



## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

On November 29, 2016, Respondent held a position in soybean oil futures contracts that exceeded the spot-month speculative position limit for that contract set forth in Regulation 150.2, 17 C.F.R. § 150.2 (2019). Similarly, on July 31, 2018, Respondent held a position in soybean meal futures contracts that exceeded the spot-month speculative position limit set forth in Regulation 150.2. In exceeding the position limits for these futures contracts on these two days, Respondent violated Section 4a(b) of the Act, 7 U.S.C. § 6a(b) (2012), and Regulation 150.2.

### B. RESPONDENT

ARMKAT LLC is a family-operated trading entity with its principal place of business in Winnetka, Illinois. Respondent is not registered with the Commission.

### C. FACTS

Regulation 150.2 sets forth the speculative position limit levels for soybean oil and soybean meal futures contracts, including the position limit for the spot month. Regulation 150.1(a) defines “spot month” as “the futures contract next to expire during that period of time beginning at the close of trading on the trading day preceding the first day on which delivery notices can be issued to the clearing organization or a contract market.” The spot-month limit is 540 for soybean oil futures contracts and 720 for soybean meal futures contracts. The spot-month limit for the December 2016 Soybean Oil future contract went into effect at the close of trading on November 29, 2016, and the spot-month limit for the August 2018 Soybean Meal futures contract went into effect at the close of trading on July 30, 2018.

After the close of trading on November 29, 2016, ARMKAT held 900 contracts short in December 2016 Soybean Oil futures contracts, which exceeded the spot-month limit by 360 contracts. The next morning, ARMKAT liquidated the overage. On July 31, 2018, ARMKAT held 875 short August 2018 Soybean Meal futures contracts, which exceeded the spot-month limit by 155 contracts. ARMKAT liquidated its overage the next trading day.

## III. LEGAL DISCUSSION

Section 4a(b) of the Act, 7 U.S.C. § 6a(b) (2012), makes it “unlawful for any person directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery . . . in excess of any position limit fixed by the Commission for or with respect to such commodity.” Regulation 150.2, 17 C.F.R. § 150.2 (2019), states:

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery . . . in excess of [the limits contained in the Regulation].

Regulation 150.2 establishes the spot month speculative position limit for the soybean oil futures contract at 540 contracts and for the soybean meal futures contract at 720 contracts.

The Commission is not required to establish scienter to prove a violation of the Commission's speculative position limit provisions. That is, the Commission does not need to prove that Respondent intended to exceed position limits. *Saberi v. CFTC*, 488 F.3d 1207, 1212 (9th Cir. 2007); *CFTC v. Hunt*, 591 F.2d 1211, 1218 (7th Cir. 1979). The Act "unambiguously imposes liability" for violations of position limits. *Saberi*, 488 F.3d at 1212 n.4 (rejecting trader's contention that the Division was required to prove that he intended to violate the speculative position limits (citing *Hunt*, 591 F.2d at 1218)).

Because ARMKAT held 900 CBOT soybean oil futures contracts for one day during the spot month (360 contracts over the 540 limit) and held 875 CBOT soybean meal futures contracts for one day during the spot month (155 contracts over the 720 limit), it violated Section 4a(b) of the Act and Regulation 150.2.

#### IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, ARMKAT violated Section 4a(b) of the Act, 7 U.S.C. § 6a(b) (2012), and Regulation 150.2, 17 C.F.R. § 150.2 (2019).

#### V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
  1. The filing and service of a complaint and notice of hearing;
  2. A hearing;
  3. All post-hearing procedures;
  4. Judicial review by any court;
  5. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  6. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (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 (2019), relating to, or arising from, this proceeding;

7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
  8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- E. Consents, solely on the basis of the Offer, to the Commission’s entry of this Order that:
1. Makes findings by the Commission that Respondent violated Section 4a(b) of the Act, 7 U.S.C. § 6a(b) (2012), and Regulation 150.2, 17 C.F.R. § 150.2 (2019);
  2. Orders Respondent to cease and desist from violating Section 4a(b) of the Act and Regulation 150.2;
  3. Orders Respondent to pay a civil monetary penalty in the amount of one hundred forty thousand dollars (\$140,000), plus post-judgment interest; and
  4. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order.

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

## **VI. ORDER**

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

- A. Respondent and its successors and assigns shall cease and desist from violating Section 4a(b) of the Act, 7 U.S.C. § 6a(b) (2012), and Regulation 150.2, 17 C.F.R. § 150.2 (2019).
- B. Respondent shall pay a civil monetary penalty in the amount of one hundred forty thousand dollars (\$140,000) (“CMP Obligation”). If the CMP Obligation is not paid immediately, 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).

Respondent shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier’s check, or bank

money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
6500 S. MacArthur Blvd.  
HQ Room 181  
Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

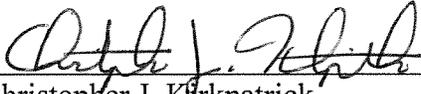
If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondent and the name and docket number of this proceeding. The 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, and to Charles Marvine, Deputy Director, Commodity Futures Trading Commission, 4900 Main Street, Suite 500, Kansas City, MO 64112.

- C. Respondent shall comply with the following conditions and undertakings set forth in the Offer:
1. **Public Statements:** Respondent, and its successors and assigns, agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
  2. **Partial Satisfaction:** Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
  3. **Change of Address/Phone:** Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written

notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.

**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 25, 2019