

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of	:	CFTC Docket No. 03-14
	:	
Professional Market Brokerage, Inc.,	:	COMPLAINT AND NOTICE
formerly known as USS Online, Inc., an	:	OF HEARING PURSUANT TO
Illinois corporation, and Huaya Lu Tung,	:	SECTIONS 6(c), 6(d) AND 8(a)(4)
	:	OF THE COMMODITY
Respondents.	:	EXCHANGE ACT, AS AMENDED

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OFFICE OF PROCEEDINGS
COMMODITY FUTURES TRADING COMMISSION

I.

The Commodity Futures Trading Commission (“Commission”) has received information from its staff that tends to show, and the Commission’s Division of Enforcement (“Division”) alleges, that:

SUMMARY

1. From on or about January 1, 2002 and through the present (the “relevant time”), Professional Market Brokerage, Inc. (“PMB”), formerly known as USS Online, Inc., a registered futures commission merchant (“FCM”), under the direction of Huaya Lu Tung (“Tung”), abandoned its records, in violation of its obligations and duties as an FCM. Thus, PMB violated Section 4g of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. § 6g (2001), and Commission Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2002).

II.

PROPOSED RESPONDENTS

2. Professional Market Brokerage, Inc. is a non-clearing FCM whose last known address is 200 W. Madison, Suite 400, Chicago, Illinois. On September 27, 1999, USS Online, Inc., a

registered FCM, changed its name to PMB. The firm, an Illinois corporation, has been registered with the Commission as an FCM since March 1, 1996.

3. Huaya Lu Tung is 50 years old. Her last known address, in registration documents filed with the Commission, is 59 Horthorn Dr., Edison, New Jersey 08820. Throughout the relevant time Tung was Chairman of PMB, the day-to-day decision maker for PMB and exercised a controlling influence over PMB's activities, which are subject to regulation by the Commission. She, therefore, was a principal of PMB, according to the definition of "principal" in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2002). Although Tung filed an application to be a principal for PMB and remained pending approval as a principal of PMB for the period September 17, 2001 to December 1, 2002, and was also designated as a principal of U.S. Securities and Futures, Corp., another registered FCM, for the period of February 8, 1994 to October 23, 2001, she has never been registered with the Commission in any capacity.

III.

FACTS

4. In the fall of 2001, PMB entered into an agreement with Refco, Inc. ("Refco"), an FCM, whereby PMB agreed, among other things, to transfer its open and active customer accounts and customer account balances to Refco.

5. That transfer to Refco took place on or about December 1, 2001.

6. While the records of PMB's active accounts were transferred to Refco, PMB's remaining records, including closed customer accounts, account statements, trading-tickets, financial statements, customer 1099s, and other records required to be kept in its capacity as an FCM, remained under the custody and control of PMB.

7. On or about January 2002, PMB ceased operations, terminated its employees and vacated its office space.

8. Tung, as Chairman of PMB, was informed of the record keeping and record retention requirements of the Act and Commission Regulations by PMB employees. Tung chose to ignore those requirements to save the cost of record storage and retention.

9. In vacating its office space, PMB abandoned its remaining records and failed to arrange for the retention, storage or custody of such required records.

10. On March 21, 2002 and April 16, 2002, representatives of the Commission requested records from PMB pursuant to Section 4g of the Act. Such records were not produced.

IV.

COUNT I

VIOLATIONS OF SECTION 4g OF THE ACT AND REGULATIONS 1.31 AND 1.35

11. The allegations in paragraph 1 through 10 are realleged and incorporated herein by reference.

12. PMB violated Section 4g of the Act, 7 U.S.C. § 6g (2001), and Regulation 1.31(a)(1), 17 C.F.R. § 1.31(a)(1) (2002), in that PMB failed to keep all books and records for a period of five years from the date of such record and to keep such records readily accessible to the Commission and Department of Justice during the first two years of the five year period.

13. PMB also violated Regulation 1.35, 17 C.F.R. § 1.35 (2002), in that PMB failed to retain its required records in accordance with the requirements of Regulation 1.31 and failed to produce them for inspection when requested by an authorized representative of the Commission.

14. Each failure to keep prescribed records, and to provide such records at the request of Commission representatives, including but not limited to those specifically alleged herein, is

alleged as a separate and distinct violation of Section 4g of the Act and Commission Regulations 1.31 and 1.35.

15. Tung directly or indirectly control PMB, and did not act in good faith or knowingly induced, directly or indirectly, the violations of PMB described above and thereby, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), is liable for PMB's violations of Section 4g of the Act and Commission Regulations 1.31 and 1.35, to the same extent as PMB.

V.

By reason of the foregoing allegations, the Commission deems it necessary and appropriate, pursuant to its responsibilities under the Act, to institute public administrative proceedings to determine whether the allegations set forth above are true and, if so, whether an appropriate order should be entered in accordance with Sections 6(c), 6(d) and 8a(4) of the Act, 7 U.S.C.. §§ 9, 13b and 12a(4) (2001).

Sections 6(c) and 8a(4) of the Act allow the Commission to: (1) prohibit respondents from trading on or subject to the rules of any registered entities, and require all registered entities to refuse such persons all privileges thereon for such period as may be specified in the Commission's Order, (2) if the respondents are registered with the Commission in any capacity, suspend, for a period not to exceed six months, or revoke, the registration of that respondent, and (3) assess against respondents civil monetary penalties of not more than the higher of \$120,000 for each violation, or triple the monetary gain to the respondents for each violation.

Section 6(d) of the Act allows the Commission to enter an Order directing that the respondents cease and desist from violating the provisions of the Act and Regulations found to have been violated.

VI.

WHEREFORE, IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence on the allegations set forth in Section III above be held before an Administrative Law Judge, in accordance with the Commission's Rules of Practice under the Act ("Rules"), 17 C.F.R. §§ 10.1 *et seq.* (2002), at a time and place to be set as provided by Section 10.61 of the Rules, 17 C.F.R. § 10.61, and that all post-hearing procedures shall be conducted pursuant to Sections 10.81 through 10.107 of the Rules, 17 C.F.R. §§ 10.81 through 10.107.

IT IS FURTHER ORDERED that Respondents shall file Answers to the allegations contained in this Complaint within twenty (20) days after service, pursuant to Section 10.32 of the Rules, 17 C.F.R. § 10.23, and pursuant to Section 10.12(a) of the Rules, 17 C.F.R. § 10.12(a), shall serve two copies of such Answer and of any documents filed in this proceeding upon Rosemary Hollinger, Associate Director, and Mark Bretscher, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 West Monroe, Suite 1100, Chicago, Illinois 60661. If any Respondent fails to file the required Answer or fail to appear at a hearing after being duly served, such Respondent shall be deemed in default and the proceeding may be determined against such Respondent upon consideration of the Complaint, the allegations of which shall be deemed to be true.

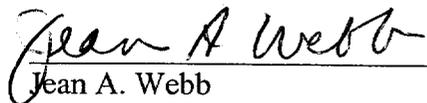
IT IS FURTHER ORDERED that this Complaint and Notice of Hearing shall be served upon the Respondents personally or by registered or certified mail, pursuant to Section 10.22 of the Rules, 17 C.F.R. § 10.22.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of the investigative or prosecutorial functions in this or any

factually related proceeding will be permitted to participate or advise in the decision in this matter except as witness or counsel in a proceeding held pursuant to notice.

By the Commission.

Dated: June 23, 2003



Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission