



## II. FINDINGS

The Commission finds the following:

### A. Summary

During the Relevant Period, CMS acted as an unregistered Introducing Broker (“IB”) by facilitating over-the-counter (“OTC”) swaps and options, in energy commodities, between its customers and potential counterparties. CMS never accepted any money, or other assets, related to its swaps and options transactions. CMS was not registered with the Commission as an IB. Therefore, CMS’s conduct violated Section 4d(g) of the Act, 7 U.S.C. § 6d(g).

In accepting the Offer, the Commission recognizes Respondent’s substantial cooperation with the Commission’s Division of Enforcement’s investigation of this matter. The Commission also acknowledges CMS’s representations concerning its remediation in connection with this matter. The Commission’s recognition of Respondent’s substantial contribution is reflected in the form of a substantially reduced civil monetary penalty.

### B. Respondent

**Cost Management Solutions, LLC**, is a domestic limited liability company. Its principal place of business is in Livingston, Texas. CMS has never been registered with the Commission in any capacity.

### C. Facts

During the Relevant Period, CMS acted as an unregistered IB by soliciting and accepting orders for swap and options transactions for its clients. CMS solicited clients via its website, YouTube videos, emails, and hedging seminars. CMS mainly brokered transactions in energy commodities, primarily propane, but also including small amounts of heating oil, and crude oil. CMS’s IB activities included: (1) identifying counterparties; (2) price discovery; (3) negotiating trades; (4) trade execution; and (5) various back-office support functions. CMS did not accept any money, securities, or property to margin, guarantee, or secure these transactions. CMS received fees from its clients for its brokerage services.

CMS’s clients were primarily propane retailers and distributors interested in hedging risk. In a typical transaction, at its client’s behest, CMS contacted two to three potential counterparties for a quote. CMS negotiated on behalf of its client with the counterparties. If the client determined that the quote was acceptable, CMS then executed the swap agreement or option transaction on behalf of the client.

In total, between 2019 and 2023, CMS brokered 1,663 swap and options transactions for approximately 71 clients.

### D. CMS’s Cooperation

Throughout the Division’s investigation, CMS provided substantial cooperation. CMS provided to Division Staff complete presentations of the facts of its operations, including identifying key persons and summaries of relevant data. Further, in response to the Division’s investigation, CMS attempted to remediate any potential violations by reviewing and altering the

content of its website. CMS's cooperation significantly conserved the time and resources of Division Staff.

### **III. LEGAL DISCUSSION**

The Act's registration requirements are the cornerstone of the regulatory framework enacted by Congress to protect the public. "Registration is the kingpin in . . . [the Commission's] statutory machinery giving the Commission the information about participants in commodity trading which it so vitally requires to carry out its other statutory functions of monitoring and enforcing the Act." *Flaxman v. CFTC*, 697 F.2d 782, 787 (7th Cir. 1983) (quoting *CFTC v. British Am. Commodity Options Corp.*, 560 F.2d 135, 139-40 (2d Cir. 1977)). Failure to register with the Commission is a serious offense and not a mere technical violation of the Act. See *British Am. Commodity Options Corp.*, 560 F.2d at 139-40.

#### **Respondent Violated Section 4d(g) of the Act**

Section 4d(g) of the Act, 7 U.S.C. § 6d(g), makes it unlawful to act as an IB, unless registered with the Commission.

Section 1a(31)(A)(i)(I)-(II) of the Act, 7 U.S.C § 1a(31) (A)(i)(I)-(II), in relevant part defines an IB as any person who—

(I) is engaged in soliciting or in accepting orders for—

(aa) the purchase or sale of any commodity for future delivery, security futures product, or swap;. . . and

(II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom . . .

During the Relevant Period, without being registered as an IB, CMS acted as an IB by soliciting or accepting orders for swap and options transactions conducted between CMS's clients and their counterparties. CMS did not accept any money, securities, or property to margin, guarantee, or secure these transactions. Instead, CMS received compensation for its IB services in the form of fees paid by its clients. Thus, CMS violated Section 4d(g) of the Act.

### **IV. FINDINGS OF VIOLATIONS**

Based on the foregoing, the Commission finds that, during the Relevant Period, CMS violated Section 4d(g) of the Act, 7 U.S.C. § 6d(g).

### **V. OFFER OF SETTLEMENT**

Respondent CMS has submitted the Offer in which CMS knowingly and voluntarily:

- A. Consents to the resolution of this matter in an administrative proceeding;
- B. Acknowledges service of this Order;

- C. Admits the facts described in Section II above and acknowledges that their conduct violated the Act;
- D. 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;
- E. Waives:
  - 1. The filing and service of a complaint and notice of hearing;
  - 2. A hearing;
  - 3. All post-hearing procedures;
  - 4. Any and all rights or defenses that he has or might have for the matter to be adjudicated in a federal district court in the first instance, including any associated right to a jury trial;
  - 5. Judicial review by any court;
  - 6. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  - 7. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2023), relating to, or arising from, this proceeding;
  - 8. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201-253, 110 Stat. 847, 857-74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
  - 9. 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, including this Order;
- F. Agrees, for purposes of the waiver of any and all rights under the Equal Access to Justice Act specified in Paragraph E, subpart 7 above, the Commission is the prevailing party in this action;
- G. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which CMS has consented in the Offer;
- H. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
  - 1. Makes findings by the Commission that CMS violated Section 4d(g) of the Act, 7 U.S.C. § 6d(g);

2. Orders CMS to cease and desist from violating Section 4d(g) of the Act;
3. Orders CMS to pay a civil monetary penalty in the amount of one-hundred-thousand dollars (\$100,000.00) within fourteen days of the date of the entry of this Order, plus post-judgment interest, if applicable; and
4. Orders CMS to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order,

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

## VI. ORDER

### Accordingly, IT IS HEREBY ORDERED THAT:

- A. CMS shall cease and desist from violating Section 4d(g) of the Act, 7 U.S.C. § 6d(g);
- B. CMS shall pay a civil monetary penalty in the amount of one-hundred-thousand dollars (\$100,000.00) (“CMP Obligation”) within fourteen days of the date of the entry of this Order. If the CMP Obligation is not paid in full within fourteen 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.

Respondent shall pay the CMP Obligation and any post-judgment interest 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, Respondent shall make the payment payable to the Commodity Futures Trading Commission, and sent to the address below:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
6500 S. MacArthur Blvd.  
Room 266  
Oklahoma City, OK 73169  
9-AMZ-AR-CFTC@faa.gov

If payment is to be made by electronic transfer, Respondent shall contact Federal Aviation Administration at the above email 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 Respondent and the name and docket number of this proceeding. 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. CMS shall comply with the following conditions and undertakings set forth in the Offer:
  1. Public Statements: CMS agrees that neither CMS nor any of its successors, assigns, agents, or employees under its authority or control shall take any action or make

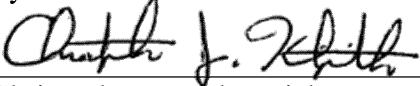
any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect CMS's and/or its agents' and/or employees': (i) testimonial obligations; or (ii) right to take positions in other proceedings to which the Commission is not a party. CMS and its successors and assigns shall comply with this Order, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.

2. Cooperation, In General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action.
3. Partial Satisfaction: CMS understands and agrees that any acceptance by the Commission of partial satisfaction of its 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.
4. Change of Address: Until such time as CMS satisfies in full its CMP Obligation as set forth in this Order, CMS shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten days of the change.
5. Until such time as Respondent satisfies its CMP Obligation, upon the commencement by or against Respondent of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondent's debts, all notices to creditor required to be furnished to the Commission under Title 11 of the United States Code or other applicable law with respect to such insolvency, receivership bankruptcy, or other proceedings shall be sent to the address below:

Secretary of the Commission  
Office of the General Counsel  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street NW  
Washington DC 20581

**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: August 12, 2024