

UNITED STATES OF AMERICA  
Before the  
Commodity Futures Trading Commission

Office of  
Proceedings  
Procedural Clerk

2012 Nov 13 PM 12:50

RECEIVED  
CFTC

In the Matter of: )  
)

Goldman Sachs Execution & )  
Clearing, L.P. )  
)  
)  
)

CFTC Docket 12-16

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTIONS 6(c) AND  
6(d) OF THE COMMODITY EXCHANGE ACT, AS AMENDED, MAKING  
FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

**I.**

The Commodity Futures Trading Commission (the "Commission") has reason to believe that, from in or about May 2007 to December 2009 ("Relevant Period"), Goldman Sachs Execution & Clearing, L.P. ("GSEC") has violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2011). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether GSEC has engaged in the violations as set forth herein and to determine whether an order should be issued imposing remedial sanctions.

**II.**

In anticipation of instituting an administrative proceeding, GSEC has submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, GSEC consents to the entry of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, as Amended, Making Findings and Imposing Remedial Sanctions (the "Order") and acknowledges service of the Order.<sup>1</sup>

**III.**

---

<sup>1</sup> GSEC consents to the entry of this Order and the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that GSEC does not consent to the use of the Offer, or the findings or conclusions in this Order and consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does GSEC consent to the use of the Offer or this Order, or the findings or conclusions in this Order and consented to in the Offer, by any other party in any other proceeding.

The Commission finds the following:

**A. Summary**

GSEC failed to diligently supervise the handling of a broker-dealer client's commodity interest accounts carried by GSEC during the Relevant Period.

GSEC was notified that a broker-dealer client had distributed a futures and securities account statement purporting to be issued by a non-existent GSEC affiliate and summarizing a single subaccount. Specifically, GSEC told the broker-dealer that the statement for only one subaccount created an inaccurate picture of the broker-dealer's overall performance and instructed the broker-dealer not to issue such statements. However, GSEC relied only on the representations and assurances of the broker-dealer and did not further investigate whether the broker-dealer previously or subsequently distributed other similar subaccount statements, including statements that did not reflect any negative capital balance. That negative capital balance could have resulted in the broker-dealer's members receiving amounts less than the balances of their trading subaccounts.

GSEC also did not investigate the representation by the broker-dealer's lawyer that the broker-dealer "will not be engaged in any activities that involves [sic] the solicitation or trading of any commodity futures contract." That representation was made in a letter from the lawyer ("Lawyer's Letter") concerning whether the broker-dealer would have to register as a commodity pool operator ("CPO"). When that representation was made, GSEC knew that the broker-dealer had already opened a GSEC commodity futures trading account. Thereafter, GSEC also knew that the broker-dealer was actually trading commodity futures contracts.

Finally, GSEC did not sufficiently investigate whether Class B members of the broker-dealer who traded commodity futures contracts were proprietary traders or customers of the broker-dealer. GSEC considered the broker-dealer's November 2009 disclosure that pooled investment vehicles were a source of funds for the broker-dealer to be inconsistent with the broker-dealer's prior representations to GSEC.

In December 2009, GSEC received the broker-dealer's draft disclosure statement, which disclosed that the broker-dealer had carried a negative capital balance of approximately \$6.8 million since October 2009. During the Relevant Period, GSEC received approximately \$1.5 million of gross fees and commissions for futures and securities transactions it executed and/or cleared on behalf of the broker-dealer.

**B. Respondent**

GSEC is a limited partnership registered as a futures commission merchant ("FCM") with the Commission and as a broker-dealer with the Securities and Exchange Commission ("SEC"). GSEC is a wholly owned subsidiary of SLK LLC, which is a wholly owned subsidiary of GSTM LLC, which in turn is a wholly owned subsidiary of The Goldman Sachs Group, Inc., a Delaware corporation. GSEC's principal office is in

New York, New York. Among other things, GSEC executes and clears broker-dealer and customer transactions in futures, stock, and options in the United States and worldwide.

### **C. Relevant Party**

During the Relevant Period, a third party limited liability company was registered as a broker-dealer with the SEC, was a member of a securities exchange that served as its designated self-regulatory organization (“DSRO”), and was registered to conduct business on that securities exchange as a market-maker (hereafter, the “Broker-Dealer”). GSEC became the Broker-Dealer’s FCM and clearing broker in May 2007.

### **D. Facts**

#### **1. GSEC’s relationship with the Broker-Dealer**

In May 2007, the Broker-Dealer became a GSEC client and a participant in GSEC’s joint back office (“JBO”) program.<sup>2</sup> Documents submitted by the Broker-Dealer to GSEC as part of the new client on-boarding process included the Broker-Dealer’s Form BD, which identified the Broker-Dealer as a SEC-registered broker-dealer and a securities exchange member, the Lawyer’s Letter and the Broker-Dealer’s Operating Agreement, which stated that the Broker-Dealer’s purpose was “to engage in Securities Trading including electronic day trading of listed and over-the-counter (‘OTC’) equities, options, and other derivatives products for the profit of [the Broker-Dealer] a member of the [securities exchange] and to engage in all lawful business of a registered broker-dealer.”

The Operating Agreement provided that the Broker-Dealer would be comprised of three classes of members, namely Class A, B and C members. The agreement provided that “Class A Members shall share in the Net Operating Profits (Losses) of the Company and shall also be allocated a percentage of the Net Profits and in some cases Net Losses generated by the Class B Member’s trading activities per the terms of the investment agreement particular to that Class B Member.” The agreement further provided that “Class B Members shall be individual Trading Members, or active in some role of running or contributing to some element of the company’s operation, of the Company and

---

<sup>2</sup> In a JBO arrangement, a broker-dealer without a clearing operation invests in a clearing broker-dealer and, because it then has an ownership interest in that broker-dealer and clears through it, the investing broker-dealer is eligible for favorable treatment under Federal Reserve Board Regulation T with respect to the margin requirements applicable to its proprietary securities trading. Being purely a securities market construct, the JBO structure does not provide a similar benefit in the futures markets. Here, the Broker-Dealer became a Class C Limited Partner of GSEC for the purpose of trading securities by entering into a Joinder Agreement that incorporated GSEC’s partnership agreement. In order to become a Class C Limited Partner, the Broker-Dealer contributed \$10,000 to GSEC and agreed to be bound by the terms and provisions of GSEC’s partnership agreement applicable to a Class C Limited Partner. GSEC and the Broker-Dealer executed a JBO Participants’ Account Agreement on May 29, 2007.

shall be authorized to trade a particular trading account of the Company. Class B Members may also be investing Members, contributing capital to the Company and participate in profits and losses generated from their trading as well as the operations of the Company as outlined in their particular investing contract. Class B Members do not have voting rights.” Finally, the agreement provided that “Class C Members shall be strictly investing Members of the Company with no trading rights or obligations. They shall be compensated per their investment agreement. Class C Members have no voting rights.”

The Operating Agreement stated that each Member’s capital account would be an asset of the Broker-Dealer subject to all of the liabilities of the company and that each Member’s liability would be limited to the capital that he or she contributed. The agreement also provided that each Member’s initial capital contribution also would be locked up for one year.

2. Futures and securities accounts and subaccounts are opened

In or about May 2007, GSEC opened an account for the Broker-Dealer and assigned a Client I.D. number to the Broker-Dealer. Under this Client I.D. number, the Broker-Dealer requested that GSEC open securities and futures base accounts, with multiple subaccounts under those base accounts. According to GSEC, the Broker-Dealer represented to GSEC that these subaccounts were to be used for various purposes, including segregating trading strategies and separating trading performance by its authorized traders.

GSEC calculated the Broker-Dealer’s net liquidating value at the Client I.D. level by aggregating and netting together the assets and positions held in all of the subaccounts assigned to the client. This enabled GSEC to, among other things, monitor for compliance with the firm’s minimum net liquidating value requirements and calculate appropriate margin requirements.

3. GSEC did not investigate the Lawyer’s Letter

The Lawyer’s Letter, which was addressed to Goldman Sachs and dated May 7, 2007, stated that the Broker-Dealer “is [in] the process of establishing a joint back office arrangement with Goldman Sachs. In connection with such arrangement, I understand that Goldman Sachs is seeking certain assurances regarding [the Broker-Dealer’s] exemption from registration as a commodity pool operator under the Commodity Exchange Act, as amended (‘CEA’).”

The Lawyer’s Letter further stated that “I understand that [the Broker-Dealer] will not be engaged in any activities that involves [sic] the solicitation or trading of any commodity futures contract except potentially as an introducing broker for the joint back office with Goldman Sachs and I further understand that if [the Broker-Dealer] intends to be compensated for any introductory efforts in such regard that it would first become registered as an introducing broker with the Commodity Futures Trading Commission and become a member firm of the National Futures Association.” However, GSEC knew that, in April 2007, the Broker-Dealer had executed GSEC’s commodity futures trading

account opening documents. Thereafter, GSEC also knew that the Broker-Dealer was actually trading commodity futures contracts. Despite this knowledge, GSEC did not investigate the apparent contradiction between the representations in the Lawyer's Letter and the Broker-Dealer's actions.

4. GSEC did not sufficiently investigate whether Class B members were proprietary traders or customers of the Broker-Dealer

The Broker-Dealer expressly agreed in the securities account agreement and the Client Access Agreement with GSEC not to use GSEC's name for any purpose without GSEC's prior approval. In one separate instance, GSEC instructed a principal of the Broker-Dealer to remove a reference to GSEC in the signature line of his email.

GSEC did not obtain or review any trader's agreement between the Broker-Dealer and a Class B member who traded a Broker-Dealer subaccount, an agreement that included multiple references to GSEC and the Broker-Dealer's JBO arrangement at GSEC and that could have indicated whether Class B members were proprietary traders or customers of the Broker-Dealer. Additionally, GSEC did not sufficiently investigate the Broker-Dealer's compliance with its agreement to not use GSEC's name for any purpose without GSEC's prior approval.

5. GSEC did not sufficiently investigate after receiving a copy of a subaccount statement the Broker-Dealer had created

In August 2009, GSEC was contacted by the National Futures Association ("NFA") after the NFA received an inquiry from an entity identifying itself as an investor in the Broker-Dealer. According to the NFA, the investor represented that it had received an account statement for the investor from the Broker-Dealer that stated "Fully disclosed JBO clearing with Goldman Professional Clearing Corp." GSEC was forwarded a copy of this statement. It was not created by GSEC and did not look like a GSEC account statement. Moreover, Goldman Professional Clearing Corp. is not an actual Goldman Sachs-related entity. An officer of GSEC spoke with a principal of the Broker-Dealer who represented that the entity had requested that the Broker-Dealer provide it with a statement showing its individual trading performance and that the Broker-Dealer had complied with this request by creating the statement. GSEC told the Broker-Dealer that it should not create statements or reproduce any data for only one subaccount (or any subset of subaccounts) belonging to the Broker-Dealer because, among other reasons, it created an inaccurate picture of the Broker-Dealer's overall performance. GSEC also told the Broker-Dealer that it should not produce another document like this again. The Broker-Dealer assured GSEC that this was the first time that it had generated a statement such as this and that it would not generate similar statements for any other member.

At that time, GSEC asked its client service representative for the Broker-Dealer to review its interactions with the Broker-Dealer to ensure that nothing deviated from standard GSEC procedures. In addition, GSEC immediately restricted the ability to trade the subaccount at issue and placed a compliance indicator in the firm's Funds Transfer

System for the subaccount, which prohibited the Broker-Dealer from moving any money out of the subaccount without Compliance approval.

However, GSEC relied only on representations and assurances from the Broker-Dealer and did not further investigate whether the Broker-Dealer had previously or subsequently created statements that referenced a non-existent GSEC affiliate or that could present an inaccurate picture of the value of particular subaccounts or the Broker-Dealer's overall performance, including whether statements revealed a multi-million dollar negative capital balance that, in the event of liquidation or redemption, could result in Class members receiving amounts less than their current investments.

#### 6. Commodity pools invested in the Broker-Dealer

In November 2009, GSEC was informed by the NFA that it had begun a review of two Broker-Dealer-affiliated entities that were registered with the NFA as CPOs. At or around the same time, the Broker-Dealer represented to GSEC that it had drafted disclosure letters to the investors in the funds managed by these Broker-Dealer-affiliated entities under the direction of, and with input from, the NFA. GSEC considered the Broker-Dealer's disclosure that pooled investment vehicles were a source of funds for the Broker-Dealer to be inconsistent with the Broker-Dealer's prior representations to GSEC and GSEC's understanding of the Broker-Dealer's account.

#### 7. Class B members' investments were at risk due to the Broker-Dealer's negative capital balance

In December 2009, GSEC received the Broker-Dealer's draft disclosure statement that disclosed that the Broker-Dealer had carried a negative capital balance of approximately \$6.8 million since October 2009. Specifically, the Broker-Dealer forwarded to GSEC a copy of an email between the DSRO and the Broker-Dealer's legal counsel. The email concerned the DSRO's examination of the Broker-Dealer's financial condition in late 2009 and attached a draft disclosure statement that the DSRO was requiring that the Broker-Dealer provide its Class B members prior to soliciting additional funds from those members.

The draft disclosure statement provided that "Each Class member should understand that their investment is an asset of [the Broker-Dealer] and subject to all obligations of [the Broker-Dealer]. As such, there are no assets that are segregated." The draft further provided that "[e]ach Class member should understand that their investment is at risk on a proportionate basis to the total capital of [the Broker-Dealer]" and that "in the event of liquidation or redemption, the amount received may be less than their current investment, as reflected on their GSEC account statement. This would be the case, for example, if at the time of the liquidation or redemption [the Broker-Dealer] has a negative capital balance as it does today." The draft disclosure additionally advised that "[s]ince October 2009, [the Broker-Dealer] has carried negative capital balances of approximately \$6.8 million, which resulted from debit balances caused by trading losses incurred by certain of its Class A and B members, some of which are [the Broker-Dealer's] managing members or entities operated by [the Broker-Dealer's] managing

members.” It provided, further, that “[t]o date, [the Broker-Dealer] has not made an effort to collect these negative capital balances,” and “[t]herefore, any current or existing investment shall be subject to all obligations of [the Broker-Dealer].”

8. Commissions and fees received by GSEC

During the Relevant Period, GSEC received approximately \$1.5 million of gross fees and commissions for futures and securities transactions it executed and/or cleared on behalf of the Broker-Dealer.

9. The Broker-Dealer’s account transferred

By letter dated December 4, 2009, GSEC provided the Broker-Dealer with “formal notice of GSEC’s decision to terminate its customer relationship with [the Broker-Dealer].” As of the end of March 2010, all of the Broker-Dealer’s positions were transferred to another clearing firm.

**E. Legal Discussion**

**GSEC Failed to Diligently Supervise its Employees**

Commission Regulation 166.3 provides that every Commission registrant (except Associated Persons (“APs”) who have no supervisory duties) must diligently supervise the handling of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, employees and agents relating to its business as a Commission registrant. Commission Regulation 166.3 imposes on registrants an affirmative duty to supervise their partners, employees and agents diligently by establishing, implementing and executing an adequate supervisory structure and compliance programs. “The duty to supervise . . . include[s] the broader goals of detection and deterrence of possible wrongdoing by [a registrant’s] agents.” *Lobb v. J.T. McKerr & Co.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,568 at 33,444 (CFTC Dec. 14, 1989). “In appropriate circumstances, a showing that the registrant lacks an adequate supervisory system can be sufficient to establish a breach of duty under Rule 166.3.” *See In re Thomas W. Collins*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,194 (CFTC Dec. 10, 1997). A violation under Commission Regulation 166.3 is an independent violation for which no underlying violation is necessary. *Id.* at 45,744.

GSEC did not investigate the Lawyer’s Letter, which stated that the Broker-Dealer “will not be engaged in any activities that involves [sic] the solicitation or trading of any commodity futures contract,” even though GSEC knew that the Broker-Dealer had already opened a futures account at GSEC when the representation was made. Thereafter, GSEC also knew that the broker-dealer was actually trading commodity futures contracts. Additionally, GSEC did not sufficiently investigate whether Class B members were proprietary traders or customers of the Broker-Dealer. GSEC considered the Broker-Dealer’s November 2009 disclosure that pooled investment vehicles were a source of funds for the Broker-Dealer to be inconsistent with the Broker-Dealer’s prior representations to GSEC.

Finally, GSEC relied only on representations and assurances from the Broker-Dealer, and did not further investigate whether the Broker-Dealer had previously or subsequently created statements that referenced a non-existent GSEC affiliate or that could present an inaccurate picture of the value of particular subaccounts or the Broker-Dealer's overall performance.

For these reasons, GSEC, a registered FCM, failed to diligently supervise the handling by its employees of the Broker-Dealer's commodity interest accounts carried by GSEC, in violation of Commission Regulation 166.3. *In re GNP*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,360 at 39,219 (CFTC Aug. 11, 1992), *aff'd sub nom.*, *Monieson v. CFTC*, 996 F.2d 852 (7th Cir. 1993) (discussion of "the importance of a line supervisor's duty to investigate questionable activity after that activity is brought to the supervisor's attention").

In settling this matter, the Commission has taken into account the cooperation of GSEC and the corrective action GSEC undertook after learning of the CFTC's investigation of the above-described activity.

#### IV. FINDINGS OF VIOLATIONS

Based upon the foregoing, the Commission finds that GSEC violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2011).

#### V. OFFER OF SETTLEMENT

GSEC has submitted its *Offer* in which it, without admitting or denying the findings herein:

- 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. Waives the filing and service of a complaint and notice of hearing; a hearing; all post-hearing procedures; judicial review by any court; any and all objections to the participation by any member of the Commission's staff in consideration of the *Offer*; any and all claims that GSEC may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; any and all claims that GSEC may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2011), relating to, or arising from, this proceeding; and any claim of Double Jeopardy based upon the institution of this

proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

- D. Stipulates that the record upon which this *Order* is entered shall consist solely of the findings contained in this *Order* to which GSEC has consented in its *Offer*; and
- E. Consents, solely on the basis of the *Offer*, to entry of this *Order* that:
1. makes findings by the Commission that GSEC violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2011);
  2. orders GSEC to cease and desist from violating Commission Regulation 166.3, 17 C.F.R. § 166.3 (2011);
  3. orders GSEC to pay a civil monetary penalty in the amount of five million, five hundred thousand dollars (\$5.5 million); and
  4. orders GSEC and its successors and assigns to comply with the undertakings consented to in its *Offer* and set forth below in Part VII of this *Order*.

Upon consideration, the Commission has determined to accept the Respondent's *Offer*.

## VI. GSEC'S REPRESENTATIONS

In its *Offer*, GSEC represents that it has made the following changes in light of the events discussed in this *Order*:

1. GSEC has conducted a thorough review of then-current accounts of its proprietary trading, SEC-registered broker-dealer clients that trade futures with respect to whether their subaccounts were properly treated as proprietary accounts or whether such clients were being operated by unregistered CPOs. In connection with its review, GSEC requested additional documents from certain of these clients, as appropriate, such as updated Form BDs and organizational documents.
2. GSEC has also directed certain clients to have their CPOs obtain the proper registrations or file Notices of Exemption from such registrations. In certain instances, where GSEC had concerns whether certain subaccounts could be properly treated as proprietary accounts, GSEC directed clients either to restructure themselves or else to close their accounts at GSEC.
3. GSEC has developed additional policies and procedures that require enhanced due diligence during the on-boarding of accounts of proprietary trading, SEC-registered broker-dealers that trade futures, including review of available information to corroborate that a prospective proprietary

trading broker-dealer client is registered with or appropriately not registered with the Commission.

4. GSEC has incorporated these enhanced policies and procedures into its initial and ongoing training of APs, compliance staff and other employees involved in the account opening process of these accounts, and will incorporate into its training any future guidance relating to proprietary trader and CPO registration issues provided by the Commission or the NFA.

## **VII. ORDER**

**Accordingly, IT IS HEREBY ORDERED THAT:**

- A. GSEC shall cease and desist from violating Commission Regulation 166.3;
- B. GSEC shall pay a civil monetary penalty in the amount of five million, five hundred thousand dollars (\$5.5 million) within ten (10) days of the date of entry of this *Order* (the "CMP Obligation"). Should GSEC not satisfy its CMP Obligation within ten (10) days of the date of entry of this *Order*, 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. GSEC shall pay its CMP Obligation by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission, and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
ATTN: Accounts Receivables – AMZ-340  
E-mail Box: 9-AMC-AMZ-AR-CFTC  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: 405-954-5644

If payment by electronic funds transfer is chosen, GSEC shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. GSEC shall accompany payment of its CMP Obligation with a cover letter that identifies GSEC and the name and docket number of this proceeding. GSEC shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581 and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the same address;

C. GSEC shall comply with its respective undertakings set forth in its *Offer*:

1. Disgorgement: GSEC shall pay disgorgement in the amount of one million, five hundred thousand dollars (\$1.5 million) within ten (10) days of the date of entry of this *Order* (the "Disgorgement Obligation"). Should GSEC not satisfy its Disgorgement Obligation within ten (10) days of the date of entry of this *Order*, post judgment interest shall accrue on the Disgorgement 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. GSEC shall pay its Disgorgement Obligation by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission, and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
ATTN: Accounts Receivables– AMZ-340  
E-mail Box: 9-AMC-AMZ-AR-CFTC  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: 405-954-5644

If payment by electronic funds transfer is chosen, GSEC shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. GSEC shall accompany payment of its Disgorgement Obligation with a cover letter that identifies GSEC and the name and docket number of this proceeding. GSEC shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581 and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the same address.

2. Public Statements: GSEC agrees that neither it nor any of its successors, assigns, employees and/or agents 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 GSEC's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. GSEC and its successors and assigns shall undertake all steps necessary to ensure that all of their

employees and/or agents under their authority or control understand and comply with this undertaking.

3. Future Cooperation with the Commission: GSEC agrees that it will cooperate fully and expeditiously with the Commission and its staff, including the Division, with regard to this Order, and in any investigation, civil litigation, or administrative matter brought by the Commission related to the subject matter of this proceeding or any current or future investigation related thereto. As part of such cooperation with the Commission, GSEC agrees to:
  - a. comply fully, promptly, completely, and truthfully, subject to any legally recognized privilege, with any inquiries or requests for information and documents;
  - b. provide authentication of documents and other evidentiary material; and
  - c. use its best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of GSEC, regardless of the individual's location and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including but not limited to, requests for testimony, depositions, and /or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation.

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

By the Commission (Commissioners SOMMERS,  
CHILTON, O'MALIA and WETJEN)  
(Chairman GENSLER not participating).



David A. Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: March 13, 2012