

Commodity Futures Trading Commission,

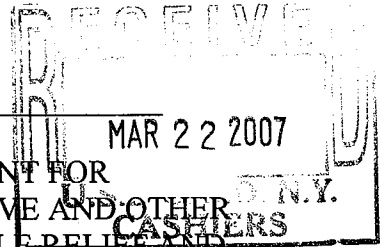
Plaintiff,

v.

New York Petroleum Option Exchange and
HPR Commodities,

Defendants.

07 CIV



COMPLAINT FOR
INJUNCTIVE AND OTHER
EQUITABLE RELIEF AND
FOR PENALTIES UNDER
THE COMMODITY
EXCHANGE ACT, AS
AMENDED, 7 U.S.C. §§ 1-25

I.
SUMMARY

The United States Commodity Futures Trading Commission

(“Commission” or “CFTC”), by its attorneys, alleges as follows:

1. New York Petroleum Option Exchange (“NYPOE”) and HPR Commodities (“HPR”) (collectively “Defendants”) defrauded prospective customers by falsely representing that NYPOE is a futures exchange and that HPR is its broker.
2. Defendants fraudulently solicited and accepted hundreds of thousands of dollars from their prospective customers to trade commodity options by making exaggerated profit claims.
3. In reality, customers lost virtually all of their investments through Defendants’ misappropriation of customer funds.
4. NYPOE violated Section 4(a) of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 6(a) (2005), by offering to enter into or entering into futures transactions that are not executed on a board of trade designated by, or registered with, the Commission as either a contract market or a derivatives transaction execution facility.

5. Defendants violated Section 4c(b) of the Act, 7 U.S.C. §6c(b), and Section 32.9(a) and (c) of the Regulations, 17 C.F.R. § 32.9(a) and (c), by engaging in fraudulent solicitation in connection with an offer to enter into, entering into, or confirming the execution of any transaction involving commodity options.

6. Unless enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices as more fully described below.

7. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), Plaintiff CFTC brings this action to enjoin the unlawful acts and practices of Defendants and to compel their compliance with the provisions of the Act and Regulations thereunder, as well as for civil monetary penalties, permanent injunctive relief and other relief, including restitution and disgorgement.

II. **JURISDICTION AND VENUE**

8. The Act establishes a comprehensive system for regulating the purchase and sale of commodity options and futures contracts.

9. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

10. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2002), in that the acts and practices in violation of the Act or any rule,

regulation or order thereunder have occurred, are occurring, or are about to occur within this district.

III. THE PARTIES

11. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2002), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2002).

12. Defendant New York Petroleum Option Exchange is an entity which, according to its website, purports to be a “specialized global commodities marketplace meeting the demand for increased control over worldwide energy consumption.” It purports to be located on 33rd Street, New York, NY 10001.

13. Defendant HPR Commodities, is an entity that, according to its website, purports to be a “full service, commodity, options and futures brokerage firm” and a guaranteed introducing broker.” It purports to be located at 66 Charlton Street, New York, NY 10014.

IV. FACTS

A. NYPOE Purports To Be An Exchange on Which Futures Contracts Are Purportedly Traded

14. NYPOE through representations made on its website, www.nypoe.com, purports to be an exchange for energy products based at 33rd Street, New York, New York. According to publicly available documents, the website is registered to an individual at New York Petroleum Options Exchange, 33rd Street, New York, NY 10001,

with a telephone number of 1 646 224 8357 and the same information is listed for the website administrator.

15. The NYPOE website describes: 1) the energy futures and options contracts for which NYPOE purportedly serves as an exchange; 2) expiry schedules for those futures contracts; and 3) the purported members of NYPOE.

16. A number of the United States member firms that the NYPOE website purports to be members of NYPOE are not, in fact, members of NYPOE and have never heard of NYPOE.

17. NYPOE is not a board of trade which has been designated by, or registered with, the Commission as either a contract market or a derivatives transaction execution facility.

18. Moreover, there is no such entity located at the New York address listed on the NYPOE website.

B. HPR Commodities Fraudulently Solicits Customers to Trade Options Purportedly Traded on NYPOE

19. HPR fraudulently solicits customers, including at least one retail customer, to purchase commodity options purportedly traded on NYPOE.

20. HPR purported through its website, www.hprcommodities.com, to be a non-clearing member of both NYMEX and NYPOE and to be registered with NYMEX.

21. In fact, HPR is neither a non-clearing member of nor is registered with NYMEX.

22. Until recently, the websites for HPR and NYPOE could be viewed by prospective customers in the United States.

23. Neither HPR nor NYPOE websites restrict the purported opportunity to trade options on NYPOE to persons outside the United States. In fact, account opening documents contain sections to be completed by United States customers.

24. HPR solicited customers to trade options on energy related commodities with NYPOE through direct telephone solicitations. These customers are led to believe that NYPOE is an exchange and HPR is its broker, both located in the United States.

25. The HPR website directs customers to a fax number of (917) 591-5026 and a toll free number (800) 209-1663 to mislead them to believe that HPR is located in the United States.

26. The fax number (917) 591-5026 that HPR advertised and used is registered to a United States communications company, j2 Global Communications, which maintains servers located in the United States.

27. Once the customers are solicited, the customers are then advised that they have opened an online trading account on NYPOE that they can access through the NYPOE website and are instructed to wire their funds to bank accounts located in Hong Kong and Malaysia.

28. Customers were promised substantial profits when, in fact, most customers lost money.

V.
**VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS**

**COUNT I
Violations by NYPOE of Section 4(a) of the Act:
Offer of Illegal Off-Exchange Futures Contracts**

29. Paragraphs 1 through 28 are re-alleged and incorporated herein.

30. Section 4(a) of the Act, 7 U.S.C. § 6(a) (2002), provides that unless exempted by the Commission, “it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States ... for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery...” when: (1) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity; (2) such contract has not been executed or consummated by or through such contract market; and (3) such contract is not evidenced by a written record showing the date, parties, property covered, price, and terms of delivery.

31. NYPOE offered to enter into, executed, confirmed the execution of, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions were not conducted on or subject to the rules of a board of trade which was designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, (b) such contracts were not executed or consummated by or through such contract market, and (c) such contract is not evidenced by a written record showing the date, parties, property covered, price, and terms of delivery, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2002).

32. Each offer to enter into a futures transaction not conducted on a designated contract market or registered derivatives transaction execution facility, including but not

limited to those offered by NYPOE as specifically alleged herein, is alleged as a separate and distinct violation of Section 4(a) of the Act.

COUNT II
Violations by Defendants of Section 4c(b) of the Act and
Section 32.9(a) and (c) of the Regulations:
Options Fraud

33. Paragraphs 1 through 32 are re-alleged and incorporated herein.

34. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under the Act which is of the character of, or is commonly known to the trade as, an “option,” “privilege,” “indemnity,” “bid,” “offer,” “put,” “call,” “advance guaranty,” or “decline guaranty,” contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

35. Commission Regulation 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c), makes it unlawful for any person, directly or indirectly (a) to cheat or defraud or attempt to cheat or defraud any person; or (c) to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of any commodity option transaction.

36. NYPOE and HPR, in connection with offers to enter into, the entry of, or the confirmation of the execution of commodity options transactions, cheated or defrauded or attempted to cheat or defraud customers and prospective customers, and deceived or attempted to deceive customers and prospective customers, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.9(a) and (c) of the Commissions Regulations, 17 C.F.R. §§ 32.9(a) and (c).

37. Each material misrepresentation or omission, false statement, or misappropriation of investor funds, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act.

VI.
RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), and pursuant to the Court's own equitable powers enter:

A. an order finding that Defendants violated Section 4c(b) of the Act, 7 U.S.C. §§ 6c(b), and Commission Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c) and that NYPOE violated Section 4(a) of the Act, 7 U.S.C. §6(a);

B. an *ex parte* statutory restraining order and an Order of preliminary injunction restraining and enjoining the Defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with them who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendants, wherever located, including all such records concerning the Defendants' business operations; and
2. refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data,

tape records or other property of the Defendants, wherever located, including all such records concerning the Defendants' business operations.

C. preliminary and permanent injunctions prohibiting Defendants from engaging in conduct in violation of Sections 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c) and prohibiting NYPOE from violating Section 4(a) of the Act, 7 U.S.C. § 6(a); including prohibiting the Defendants from operating the fraudulent websites;

D. an order directing Defendants to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act or of the Commission Regulations, as described herein, and interest thereon from the date of such violations;

E. an order directing Defendants to make full restitution, pursuant to such procedure as the Court may order, to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;

F. an order assessing a civil monetary penalty against each Defendant in the amount of not more than the higher of \$130,000 or triple the monetary gain to the defendant for each violation by the Defendant of the Act and Commission Regulations;

G. an order directing that the Defendants make an accounting to the Court of all their assets and liabilities, together with all funds they received from and paid to clients and other persons in connection with commodity futures and options transactions or purported commodity futures and options transactions, and all disbursements for any

purpose whatsoever of funds received from commodity transactions, including salaries, commissions, interest, fees, loans and other disbursements of money and property of any kind; and

H. such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: New York, NY
March 22, 2007

COMMODITY FUTURES TRADING
COMMISSION

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