

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:)
))
Andrew W. Daniels, Edward L. Taylor,)
Glenn A. Swanson, Global Asset Advisors)
LLC d/b/a Daniels Trading, and)
Daniels Trading Group LLC.)
))
Respondents.)

CFTC DOCKET NO. 11-11-2011-01
ORDER INSTITUTING PROCEEDINGS
PURSUANT TO SECTIONS 6(c) AND 6(d)
OF THE COMMODITY EXCHANGE
ACT, MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS

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I.

The Commodity Futures Trading Commission (“Commission” or “CFTC”) has reason to believe that during the period between October 2007 and July 2008: Andrew W. Daniels (“Daniels”), Edward L. Taylor (“Taylor”), and Daniels Trading Group LLC (“DTG”) violated Section 4a(e) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6a(e) (2006) on numerous days; Daniels and Taylor violated Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2006); and Glenn A. Swanson (“Swanson”) and Global Asset Advisors LLC d/b/a Daniels Trading (“Global”) violated Commission Regulation (“Regulation”) 166.3, 17 C.F.R. § 166.3 (2010). Accordingly, the Commission deems it appropriate and in the public interest that a public administrative proceeding be, and hereby is, instituted to determine whether Daniels, Taylor, DTG, Swanson, and Global (collectively, “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 this 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 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.¹

III.

The Commission finds the following:

A. SUMMARY

On numerous trading days from October 2007 through July 2008, Daniels, DTG and Taylor held, controlled, and traded pursuant to express and implied agreements, rough rice futures and options contracts in amounts that exceeded the Chicago Board of Trade’s (“CBOT”) speculative limits. Daniels and Taylor willfully concealed from the CBOT the actual ownership and control of accounts that held rough rice positions. Consequently, the CBOT lacked material information necessary to determine whether Respondents’ positions should have been aggregated for position limit and accountability level purposes.

Global and Swanson, as president of Global, failed to supervise diligently the handling by Global’s partners, officers, employees, and agents of the accounts traded by Daniels, Taylor and DTG and introduced by Global.

B. RESPONDENTS

Daniels is the founder, Chief Executive Officer and a registered associated person (“AP”) of Global, a registered introducing broker (“IB”). He is also a Manager of DTG. Taylor trades for his own account and occasionally for others. He is not currently registered with the CFTC in any capacity.

Global is a registered IB, organized under the laws of Illinois, doing business as Daniels Trading. It is located in Chicago, Illinois.

Swanson is the President and a registered AP of Global and is the Chief Operating Officer and a Manager of DTG. DTG is an unregistered trading company, organized under the laws of Illinois, located in Chicago, Illinois. Daniels and Swanson are both managers of DTG. Taylor has a membership interest of .02% in DTG and is authorized to trade accounts in the name of DTG.

¹ Respondents consent 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 or this Order, 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 do Respondents consent to the use of the Offer or this Order, or the findings or conclusions consented to in the Offer or this Order, by any other party in any other proceeding.

C. FACTS

The trading of rough rice futures and options on futures contracts is subject to speculative position limits established by the CBOT and approved by the Commission. Throughout the relevant period, the rough rice futures position limit in the spot month was 600 contracts, with a July step down limit of 200 contracts during the last five trading days of the July contract. Prior to April 14, 2008, the speculative limit for any month other than the spot month was 1,000 contracts, and the limit for all months combined was 1,000 contracts.

From October 2007 through July 2008, Daniels, Taylor, and DTG traded rough rice futures pursuant to express and implied agreements. In particular, Daniels and Taylor had previously entered a written contract under which Taylor was to trade accounts in the name of DTG. The positions held in the CBOT's rough rice futures contract by Daniels, Taylor and DTG should have been aggregated for purposes of, among other things, application of speculative limits. The rough rice futures positions of Daniels, DTG, and Taylor, when aggregated, exceeded the CBOT's rough rice single contract month speculative limit of 1,000 contracts on at least thirty-eight trading days, the CBOT's rough rice all-contract month speculative limit of 1,000 contracts on at least forty-two trading days, and the CBOT's step-down speculative limit of 200 contracts on at least three of the last five trading days of the July 2008 rough rice contract.

Daniels, Taylor, and DTG were able to repeatedly violate speculative limits because Daniels and Taylor concealed the actual ownership and control of certain rough rice futures positions from the CBOT.² For example, Daniels and Taylor concealed: Daniels' ownership interest in a trading account in Taylor's name; Taylor's trading of an account in the name of Daniels; and the number of rough rice futures contracts actually held by Daniels, Taylor, and DTG on numerous trading days.

Global and Swanson failed to diligently supervise the handling of the trading accounts of Daniels, Taylor and DTG by Global's partners, officers, employees and agents, and thereby allowed the concealment and the speculative limit violations to occur. For example, Swanson and Global: allowed trading accounts introduced by Global and traded by one of its officers to repeatedly exceed the applicable rough rice position limits between October 2007 and July 2008; allowed Daniels, Taylor and DTG to add rough rice positions to accounts that should have been aggregated after positions in these accounts had exceeded the applicable rough rice position limits; and allowed an individual to place trades for an account in another's name, without a power of attorney authorization.

D. LEGAL DISCUSSION

Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2006), 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

² The CBOT became a wholly-owned subsidiary of the CME Group Inc. ("CME") in July 2007.

contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission.” Owing or controlling positions that exceed the rules is sufficient to violate Section 4a(e) of the Act. The Commission does not need to establish *scienter* – i.e., intent to violate position limits – in order to prove a violation. *See Saberi v. CFTC*, 488 F.3d 1207, 1212 (9th Cir. 2007); *CFTC v. Hunt*, 591 F.2d 1211, 1218 (7th Cir. 1979).

The CBOT rules in effect throughout the relevant time period provided that in determining whether any person has exceeded the position limits specified, “all positions in accounts for which such person by power of attorney or otherwise directly or indirectly holds positions or controls trading” shall be included with the positions of such person. *See* Current CBOT Rule 559.D.1; harmonized CBOT Rule 559.D and CBOT legacy Rule 425.01(a)(ii). Moreover, the rules similarly provided that such position limits “shall apply to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading of the positions were done by, a single person.” *Id.*

The plain language of Section 4a(e) of the Act “unambiguously imposes liability for violations of contract market position limit rules” such as CBOT legacy Rule 425.01. *Saberi*, 488 F.3d at 1212 (citing *Hunt*, 591 F.2d at 1219). Because their aggregated rough rice futures positions exceeded the CBOT’s rough rice speculative limits, Daniels, Taylor and DTG violated Section 4a(e) of the Act.

Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2006), makes it unlawful for any person to willfully “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, or futures association designated or registered under [the Act] acting in furtherance of its official duties under [the Act].” Daniels and Taylor violated this provision by concealing a material fact; namely the actual ownership and control of certain rough rice futures positions from the CME.

Regulation 166.3, 17 C.F.R. § 166.3 (2010), provides that, “[e]ach Commission registrant, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.” Global and Swanson violated this provision by: allowing trading accounts introduced by Global and traded by one of its officers to repeatedly exceed the applicable rough rice position limits between October 2007 and July 2008; allowing Daniels, Taylor and DTG to add rough rice positions to accounts that should have been aggregated after positions in these accounts had exceeded the applicable rough rice position limits; and allowing an individual to place trades for an account in another’s name, without a power of attorney authorization.

IV.

FINDINGS OF VIOLATIONS

The Commission finds that: Daniels, Taylor, and DTG violated Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2006); Daniels and Taylor violated Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2006); and Global and Swanson violated Regulation 166.3, 17 C.F.R. § 166.3 (2010).

V.

OFFER OF SETTLEMENT

Respondents have submitted an Offer in which they, without admitting or denying the findings or conclusions herein: acknowledge service of this Order; admit the jurisdiction of the Commission with respect to all matters set forth in this Order; waive 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 the Commission's consideration of the Offer; 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; any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1-30 (2010), relating to, or arising from, this proceeding; and any and all claims that they 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.

Respondents stipulate that the record upon which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer. Respondents consent, solely on the basis of the Offer, to the entry of this Order, which: makes findings by the Commission that Daniels, DTG, and Taylor violated Section 4a(e) of the Act, Daniels and Taylor violated Section 9(a)(4) of the Act, and Global and Swanson violated Regulation 166.3; orders Respondents to cease and desist from violating the provisions of the Act and Regulations they violated; orders Daniels, Taylor, and DTG to pay, jointly and severally, a civil monetary penalty in the amount of \$2 million, and orders Swanson and Global to pay, jointly and severally, a civil monetary penalty in the amount of \$200,000; and orders Respondents to comply with the undertakings consented to in the Offer and set forth below in Part VI of this Order.

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

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

1. Respondents Daniels, Taylor, and DTG shall cease and desist from violating Section 4a(e) of the Act, 7 U.S.C. § 6a(e) (2006), and Section 4a(e) of the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. § 6a(e); respondents Daniels and Taylor shall cease and desist from violating Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2006) and Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4); and respondents Global and Swanson shall cease and desist from violating Regulation 166.3, 17 C.F.R. § 166.3 (2010).
2. Respondents Daniels, Taylor, and DTG shall pay, jointly and severally, a civil monetary penalty in the amount of two million dollars (\$2,000,000), within ten (10) days of the date of the entry of this Order. Respondents Global and Swanson shall pay, jointly and severally, a civil monetary penalty in the amount of two-hundred thousand dollars (\$200,000), within ten (10) days of the date of the entry of this Order. Should Respondents not pay their respective civil monetary penalties within ten (10) days of the date of the entry of this Order, post-judgment interest shall accrue on their respective civil monetary penalties 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. Respondents shall pay their respective civil monetary penalties 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 an electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the following address:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-6569

If payment by electronic funds transfer is chosen, the paying respondent shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of their respective civil monetary penalties with a cover letter that identifies the paying respondent and the name and docket number of this proceeding. Respondents 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 21st Street, NW, Washington, DC 20581; and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission at the same address. In accordance with Section 6(e)(2) of the Act, 7 U.S.C. § 9a(2) (2006), if any respondent fails to satisfy his or its civil monetary penalty under this Order, whether joint and several or otherwise, within fifteen (15) days of its due date, that respondent shall be prohibited automatically from trading privileges on all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until it has been shown to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of the payment has been made.

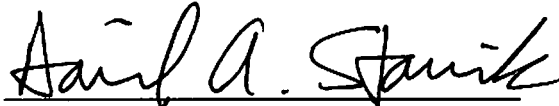
3. Respondents Daniels and DTG shall not trade for himself/itself or others, own, or have an interest in rough rice futures or options contracts traded on or subject to the rules of any registered entity for the eleven-month (11) period following the date of entry of this Order; provided, however, that if the \$2 million in civil monetary penalties imposed by this Order against them is not paid in full within fifteen days of entry of the Order, Daniels and DTG will be prohibited from trading for himself/itself or others, or owning, or having an interest in rough rice futures or options contracts traded on or subject to the rules of any registered entity for an eleven (11) month period following the date upon which the entire \$2 million in civil monetary penalties is paid in full. Respondent Taylor shall not trade (for himself or others), own, or have an interest in futures or options contracts in any commodity traded on or subject to the rules of any registered entity for the eleven-month (11) period following the date of entry of this Order; provided, however, that if the entire \$2 million in civil monetary penalties imposed by this Order against him is not paid in full within fifteen days of entry of this Order, Taylor will be prohibited from trading, for himself/or others, or owning or having an interest in futures or options contracts in any commodity traded on or subject to the rules of any registered entity for an eleven (11) month period following the date upon which the entire \$2 million in civil monetary penalties is paid in full.
4. Respondents shall comply with the following undertakings set forth in the Offer:
 - a. Global will undertake to implement strengthened compliance procedures designed to prevent position limit and other violations of the Act and Regulations, as charged herein; Global will engage an independent third-party entity (“compliance consultant”), upon mutual agreement between Global and the Commission, to conduct a compliance audit, and review and assess its operations, and make recommendations regarding “best practices” in its supervision and compliance programs to prevent future violations, as charged herein; the compliance consultant will complete its review and assessment and make recommendations within two (2) months from the date this Order is entered; Global will undertake these recommendations or propose alternative remedial measures within thirty (30) days after these recommendations are made. The compliance consultant will have the sole discretion to accept or reject these proposed alternative remedial measures, and if such measures are rejected by the compliance consultant on the basis that they are insufficient, Global will then be

required to implement the original suggestions of the compliance consultant within thirty (30) days of being informed of the compliance consultant's rejection.

- b. Neither Respondents nor any of their 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 Respondents': (i) testimonial obligations; or (ii) right to take positions in other proceedings to which the Commission is not a party. Respondents shall take all steps necessary to ensure that all of their agents and employees under their authority or control understand and comply with this undertaking.

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

By the Commission.



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

Dated: January 26, 2011