

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of

Rosenthal Collins Group,

Respondent.

CFTC Docket No: 07-02

**ORDER INSTITUTING PROCEEDINGS
PURSUANT TO SECTIONS 6(c) AND 6(d)
OF THE COMMODITY EXCHANGE
ACT, AS AMENDED, MAKING
FINDINGS AND IMPOSING REMEDIAL
SANCTIONS**

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OFFICE OF PROCEEDINGS
AND PROCEEDINGS CLERK

I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that Rosenthal Collins Group ("RCG") has violated Section 4g of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 6g (2000), and Sections 1.31, 1.35(a) and 1.35(d)(5) of the Commission's Regulations, 17 C.F.R. §§ 1.31, 1.35(a) and 1.35(d)(5) (2006). Therefore, the Commission deems it appropriate and in the public interest that a public administrative proceeding be, and hereby is, instituted to determine whether RCG has engaged in the violations as 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, RCG has submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Without admitting or denying any of the findings of facts or violations herein, RCG acknowledges service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, As Amended, Making Findings and Imposing Remedial Sanctions ("Order").¹

¹ RCG consents 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 RCG does not consent to the use of the Offer, or the findings consented to in the Offer or this Order, as the sole basis for any other proceeding brought by the Commission, or to enforce the terms of this Order. Nor does RCG consent to the use of the Offer or this Order, or the findings consented to in the Offer or this Order, by any other party in any other proceeding.

III.

The Commission finds the following:

A. SUMMARY

During the course of a private investigation concerning the trading of one or more floor brokers at the Chicago Mercantile Exchange, the Division of Enforcement ("Division") staff requested and obtained trading cards of one of the floor brokers under investigation from Rosenthal Collins Group ("RCG"). During the investigation, RCG was unable to produce 49 of the requested trading cards. Moreover, the Division's examination of the trading cards showed that RCG failed to collect and timestamp the floor broker's trading cards in a timely fashion.

B. SETTLING RESPONDENT

Rosenthal Collins Group is located at 216 W. Jackson Blvd., Suite 400, Chicago, Illinois 60606. At all times relevant to this Order, RCG was registered with the Commission as a futures commission merchant ("FCM"). At all times relevant to this Order, RCG was a clearing member of the Chicago Mercantile Exchange ("CME").

C. FACTS

During 2002, floor brokers who filled customer orders in the Standard & Poor's 500 stock price index futures contract ("S&P") at the CME were prohibited from trading for their own account on days on which they are filling customer orders. However, the CME rule permits S&P floor brokers to trade for their personal accounts to offset bona fide errors made in the course of filling customer orders. Floor brokers record the trades made for their error accounts on trading cards which must be collected and time-stamped by the FCM carrying the floor broker's error account. The carrying FCMs must collect and time-stamp the trading cards no later than 15 minutes after the end of the 30-minute time bracket in which the trades recorded on the trading card were executed.

In the course of an investigation relating to trades in the error account of a floor broker in the S&P trading pit, the Division requested that RCG produce the trading cards of the floor broker. RCG was unable to produce 49 trading cards submitted by the floor broker.

Moreover, during 2002, RCG failed to collect and time-stamp the trading cards used by at least one floor broker within 30 minutes of the end of the time bracket in which the trades executed thereon were executed. In fact, 64% of the trading cards RCG produced were time-stamped more than 30 minutes after the end of the bracket in which the trades recorded thereon purportedly were executed.

D. LEGAL DISCUSSION

RCG, as a registered FCM, was required to keep full, complete and systematic records of all transactions relating to its business or dealings in commodity transactions and to promptly produce all such records for inspection upon request of the Commission. RCG was required to keep and produce the trading cards of the floor brokers who clear their personal accounts through it. RCG failed to keep and promptly provide, upon request of the Commission, 49 trading cards,

in violation of Section 4g of the Act, 7 U.S.C. § 6g (2001), and Regulations 1.31 and 1.35(a), 17 C.F.R. §§ 1.31 and 1.35(a) (2006). *In re GNP Commodities, Inc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,360 at 39,217 (FCM's failure to produce office orders violated recordkeeping requirements).

Regulation 1.35(d)(5) requires members of contract markets to collect trading cards in the manner prescribed by Regulation 1.35(j)(1) and to time-stamp trading cards prepared by exchange members. Trading cards must be time-stamped promptly to the nearest minute of receipt by the contract market member. Regulation 1.35(j)(1) requires that "trading records prepared by a member of the contract market...be submitted to contract market personnel or the clearing member within 15 minutes of designated intervals not to exceed 30 minutes..." Regulation 1.35(d)(5) was designed "to limit the opportunity for the fabrication or alteration of trade records, to assure accountability for trading cards and to enhance exchange audit trails and trade surveillance." 55 FR 8127-02, 1990 WL 330899 (F.R.). During the relevant time, CME Rule 536 set out the schedule by which its members must submit their trading cards to their clearing members. RCG failed to collect and time-stamp trading cards prepared by a CME member in accordance with the schedule.

IV.

OFFER OF SETTLEMENT

RCG has submitted an Offer of Settlement in which it neither admits nor denies the findings in this Order. Subject to the foregoing, RCG: acknowledges service of this Order and admits the jurisdiction of the Commission with respect to the matters set forth in this Order; waives: (1) service of the complaint and notice of hearing; (2) a hearing; (3) all post-hearing procedures; (4) judicial review by any court; (5) any objection to the staff's participation in the Commission's consideration of the Offer; (6) all claims which it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.*, relating to or arising from this action; and (7) 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.

RCG stipulates that the record basis on which this Order is entered consists of this Order and the findings to which it has consented in its Offer, which is incorporated in this Order. RCG consents to the Commission's issuance of this Order, which makes findings as set forth herein, and orders RCG to cease and desist from violating the provisions of the Act and the Regulations it is found to have violated and orders that RCG shall be liable for payment of a civil monetary penalty of twenty-five thousand dollars (\$25,000); and orders RCG to comply with its undertaking as set forth in the Offer and this Order.

V.

FINDING OF VIOLATIONS

Solely on the basis of the consent evidenced by the Offer, and prior to any adjudication on the merits, the Commission finds that RCG violated Section 4g of the Act, 7 U.S.C. § 6g

(2000), and Sections 1.31, 1.35(a) and 1.35(d)(5) of the Regulations, 17 C.F.R. §§ 1.31, 1.35(a) and 1.35(d)(5) (2006).

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. RCG cease and desist from violating Section 4g of the Act, 7 U.S.C. § 6g (2000), and Sections 1.31, 1.35(a) and 1.35(d)(5) of the Regulations, 17 C.F.R. §§ 1.31, 1.35(a) and 1.35(d)(5) (2006);

B. RCG pay a civil monetary penalty in the amount of twenty-five thousand dollars (\$25,000) within ten (10) days of the date of the entry of this Order. RCG shall pay this penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. Macarthur Blvd.
Oklahoma City, OK 73169

If payment by electronic transfer is chosen, contact Marie Bateman at 405-954-6569 for instructions. RCG shall accompany payment of the penalty with a cover letter that identifies RCG, and the name and docket number of this proceeding. RCG shall simultaneously submit a copy of the cover letter and the form of payment to: Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581; and if this amount is not paid in full within fifteen (15) days of the due date, RCG shall be prohibited automatically from the privileges of all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until it has 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; and

C. RCG shall comply with the following undertaking set forth in its offer:

Neither RCG nor any of its employees, agents, or representatives take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or finding in the Order, or creating, or tending to create, the impression that the Complaint or Order is without a factual basis; provided, however, that nothing in this provision affects RCG's: (i) testimonial obligations; or (ii) right to take appropriate legal positions in other proceedings to which the Commission is not a party.

The provisions of this Order shall be effective on this date.

By the Commission.



Eileen Donovan
Acting Secretary to the Commission
Commodity Futures Trading Commission

Dated: January 10, 2007