The website further advised that HF4U’s “sole compensation is derived from profits only.” Finally, HF4U offered to prove, in private meetings, its trading track record using actual customer records and provided contact mailing and email addresses “[f]or more information and to setup a personal meeting.” Tivon disabled the website in February 2018.

During the Relevant Period, Tivon solicited, directly and indirectly, persons within his religious community to open and fund commodity interest accounts to be managed by HF4U for compensation. Additionally, he offered to at least one person compensation for referring others to HF4U for trading services. In email communications with potential clients, Tivon identified himself as a “Private Equity Manager” and provided a link to the website. For these communications, Tivon often used an email address with the website’s domain name.

Each managed account client agreed to compensate Tivon at the end of any month in which the generated profits exceeded a “High-Water Mark,” by wiring funds in the amount of 30% of the profits to a bank account Tivon identified. After Tivon formed HF4U in March 2013, clients began wiring the funds to a bank account in the name of HF4U.

### **III. LEGAL DISCUSSION**

#### **A. Tivon and HF4U Violated Section 4m(1) of the Act**

Section 1a(12) of the Act, 7 U.S.C. § 1a(12) (2012), defines a CTA as any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery or any commodity option. “Courts interpret the definition of CTA liberally.” *CFTC v. Equity Fin. Grp., LLC*, Civil No. 04-1512 (RBK), 2007 WL 1038754, at \*3 (D.N.J. Mar. 30, 2007). Section 4m(1) of the Act makes it unlawful for a CTA, unless registered under the Act, to make use of the mails or instrumentalities of interstate commerce in connection with his business as a CTA. 7 U.S.C. § 6m(1) (2012). However, Section 4m of the Act does not apply to any CTA who, during the preceding 12-month period, has not furnished commodity trading advice to more than fifteen persons and has not held himself out generally to the public as a CTA. *Id.* It is unnecessary to determine whether a CTA advised more than fifteen people within the preceding twelve months if the person held himself out to the public as a CTA. *See In re Armstrong*, CFTC No. 85-47, 1993 WL 38344, at \*8-9 (Feb. 8, 1993).

HF4U’s activities fit within the definition of a CTA. During the Relevant Period, for compensation and profit, HF4U, by and through Tivon, sought and exercised discretionary authority to trade options on futures contracts in the commodity interest accounts of eight individuals and entities. Additionally, through the publicly available website and Tivon’s solicitations of prospective clients, HF4U represented itself as a provider of commodity trading advice services for compensation or profit. *See CFTC v. Hall*, 49 F. Supp. 3d 444, 450 & n.4 (M.D.N.C. 2014) (holding that defendant held himself out generally to the public as a CTA via website representing he took actions commensurate with CTA definition). Thus, HF4U, through the actions of Tivon, qualified as a CTA and was not exempt from the requirement to register as a CTA under Section 4m(1) of the Act.

Given that HF4U was not registered as a CTA, its actions violated Section 4m(1) of the Act.

**B. Tivon Violated Section 4k(3) of the Act**

Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2012), provides that:

It shall be unlawful for any person to be associated with a commodity trading advisor as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of a client's or prospective client's discretionary account . . . , unless such person is registered with the Commission under this chapter as an associated person of such commodity trading advisor . . . .

As described above, during the Relevant Period, Tivon was associated with HF4U as an officer, employee, or agent and acted on its behalf in soliciting clients' and prospective clients' discretionary accounts. Because Tivon was not registered with the Commission as an associated person ("AP") of HF4U, Tivon violated Section 4k(3) of the Act.

**IV. FINDINGS OF VIOLATION**

Based on the foregoing, the Commission finds that, during the Relevant Period, HF4U violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Tivon violated Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2012).

**V. OFFER OF SETTLEMENT**

Respondents have submitted 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 they 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 Commission's Regulations, 17 C.F.R. pt. 148 (2017), relating to, or arising from, this proceeding;
  7. Any and all claims that they 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. 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;
- 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 Respondent HF4U violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012);
  2. Makes findings by the Commission that Respondent Tivon violated Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2012);
  3. Orders Respondent HF4U to cease and desist from violating Section 4m(1) of the Act;
  4. Orders Respondent Tivon to cease and desist from violating Section 4k(3) of the Act;
  5. Orders Respondents to pay, jointly and severally, a civil monetary penalty in the amount of one hundred thousand dollars (\$100,000), plus post-judgment interest; 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. Respondent HF4U shall cease and desist from violating Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).
- B. Respondent Tivon shall cease and desist from violating Section 4k(3) of the Act, 7 U.S.C. § 6k(3) (2012).
- C. Respondents shall pay, jointly and severally, a civil monetary penalty in the amount of one hundred thousand dollars (\$100,000) (“CMP Obligation”) within ten (10) days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten (10) 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 (2012).

Respondents 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.  
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 CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. 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.

- C. 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 their 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': (i) testimonial obligations; or (ii) right to take legal 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 their agents and/or employees under their authority or control understand and comply with this agreement.

2. Cooperation, in General: Respondents 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 related thereto. Respondents shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.
3. Partial Satisfaction: Respondents understand and agree that any acceptance by the Commission of any partial payment of Respondents' CMP Obligation 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.
4. Change of Address/Phone: Until such time as Respondents satisfy in full their CMP Obligation as set forth in this Order, Respondents shall provide written notice to the Commission by certified mail of any change to their telephone number and mailing address within ten (10) 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: September 14, 2018