

II.
FINDINGS

The Commission finds the following:

A. Summary

During the period of September 2012 through March 2014 (the “Relevant Period”), while employed as a trader at a proprietary trading firm (“Firm A”), Mohan, acting individually and in coordination with others, engaged in a manipulative and deceptive scheme at Firm A while placing orders for and trading futures contracts on at least two registered entities.

In furtherance of the scheme, Mohan, individually and in coordination with others, repeatedly engaged in “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution). Specifically, on thousands of occasions from November 2013 to December 2013, Mohan placed orders to buy or sell futures contracts that he intended to cancel before execution at the time the orders were placed. In doing so, Mohan intentionally sent false signals of increased supply or demand designed to trick market participants into executing against the orders he wanted filled. By virtue of this conduct, Mohan engaged in acts and practices that violated Sections 4c(a)(5)(C) and 6(c)(1) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1) (2012), and Regulation 180.1(a)(1) and (3), 17 C.F.R. § 180(a)(1), (3) (2018).

* * * * *

In accepting the Offer, the Commission recognizes Mohan’s entry into a formal cooperation agreement between Mohan and the Division of Enforcement (“Division”) entered into October 4, 2018 (“Cooperation Agreement”), which sets forth the terms of his agreement to cooperate with the Commission, the Division, and any other governmental agency in connection with any investigation, litigation, or administrative proceeding relating to the subject matter of this Order.

B. Respondent

Krishna Mohan is a former trader who resides in New York, New York. During the Relevant Period, Mohan was a trader on a trading team at Firm A from August 2010 through March 2014. Mohan has never been registered with the Commission.

C. Facts

During the Relevant Period, Mohan worked as part of a trading team at Firm A, where he engaged in proprietary trading on behalf of the firm in futures markets. Mohan traded in numerous futures contracts while employed at Firm A, including the E-mini NASDAQ 100 and E-mini Dow (\$5) (the “Relevant Markets”).¹

On thousands of occasions during the Relevant Period, Mohan, individually and in coordination with others at Firm A, repeatedly engaged in spoofing in the Relevant Markets while placing orders for, and trading futures contracts through, accounts owned by Firm A. The manipulative scheme involving his trading at Firm A (the “Scheme”) involved placing thousands of bids or offers for futures contracts with the intent to cancel those orders before their execution. Mohan, individually and in coordination with others, undertook the Scheme, in the Relevant Markets.

Typically, Mohan implemented the Scheme as follows: he placed on one side of the market, at least one passive iceberg order², showing a small visible quantity to the market (“Genuine Order(s)”) and on the opposite side of the market from the Genuine Order, he placed one or more fully-visible passive order(s) with the intent to cancel those orders before execution (“Spoof Order(s)”). In placing the Spoof Orders, Mohan often used an order splitter to enter several smaller randomly-sized orders to further disguise the Scheme from other market participants.

Mohan engaged in the Scheme to induce other market participants to trade against his Genuine Orders—so that the Genuine Orders would fill sooner, at better prices, or in larger quantities than the Genuine Orders otherwise would. Mohan entered his Spoof Orders to create or exacerbate an order book imbalance in the Relevant Markets and to intentionally send a false signal to the market that he wanted to buy or sell the number of contracts specified in the Spoof Orders, thereby creating a false impression of supply or demand. Moreover, through the Scheme, Mohan, Firm A, and other individuals at Firm A, reaped significant financial benefits from market participants’ reactions to the Spoof Orders.

¹ The E-mini NASDAQ futures contract referenced herein is traded on the Chicago Mercantile Exchange (“CME”), a designated contract market and swap execution facility. The E-mini Dow (\$5) futures contract referenced herein is traded on the Chicago Board of Trade (“CBOT”), a designated contract market. CME and CBOT are owned and operated by CME Group, Inc.

² An “iceberg order,” also known as a hidden quantity order, is an order type offered by certain designated contract markets on electronic trading platforms whose order quantity (i.e., number of contracts) is only partially visible in the order book to other market participants. A “passive” iceberg order does not give up the spread in price. On the buy side of the market, a passive buy order is placed at the best-bid price or lower; so, put simply, it is an offer to buy at a price that is lower than the price that other traders are currently willing to sell. On the sell side of the market, a passive sell order is placed at the best-ask price or higher; so, put simply, it is an offer to sell at a price that is higher than the price that other traders are currently willing to buy. Passive orders rest for at least some amount of time after being placed and are not guaranteed to execute.

The following example from Mohan’s trading illustrates how he executed the Scheme.

December 2, 2013–Trading the December 2013 E-mini NASDAQ Contract

At 3:01:50.862 AM Central Time, Mohan placed an iceberg order to buy forty E-mini NASDAQ contracts (with only one contract visible to the market) at the best-bid level (first Genuine Order). Approximately ten seconds later, at the second-ask level, Mohan placed two groups of orders, both groups via an order splitter, to collectively sell eighty E-mini NASDAQ contracts at 3:02:00.909 AM (first group of Spoof Orders) and 3:02:01.327 AM (second group of Spoof Orders). Together, the two groups of Spoof Orders caused the total number of contracts then resting at that level of the order book to more than quadruple. At 3:02:02.279 AM, approximately one second after he placed the second group of Spoof Orders, the first Genuine Order began to trade and completely filled within four milliseconds by 3:02:02.283 AM. Having completely filled the first Genuine Order, Mohan then proceeded to cancel both the first group of Spoof Orders and the second group of Spoof Orders at 3:02:02.735 AM through 3:02:02.736 AM, less than a half-second after the first Genuine Order was fully filled. Mohan cancelled the first group of Spoof Orders and the second group of Spoof Orders less than two seconds after he placed both groups of orders.

Almost two seconds later, Mohan repeated his spoofing pattern on the other side of the market. At 3:02:04.670 AM, Mohan placed an iceberg order to sell 40 E-mini NASDAQ contracts (with one contract showing to the market) at the best-ask level (second Genuine Order). Approximately six seconds later, at 03:02:11.103 AM, Mohan placed multiple orders, via an order splitter, to collectively buy forty E-mini NASDAQ contracts at the best-bid level (third group of Spoof Orders). The third group of Spoof Orders caused the total number of contracts then resting at that level of the order book to more than triple. The second Genuine Order immediately began to trade at 03:02:11.104 AM, filling in full five milliseconds later at 3:02:11.109 AM. Having completely filled the second Genuine Order, Mohan then proceeded to cancel the third group of Spoof Orders between 03:02:11.878 AM and 3:02:11.879 AM—less than one second after the second Genuine Order fully filled and less than one second after he placed the third group of Spoof Orders.

III.

LEGAL DISCUSSION

A. Spoofing in Violation of Section 4c(a)(5)(C) of the Act

Section 4c(a)(5) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012), makes it unlawful for “[any 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 the execution).” *See also 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 Scheme, Mohan entered thousands of bids or offers on a registered entity, specifically CME and CBOT, with the intent to cancel the bids or offers before execution in violation of Section 4c(a)(5)(C) of the Act.

B. Use of a Manipulative and Deceptive Scheme in Violation of Section 6(c)(1) of the Act and Regulation 180.1(a)(1) and (3)

Under Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2018), it is unlawful to, directly or indirectly, in connection with any contract for future delivery on or subject to the rules of a registered entity, intentionally or recklessly “(1) [u]se or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;” or “(3) [e]ngage 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.”

As described above, Mohan, along with others, employed a manipulative and deceptive scheme at Firm A wherein he entered Spoof Orders to intentionally send false signals to the market that he actually wanted to buy or sell the number of contracts specified in the Spoof Orders. Mohan, along with others, engaged in the Scheme to trick other market participants into executing against his Genuine Orders on the opposite side of the market—to fill sooner, at better prices, or in larger quantities than the Genuine Orders otherwise would. Mohan knew that his Spoof Orders would create the false appearance of market depth and result in misinformation, thereby luring market participants to trade based on Mohan’s spoofing. *See In re McVean Trading*, CFTC No. 17-15, 2017 WL 2729956, at *11 (July 21, 2017) (consent order) (finding that “injecting false information into the marketplace that ‘portrayed a false appearance of wide investor interest’” was a manipulative or deceptive device under Section 6(c)(1) and Regulation 180.1 (quoting *SEC v. Commonwealth Chem. Secs., Inc.*, 410 F. Supp. 1002, 1013 (S.D.N.Y. 1976) *aff’d in part and modified in part on other grounds*, 574 F.2d 90 (2d Cir. 1978))). Through this misconduct, Mohan violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), and Regulation 180.1(a)(1) and (3), 17 C.F.R. § 180(a)(1), (3) (2018).

IV.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Mohan violated Sections 4c(a)(5)(C) and 6(c)(1) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1) (2012), and Regulation 180.1(a)(1) and (3), 17 C.F.R. § 180.1(a)(1), (3) (2018).

V.

OFFER OF SETTLEMENT

Mohan has submitted the Offer in which he:

- A. Acknowledges receipt of 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. Admits to all of the findings made in this Order;
- D. 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 he 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 Regulations, 17 C.F.R. pt. 148 (2018), relating to, or arising from, this proceeding;
 - 7. Any and all claims that he 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;
- E. Stipulates that the record basis on which this Order is entered shall consist solely of the findings of fact in Section II. of this Order;
- F. Consents to additional proceedings to determine what, if any, monetary sanctions may be assessed against him. In connection with such additional proceedings, he further consents that: (a) the findings of fact in Section II. of this Order shall be accepted as and

deemed true by the Presiding Officer; (b) Mohan will be precluded from arguing that he did not violate the federal laws as described in Sections III. and IV. of this Order; and (c) he may not challenge the validity of his consents and agreements in the Offer or this Order; and

- G. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. Makes findings by the Commission that:
 - a. Mohan violated Section 4c(a)(5)(C), 7 U.S.C. § 6c(a)(5)(C) (2012);
 - b. Mohan violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012) and Regulation 180.1(a)(1) and (3), 17 C.F.R. § 180.1(a)(1), (3) (2018);
 2. Orders Mohan to cease and desist from violating Sections 4c(a)(5)(C) and 6(c)(1) of the Act and Regulation 180.1(a)(1) and (3);
 3. Orders that Mohan be prohibited from, directly or indirectly, engaging in 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)(2012)), for a period of three (3) years after the date of entry of this Order, and all registered entities shall refuse him trading privileges; and
 4. Orders Mohan 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. Mohan shall cease and desist from violating Sections 4c(a)(5)(C) and 6(c)(1) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1) (2012), and Regulation 180.1(a)(1) and (3), 17 C.F.R. § 180.1(a)(1), (3) (2018).
- B. Mohan is prohibited for a period of three (3) years after the date of entry of this Order from, directly or indirectly, engaging in 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(4) (2012)) and all registered entities shall refuse him trading privileges.
- C. The Commission reserves its determination as to monetary sanctions against Mohan at this time based upon his cooperation in a Commission investigation and related proceedings, pursuant to the terms of the Cooperation Agreement, and his undertaking to continue to cooperate, as set forth in this Order in Part VI. D. III. below. The determination of what, if any, monetary sanctions may be assessed against him will made

at a public hearing for the purpose of taking evidence and hearing arguments on the issue in accordance with Part 10 of the Commission's Rules of Practice under the Act ("Rules"), 17 C.F.R. pt. 10 (2018), at a time and place to be fixed as provided in Section 10.61 of the Rules, 17 C.F.R. § 10.61 (2018), except that in the additional proceedings: (a) the findings of fact in Section II. of this Order shall be accepted as and deemed true by the Presiding Officer; (b) Mohan will be precluded from arguing that he did not violate the federal laws as described in Sections III. and IV. of this Order; and (c) Mohan may not challenge the validity of his consents and agreements in the Offer or this Order. All post-hearing procedures shall be conducted pursuant to Sections 10.81-10.107 of the Rules, 17 C.F.R. §§ 10.81-10.107 (2018).

D. Mohan shall comply with the following conditions and undertakings set forth in the Offer:

1. Public Statements: Mohan agrees that neither he nor any of his agents or employees under his 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 Mohan's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Mohan shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this provision.
2. Mohan agrees that he shall not, for a period of three (3) years after the date of entry of this Order, 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 (2018)), for his own personal account or for any account in which he has a direct or indirect interest;
 - b. have any commodity interests traded on his 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;
 - d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests;
 - 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) (2018); and/or
 - f. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2018)), agent, or any other officer or employee of any person (as

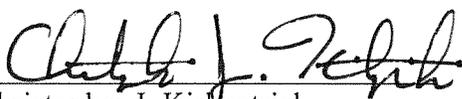
that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)), registered, required to be registered or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9).

3. Cooperation with the Commission: Mohan shall cooperate fully and expeditiously with the Commission, including the Division, in accordance with the terms set forth in the Cooperation Agreement and any other governmental agency in this action, in any investigation, civil litigation, or administrative proceeding related to the subject matter of this action or any current or future Division investigation or Commission action related thereto. As part of such cooperation, Mohan agrees to:
- a. preserve and produce to the Commission in a responsive and prompt manner, as requested by Division Staff, all relevant non-privileged documents, information, and other materials wherever located, in the appropriate possession, custody, or control of Mohan;
 - b. utilize his knowledge and skill to explain transactions, interpret information and technology, 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 staff;
 - d. respond completely and truthfully to all inquiries and interviews, when requested to do so by Division staff;
 - e. identify and authenticate relevant documents and other evidentiary materials, execute affidavits and/or declarations, and testify completely and truthfully at depositions, trial, and other judicial proceedings, when requested to do so by Division staff;
 - f. enter into tolling agreements, when requested to do so by Division staff, during the period of cooperation;
 - g. accept service by mail, electronic mail, or facsimile transmission of notices or subpoenas for documents and/or testimony;
 - h. appoint his attorney as agent to receive service of such notices and subpoenas;
 - i. 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 Division staff; and

- j. serve by hand delivery or by next-day mail all written notices and correspondence required by or related to the Cooperation Agreement to the Director of the Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, NW, Three Lafayette Centre, Washington, DC 20581, unless otherwise directed in writing by Division Staff.
- E. Change of Address: Until such time as Mohan satisfies in full his obligations as set forth in the Cooperation Agreement and this Order, Mohan shall provide written notice to the Commission by certified mail of any change to his 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.



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

Dated: February 25, 2019