

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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11:57 am, Jul 14, 2016

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**In the Matter of:**

**Atlantas Group, Inc. and  
Edmund Hysni**

**Respondents.**  
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) **CFTC Docket No. 16-23**  
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO  
SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING  
FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

**I.**

The Commodity Futures Trading Commission (“Commission”) has reason to believe that Atlantas Group, Inc. (“Atlantas”) and Edmund Hysni (“Hysni,” and together with Atlantas, “Respondents”) violated Sections 4c(b) and 9(a)(4) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 6c(b) and 13(a)(4), and Commission Regulation (“Regulation”) 33.10, 17 C.F.R. § 33.10. Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

**II.**

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 Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledge service of this Order.<sup>1</sup>

<sup>1</sup> Respondents consent to the entry of this Order and to 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 Respondents do not consent to the use of the Offer, or the findings or conclusions in this Order 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

### III.

The Commission finds the following:

#### A. SUMMARY

Between 2006 and 2012, Respondents Hysni and Atlantas committed solicitation fraud in connection with options on futures contracts trading on the Chicago Board of Trade (“CBOT”) and the Commodity Exchange, Inc. (“COMEX”). Respondents represented, among other things, that they would return approximately 300% of their customers’ initial investments, that their investment strategy was safe and conservative, and that they had a track record of success. In truth, Respondents invested their clients’ money in out-of-the-money option spreads that resulted in their customers losing most of their money. Furthermore, Atlantas collected approximately 90% of its clients’ losses in commissions while misrepresenting the effect of such commissions.

In addition, Hysni, who controlled and acted for Atlantas, willfully made material false statements to the National Futures Association (“NFA”) in connection with its investigation of Respondents’ fraud.

#### B. RESPONDENTS

Atlantas was formed by Hysni in or around January 2006, and was organized under the laws of Florida and had its principal place of business as Waterford, Michigan. In March 2006, Atlantas was registered with the Commission as an Introducing Broker. In June 2013, Atlantas withdrew its registration. Atlantas is currently not registered with the Commission.

Hysni is an individual who resides in Waterford, Michigan. Hysni was the President and one-hundred percent owner of Atlantas. Between 1998 and June 2013, Hysni was registered with the Commission as an Associated Person of various companies, including Atlantas. Between February 2006 and June 2013, Hysni was listed with the Commission as a Principal of Atlantas. In June 2013, he withdrew his registrations. Hysni is currently not registered with the Commission.

#### C. FACTS

Between approximately July 2006 and September 2012 (“Relevant Period”), Respondents made material misrepresentations and omissions to Atlantas’ customers in connection with options on futures contracts trading on CBOT and COMEX.

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the terms of this Order. Nor do Respondents consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

Respondents failed to disclose to their customers the effect on customers' profits or losses of Respondents' trading strategy and the commissions that Atlantis was charging customers. Atlantis charged customers a commission of either approximately \$99 or \$125 per round turn. Hysni conducted all trading for or on behalf of Atlantis' customers, and he used a similar trading strategy for nearly all customer accounts. Shortly after the customer funded the account, Hysni would invest most of the account equity into out-of-the-money option spreads that generated substantial commissions for Atlantis.

In many instances, customers lost nearly all of their money after the initial set of trades, a substantial portion of which customers paid to Atlantis in the form of commissions. In the instances when Hysni's trades generated profit, Hysni would generally reinvest all of the remaining equity in additional out-of-the-money option spreads, as he did with the initial investment. Hysni repeated this trading strategy until either the account lost all of its value or the customer closed his account.

During the Relevant Period, Atlantis managed 79 accounts, 78 of which lost money. Atlantis' customers in aggregate lost approximately 79% of their total investments, which amounted to \$5 million in aggregate losses. Atlantis' commissions composed approximately 90% of total customer losses.

Notwithstanding these large customer losses, Respondents solicited customers by exaggerating the likelihood of profit, minimizing the risk of loss associated with options trading and misrepresenting Respondents' track record. For example, Respondents represented that customers' returns from Respondents' trading strategy were approximately 300% of customers' initial investment. They also represented that their strategy was safe and conservative while minimizing the risks inherent in trading option contracts. They further represented that Atlantis had a good track record when, in fact, nearly every Atlantis customer lost money.

In furtherance of its official duties under the Act, the NFA also conducted an investigation into Respondents' practices. In the course of its investigation, NFA questioned Hysni about money that Atlantis paid to an unregistered Associated Person, and Hysni provided false information regarding those payments.<sup>2</sup>

#### IV.

### LEGAL DISCUSSION

Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to "offer to enter into, enter into or confirm the execution of, any transaction involving any commodity . . . which is of the character of, or is commonly known to the trade as, an 'option' . . . contrary to any rule, regulation, or order of the Commission prohibiting any such transaction."

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<sup>2</sup> The NFA is a futures association registered with the Commission pursuant to Section 17 of the Act, 7 U.S.C. § 21 (2012). Among other things, NFA conducts investigations in connection with its official duties under the Act to prevent fraudulent acts and practices and protect the public interest. See Section 17(b)(7) of the Act, 7 U.S.C. § 21(b)(7) (2012).

Regulation 33.10, 17 C.F.R. § 33.10, makes it unlawful, “directly or indirectly: (a) To cheat or defraud or attempt to cheat or defraud any other person; . . . (c) To deceive or attempt to deceive any other person by any means whatsoever in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction.”

Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4), makes it unlawful for “[a]ny person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a registered entity, board of trade, swap data repository, or futures association designated or registered under this Act acting in furtherance of its official duties under this Act.”

Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012) states that, “[a]ny person who, directly or indirectly, controls any person who has violated any provision of this chapter or any of the rules, regulations, or orders issued pursuant to this chapter may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.”

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012) states that, “[t]he act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.” Similarly, Regulation 1.2, 17 C.F.R. § 1.2, states that, “[t]he act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust, within the scope of his employment or office, shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust as well as of such official, agent, or other person.”

Between July 2006 and September 2012, Atlantas and Hysni cheated, defrauded, and deceived customers through material misrepresentations and omissions made in connection with offers to enter into, the entry into, the confirmation of the execution of, and the maintenance of commodity options transactions in violation of Section 4c(b) of the Act and Regulation 33.10. *See e.g., CFTC v. R.J. Fitzgerald & Co., Inc.*, 310 F.3d 1321 (11th Cir. 2002). Also, in violation of Section 9(a)(4) of the Act, Atlantas and Hysni willfully made false statements to NFA, a futures association registered under the Act acting in furtherance of its duties under the Act, about a material fact regarding payments from Atlantas to an unregistered Associated Person.

Hysni is further liable for Atlantas’ violations of the Act and Regulations pursuant to Section 13(b) of the Act. At all times relevant to this Order, Hysni controlled Atlantas as its President and 100% owner and did not act in good faith or knowingly induced, directly or indirectly, Atlantas’ violations of Sections 4c(b) and 9(a)(4) the Act and Regulation 33.10.

When Hysni violated Sections 4c(b) and 9(a)(4) the Act and Regulation 33.10, he acted for Atlantas within the scope of his employment or office with Atlantas. Accordingly, Atlantas is liable for Hysni's violations of the Act and Regulations pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2.

**V.**

**FINDINGS OF VIOLATION**

Based on the foregoing, the Commission finds that Atlantas and Hysni violated Sections 4c(b) and 9(a)(4) of the Act, 7 U.S.C. §§ 6c(b) and 13(a)(4), and Regulation 33.10, 17 C.F.R. § 33.10.

**OFFER OF SETTLEMENT**

Respondents have submitted an Offer in which they, without admitting or denying the findings and conclusions herein:

- A. Acknowledge receipt of 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 it 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. §§ 148.1-30 (2014), 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, §§ 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; 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;
- 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 Respondents violated Sections 4c(b) and 9(a)(4) of the Act, 7 U.S.C. §§ 6c(b) and 13(a)(4) and Regulation 33.10, 17 C.F.R. § 33.10;
    2. Orders Respondents to cease and desist from violating Sections 4c(b) and 9(a)(4) of the Act, 7 U.S.C. §§ 6c(b) and 13(a)(4), and Regulation 33.10, 17 C.F.R. § 33.10.
    3. Orders Respondents to pay, jointly and severally, restitution in the amount of five million dollars (\$5,000,000), plus post-judgment interest;
    4. Orders Respondents to pay, jointly and severally, a civil monetary penalty in the amount of two million two hundred thousand dollars (\$2,200,000), plus post-judgment interest;
    5. Appoints the NFA as Monitor in this matter;
    6. Orders that Respondents are permanently 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)), and all registered entities shall refuse them trading privileges;
    7. Orders Respondents – and any successors and assigns – to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

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

## VI.

### ORDER

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

- A. Respondents shall cease and desist from violating Sections 4c(b) and 9(a)(4) of the Act, 7 U.S.C. §§ 6c(b) and 13(a)(4), and Regulation 33.10, 17 C.F.R. § 33.10.
- B. Respondents shall pay, jointly and severally, restitution in the amount of five million dollars (\$5,000,000) ("Restitution Obligation), plus post-judgment interest. If the

Restitution Obligation is not paid in full within thirty (30) days of the date of entry of this Order, then post-judgment interest shall accrue on the Restitution 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).

To effect payment by Respondents and the distribution of restitution to their customers, the Commission appoints the NFA as “Monitor.” The Monitor shall collect payments of the Restitution Obligation from Respondents and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, it shall not be liable for any action or inaction arising from its appointment as Monitor other than actions involving fraud.

Respondents shall make their payments of the Restitution Obligation under this Order in the name of the “Atlantas Group’s and Edmund Hysni’s Restitution Fund” and shall send such payments by electronic funds transfer, or U.S. postal money order, certified check, bank cashier’s check, or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under 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.

The Monitor shall oversee Respondents’ Restitution Obligation and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to Respondent’s customers or may defer distribution until such time as the Monitor may deem appropriate. In the event that the amount of payments of the Restitution Obligation to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a restitution distribution is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission, as discussed below. To the extent any funds accrue to the U.S. Treasury for satisfaction of Respondents’ Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in this Order.

- C. Respondents shall pay, jointly and severally, a civil monetary penalty in the amount of two million two hundred thousand dollars (\$2,200,000 ) (“CMP Obligation”), plus post-judgement interest. If the CMP Obligation is not paid in full within thirty (30) 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 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:

Commodity Futures Trading Commission  
Division of Enforcement  
ATTN: Accounts Receivables  
DOT/FAA/MMAC/AMZ-341  
CFTC/CPSC/SEC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
(405) 954-7262 office  
(405) 954-1620 fax  
nikki.gibson@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Nikki Gibson 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. 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.

- D. Respondents are permanently 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)), and all registered entities shall refuse them trading privileges.
- E. Respondents and their successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
  - 1. Respondents agree that neither they nor any of their successors and assigns or 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 Atlantas' and Hysni's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Atlantas and Hysni and all successors and assigns 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. Respondents agree that they shall never, directly or indirectly:
    - a. enter into any transactions involving "commodity interests" (as that term is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2014)) for Respondents' own personal accounts or for any accounts in which Respondents have a direct or indirect interest;
    - b. have any commodity interests traded on Respondents' behalf;

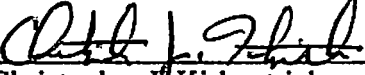


- c. control or direct the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
- d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests;
- e. 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) (2014); and/or
- f. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), 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), 17 C.F.R. § 4.14(a)(9) (2014).

- F. **Cooperation with Monitor:** Respondents shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Respondents' customers, whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any restitution payments. Respondents shall execute any documents necessary to release funds that they have in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.
- G. **Partial Satisfaction:** Respondents understand and agree that any acceptance by the Commission of any partial payment of their 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.
- H. **Change of Address/Phone:** Until such time as Respondents satisfy in full their Restitution Obligation and 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: July 14, 2016