

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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11:40 am, Sep 24, 2013

In the Matter of:)
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VISION FINANCIAL MARKETS LLC

Respondent.

CFTC Docket No. 13-36

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 from on or about May 2012 until January 2013 Vision Financial Markets LLC (“Vision”) violated Commission Regulation (“Regulation”) 166.3, 17 C.F.R § 166.3 (2012). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Vision has engaged in the violation 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, Vision 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, Vision 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 Vision consents to the entry of this Order and 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 Vision does not consent to the use of the Offer, or the findings or conclusions consented to in 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 does Vision 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.

III.

The Commission finds the following:

A. SUMMARY

Vision, while acting as a futures commission merchant (“FCM”) for a Vision customer (“Customer”), failed to diligently supervise its employees in the handling of Customer’s commodity interest accounts. Specifically, in May 2012, Vision failed to (1) aggregate Customer’s multiple trading accounts held at Vision when calculating Customer’s speculative positions; (2) failed to use the proper delta in calculating Customer’s aggregate futures equivalent net positions, and (3) utilized a software program which incorrectly calculated futures equivalent net positions and, after the deficiency was discovered in July 2012, it was not corrected until January 2013.

B. RESPONDENT

Vision Financial Markets LLC is headquartered in Stamford, Connecticut. It has been registered with the Commission as a commodity pool operator since 1988 and as a FCM since 1990, and at all relevant times was a member firm of the Chicago Mercantile Exchange (“CME”).

C. FACTS

1. **CME’s Position Limits and Aggregation Rules**

The CME is a registered entity as defined in Section 1a(29) of the Commodity Exchange Act (“Act”) and a designated contract market for trading feeder cattle futures contracts pursuant to Section 5 of the Act. In 2012, CME Rule 10202.E prohibited any person from owning or controlling a position in feeder cattle futures contracts of more than 300 contracts long or short in the spot month during the last ten days of trading. Moreover, CME Rule 559.D provided, in part, that these limits applied to accounts “for which a person by power of attorney or otherwise directly or indirectly owns the positions or controls the trading of the positions.” CME Rule 562 requires that a clearing member shall not carry positions for its customers in excess of the applicable position limits.

2. **Vision Did Not Properly Handle Customer Accounts**

Vision failed to diligently supervise its employees in the handling of Customer’s commodity interest accounts. Specifically, at the close of business on May 23, 2012, Customer’s feeder cattle aggregate futures equivalent net position exceeded the CME speculative position limit. Vision failed to aggregate Customer’s multiple trading accounts held at the firm. Moreover, Vision failed to use the proper delta in calculating Customer’s aggregate futures equivalent net positions. Finally, Vision relied on a back-office software program, which incorrectly calculated futures equivalent net positions. Vision also used this program to identify potential limit violations for all its customer accounts. Although Vision discovered in July 2012 that the software program incorrectly calculated futures equivalent net positions, this delta calculation error was not corrected until January 2013.

IV. LEGAL DISCUSSION

Regulation 166.3 requires that every Commission registrant (except associated persons who have no supervisory duties) “diligently supervise the handling by its partners, officers, employees and agents” of all activities relating to its business as a registrant. Regulation 166.3 imposes upon registrants an affirmative duty to supervise their employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance programs. In order to prove a violation of Regulation 166.3, the Commission must demonstrate that the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995); *In re Paragon Futures Assoc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,266 at 38,850 (CFTC Apr. 1, 1992).

Evidence of violations that “should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly” is probative of a failure to supervise. *Paragon Futures*, ¶ 25,266 at 38,850.

Vision, a Commission registrant, failed to diligently perform its supervisory duties. Although Vision knew that aggregation was required, it failed to ensure that its employees were implementing these aggregation requirements with respect to Customer’s accounts. Further, Vision relied on a back-office software program, which incorrectly calculated futures equivalent net positions. When Vision discovered that its software program was using the wrong delta to calculate its customers’ futures equivalent net positions, the mistake was not corrected until approximately six months later.

V. FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, from at least May of 2012 to January of 2013, Vision violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2012).

VI. OFFER OF SETTLEMENT

Vision has submitted an Offer in which it, 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 it 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 Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2013), 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, §§ 201-253, 110 Stat. 847, 857-68 (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 upon 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 Vision 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 Vision violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2012);
 2. orders Vision to cease and desist from violating Commission Regulation 166.3, 17 C.F.R. § 166.3 (2013);
 3. orders Vision to pay a civil monetary penalty in the amount of one hundred and forty thousand dollars (\$140,000), within ten (10) days of the date of the entry of this Order; plus post-judgment interest; and
 4. orders Vision, and its successors and assigns, 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. Vision shall cease and desist from violating Commission Regulation 166.3, 17 C.F.R. § 166.3 (2013);
- B. Vision shall pay a civil monetary penalty in the amount of one hundred and forty thousand dollars (\$140,000) within ten (10) days of the date of the entry of this Order (the "CMP Obligation"). 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 (2006). Vision 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, 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 - AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment by electronic funds transfer is chosen, Vision shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Vision shall accompany payment of the CMP Obligation with a cover letter that identifies Vision and the name and docket number of this proceeding. Vision 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.

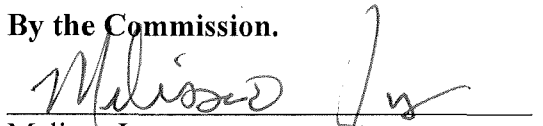
- C. Vision and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Vision agrees that neither it nor any of its successors, assigns, agents, or employees under its authority or control shall take any action or make any 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 Vision's (i) testimonial obligations or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Vision and its

successors and assigns shall undertake all steps necessary to ensure that all of its agents and employees under its authority and/or actual or constructive control understand and comply with this agreement.

2. Cooperation with the Commission: Vision shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement and any other governmental agency in this action and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.
- D. **Partial Satisfaction**: Vision understands and agrees that any acceptance by the Commission of partial payment of Vision'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.
- E. **Change of Address/Phone**: Until such time as Vision satisfies in full its CMP Obligation as set forth in this Order, Vision shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten (10) calendar days of the change.

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

By the Commission.



Melissa Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 24, 2013