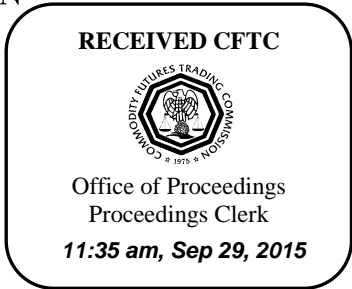


UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



_____)
In the Matter of:)
)
 Daniel Bowman,)
)
 Respondent.) **CFTC Docket No. 15 - 37**
)
)
_____)

**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 on June 14, 2010, June 15, 2010, December 10, 2010, April 12, 2013, April 15, 2013, and December 11, 2013, (the “Relevant Dates”), Daniel Bowman (“Bowman” or “Respondent”) violated Section 4a(e) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6a(e) (2012). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent 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, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondent consents 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 acknowledges service of this Order.¹

¹ Respondent consents 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 Respondent does not consent to the use of the Offer, or the

III.

The Commission finds the following:

A. SUMMARY

On three trading days in 2010, and three trading days in 2013, Respondent exceeded the spot month speculative position limit for the Chicago Mercantile Exchange Inc. (“CME”) Live Cattle futures contract. In 2013 Respondent controlled the trading of a company named Four Aces Investment Group, LLC (“Four Aces”). On the trading days of the position limit violations in 2013, the aggregate futures position held by Four Aces and Respondent exceeded the spot month speculative position limit in the Live Cattle futures contract.

B. RESPONDENT

Respondent Daniel Lee Bowman (“Bowman”) resides in Lisle, Illinois, and was registered with the Commission as a Floor Broker from January 1, 1982 until June 10, 2014. Bowman was the Agent and Manager of Four Aces, an Illinois limited liability company. In 2012, Bowman reported that he controlled the trading of Four Aces on his Commission Form 40 “Statement of Reporting Trader.” Bowman retired as a floor broker in June of 2014.

C. FACTS

The trading of the Live Cattle futures and options on futures contracts is subject to speculative position limits established by the CME and approved by the Commission. During the Relevant Dates, the Live Cattle futures position limit in the spot month was 450 contracts as of the close of business on the first business day following the first Friday of the contract month until the close of business on the business day preceding the last five business days of the contract month. Any person desiring to own or control a position in excess of the speculative position limits was required to obtain an exemption from the CME. Respondent did not obtain an exemption that would permit the accounts for which he traded to hold Live Cattle futures positions in excess of the CME’s limits.

In 2010, Respondent exceeded the CME Live Cattle futures contract speculative position limit on three days. Respondent’s long positions in the June 2010 Live Cattle futures contract were as follows: 546 contracts on June 14, 2010, which exceeded the position limit by 96 contracts; and 506 contracts on June 15, 2010, which exceeded the position limit by 56 contracts. Respondent’s long position in the December 2010 Live Cattle futures contract was 483 contracts on December 10, 2010, which exceeded the position limit by 33 contracts.

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 the terms of this Order. Nor does Respondent 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.

In 2013, the aggregate net futures position of Four Aces and Respondent exceeded the CME Live Cattle futures contract speculative position limit on three days. The aggregate net short futures positions held by Four Aces and Respondent in the April 2013 Live Cattle futures contract were as follows: 512 contracts on April 12, 2013 and April 15, 2013, which exceeded the position limit by 62 contracts, and 462 contracts later in the day on April 15, 2013, which exceeded the position limit by 12 contracts. The aggregate net long futures position held by Four Aces and Respondent in the December 2013 Live Cattle futures contract was 463 contracts on December 11, 2013, which exceeded the position limit by 13 contracts. Bowman's ill-gotten gross profits from trades that exceeded the position limits were \$ 34,940.01.

IV.

LEGAL DISCUSSION

Section 4a(e) of the Act, in relevant part, makes it unlawful for any person "to violate any bylaw, rule, regulation, or resolution of any contract market, derivatives transaction execution facility, or other board of trade licensed, designated, or registered by the Commission ... fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission." 7 U.S.C. § 6a(e) (2012).

CME is a registered entity as defined by 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012), and a designated contract market for the Live Cattle futures contract pursuant to Section 5 of the Act, 7 U.S.C. § 7 (2012). The Commission approved the CME's speculative position limit for the Live Cattle futures contract in February 2003.

CME rules set a speculative position limit in the Live Cattle futures contract of 450 contracts long or short in the expiring contract month as of the close of business on the first business day following the first Friday of the contract month until the close of business on the business day preceding the last five business days of the contract month. CME Rule 10102.E.

Commission Regulation 150.5(g) provides, in relevant part, that, "[i]n determining whether any person has exceeded the limits established under this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person." 17 C.F.R. § 150.5(g) (2015). The CME's aggregation rule similarly provides that the position limits apply to "all positions in accounts for which a person by power of attorney or otherwise directly or indirectly owns the positions or controls the trading of the positions" in determining whether that person has exceed the position limits. CME Rule 559.D.

Respondent controlled the trading of the Live Cattle futures contract for Four Aces on the dates of the position limit violations in 2013. Pursuant to CME Rule 559.D, the positions held by Four Aces were required to be aggregated with Respondent's positions for purposes of applying CME's speculative position limits for the Live Cattle futures contract.

By exceeding the CME position limit for the Live Cattle futures contract on three trading days in 2010, and on an aggregated basis on three trading days in 2013, Respondent violated Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012). The plain language of Section 4a(e) of the Act unambiguously imposes liability for violations of designated contract market position limit rules such as those at issue here. *Saberi v. CFTC*, 488 F.3d 1207, 1212 (9th Cir. 2007) (rejecting a trader's contention that the Commission was required to prove that he intended to violate the speculative limits in frozen pork bellies futures set forth in CME Rule 8302.E (citing *CFTC v. Hunt*, 591 F.2d 1211, 1218 (7th Cir. 1979)). Exceeding position limit rules is sufficient to constitute a violation of Section 4a(e) of the Act; the Commission does not need to establish scienter, or intent to violate position limits, in order to prove a violation. *Saberi*, 488 F.3d at 1212 n. 4; *Hunt*, 591 F.2d at 1218.

FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Dates, Respondent violated Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012).

V.

OFFER OF SETTLEMENT

Respondent has submitted the Offer in which he, without admitting or denying the findings and conclusions 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:
 - 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 Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2014), 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, §§ 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. 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;
- 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(e) of the Act, 7 U.S.C. § 6a(e) (2012);
 2. Orders Respondent to cease and desist from violating Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012), and Commission Regulation 150.5, 17 C.F.R. § 150.5 (2015);
 3. Orders Respondent to pay a civil monetary penalty in the amount of thirty four thousand nine hundred forty dollars and one cent (\$34,940.01), plus post-judgment interest within ten (10) days of the date of entry of this Order;
 4. Orders that Respondent be 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 him trading privileges; and
 5. Orders Respondent 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.

VII.
ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2012).

- B. Respondent shall pay a civil monetary penalty in the amount of thirty four thousand nine hundred forty dollars and one cent (\$34,940.01) (“CMP Obligation”), plus post-judgment interest, within ten (10) days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten (10) 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).

Respondent 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, Respondent shall contact Nikki Gibson 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 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.

- C. Respondent shall comply with the undertakings set forth in his offer and 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) (2015)) for Respondent’s

own personal account or for any account in which Respondent has a direct or indirect interest;

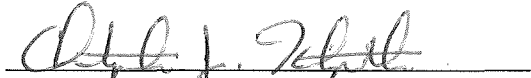
- b. have any commodity interests traded on Respondent's behalf;
- c. control or direct the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
- d. solicit, receive, or accept any funds from any person for the 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) (2015); 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) (2015).

- D. **Public Statements:** Respondent 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 Respondent's (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent shall comply with this agreement, and 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 agreement.
- E. **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 his 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.
- F. **Change of Address/Phone:** Until such time as Daniel Bowman satisfies in full his CMP Obligation, Daniel Bowman 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: September 29, 2015