



## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

Beginning no later than December 31, 2020 and continuing until the present, Respondent, a registered futures commission merchant (“FCM”), violated Regulation 166.3, 17 C.F.R. § 166.3 (2023), by failing to diligently supervise its employees’ handling of accounts that needed to be frozen, disabled, or otherwise restricted on an emergency basis. Specifically, in January 2022, Respondent failed to diligently supervise its employees’ handling of accounts held or managed by Respondent in the name of Rajiv Patel (“Patel”). Respondent did not have adequate policies and procedures and did not adequately oversee its employees to ensure that NTC implemented the statutory restraining order (“SRO”) entered by the U.S. District Court for the Southern District of Florida on January 21, 2022 in connection with the fraud perpetrated by Patel and his company, Blueprint LLC (“the Blueprint LLC fraud”). As a result of these deficiencies, NTC failed to take diligent steps to understand and implement the SRO. These failures resulted in positions in the Patel accounts remaining open for several days after the SRO was served, during which time they lost \$233,425.70 in value.

### B. RESPONDENT

NTC is a Delaware Limited Liability Company registered as a foreign limited liability company with the State of Illinois Secretary of State. It operates out of Deer Park, Illinois.<sup>2</sup>

### C. FACTS

#### 1. The Blueprint LLC Litigation

Respondent’s violations concerning its employees’ handling of the Patel accounts came to light after the Commission filed a seven-count complaint for injunctive relief on January 18, 2022 against Patel and Blueprint LLC for violating certain anti-fraud and registration provisions of the Act and Regulations in connection with the Blueprint LLC fraud. *See* Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief (“Complaint”), *CFTC v. Patel*, Case No. 22-cv-80092 (S.D. Fla. Jan. 18, 2022). After filing the Complaint, on January 20, 2022, the Division obtained an SRO, which, among other things, prohibited Patel and Blueprint LLC from dissipating or disposing of any assets and restricted those served with the SRO from permitting Patel or Blueprint to dissipate or dispose of any assets. The Blueprint LLC litigation concluded with the Commission’s voluntary dismissal of Patel from the litigation due to his passing and consent orders with Blueprint LLC and a later-joined relief defendant. The

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<sup>2</sup> On December 31, 2020, NTC’s parent and registered principal acquired York Business Associates, LLC dba TransAct Futures (“York”). On May 13, 2021, York formally changed its name to NinjaTrader Clearing, LLC dba NinjaTrader, Tradovate and TransAct Futures.

consent order with Blueprint LLC imposed restitution to the victims of the fraud in the amount of \$8,863,753.77. *See* Consent Order for Equitable Relief Against Blueprint LLC, *CFTC v. Patel*, Case No. 22-cv-80092 (S.D. Fla. Aug. 4, 2023).

## **2. Respondent's Failures to Diligently Supervise**

On January 21, 2022, Division staff served the SRO on Respondent. After receiving the SRO, Respondent assured Division staff that the accounts had been frozen. But while Respondent prevented Patel from withdrawing funds, it did not preserve the current value of the account or eliminate Patel's ability to place trades. Instead, Respondent placed the accounts on liquidation-trading-only status, which meant that positions in the accounts remained open and subject to market risk and Patel retained the ability to place liquidating trades. Patel ultimately closed the positions in the accounts on January 25, 2022. By that time, the positions had already lost \$233,425.70 in value since the SRO had been served on NTC. On February 8, 2022, Division staff discovered the dissipation in value and questioned NTC about why the value in the frozen accounts had decreased. NTC then discovered that Patel had unlawfully accessed the accounts on January 25, 2022.

NTC lacked adequate policies or procedures to process and implement the SRO and address other emergency account actions that could necessitate disabling a customer's access, preserving an account's current value, or remitting funds to someone other than the accountholder. Respondent's only policies regarding account closure did not expressly address whether or when NTC should disable accountholder access or liquidate positions itself. Instead, NTC's written policies regarding account closure contemplated that for every account closure, accountholders should liquidate positions and that NTC should transmit remaining funds back to the accountholder.<sup>3</sup> Finally, Respondent did not adequately oversee the implementation of the SRO and, among other things, did not clearly identify the person responsible to implement the SRO. Overall, the accounts suffered a loss of \$233,425.70 due to Respondent's supervision-related failures concerning the closure and liquidation of the Patel accounts.

### **III. LEGAL DISCUSSION**

#### **Respondent Violated Commission Regulation 166.3 by Failing to Supervise Its Agents.**

Regulation 166.3, 17 C.F.R. § 166.3 (2023), imposes on every Commission registrant (except associated persons who have no supervisory duties) an affirmative duty to "diligently supervise the handling by its partners, officers, employees and agents ... of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents ... relating to its business as a Commission registrant." A violation of Regulation 166.3 is an independent violation for which no underlying

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<sup>3</sup> Patel did not try to transmit any funds to himself after the SRO.

violation is necessary. *See, e.g., In re Collins*, CFTC No. 94-13, 1997 WL 761927, at \*10 (Dec. 10, 1997) (“It is well settled that a violation under Rule 166.3 is ‘an independent and primary violation for which no underlying violation is necessary.’” (citation omitted)); *In re GNP Commodities, Inc.*, CFTC No. 89-1, 1992 WL 201158, at \*17 n.11 (Aug. 11, 1992) (“Rule 166.3 establishes failure to supervise as an independent and primary violation ....” (citation omitted)), *aff’d in part and modified sub nom. Monieson v. CFTC*, 996 F.2d 852 (7th Cir. 1993).

For a registrant to fulfill its duties under Regulation 166.3, it must both design an adequate program of supervision and ensure that the program is followed. *See GNP Commodities*, 1992 WL 201158, at \*17-19 (providing that, even if an adequate supervisory system is in place, Regulation 166.3 can still be violated if the supervisory system is not diligently administered). As a result, a violation of Regulation 166.3 “is demonstrated by showing either that: (1) the registrant’s supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently.” *In re FCStone, LLC*, CFTC No. 15-21, 2015 WL 2066891, at \*3 (May 1, 2015) (consent order) (citing *In re Murlas Commodities, Inc.*, CFTC No. 85-29, 1995 WL 523563, at \*9 (Sept. 1, 1995)).

As set forth above, Respondent failed to have adequate policies and procedures governing the emergency handling of accounts and did not exercise sufficient oversight over its employees’ handling of the accounts in response to the SRO. As a result, Respondent violated Regulation 166.3.

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

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent violated Regulation 166.3, 17 C.F.R. § 166.3 (2023).

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

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

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

- D. Admits the facts described in Section II above and acknowledges that this conduct violated Regulation 166.3, 17 C.F.R. § 166.3 (2023);
- 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 Respondent 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, 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 subparagraph 7 above, that Respondent is not 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 Respondent 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 Respondent violated Regulation 166.3;
  - 2. Orders Respondent to cease and desist from violating Regulation 166.3;
  - 3. Orders Respondent to pay restitution in the amount of two-hundred, thirty-three thousand, four hundred twenty-five dollars and seventy cents (\$233,425.70), plus any post-judgment interest;
  - 4. Orders Respondent to pay a civil monetary penalty in the amount of seven hundred fifty thousand dollars (\$750,000), plus any post-judgment interest; and
  - 5. Orders Respondent and its successors and assigns 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. Respondent shall cease and desist from violating Regulation 166.3, 17 C.F.R. § 166.3 (2023).
- B. Respondent shall pay restitution in the amount of two-hundred, thirty-three thousand, four hundred twenty-five dollars and seventy cents (\$233,425.70) ("Restitution Obligation"). If the Restitution Obligation is not paid immediately in full, then post-judgment interest shall accrue on the unpaid portion of the Restitution 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 make its payments of the Restitution Obligation and any post-judgment interest under this Order in the name of the "NinjaTrader Settlement Fund" and shall send such payments by electronic funds transfer, or U.S. postal money order, certified check, bank cashier's check, or bank money order under a cover letter that identifies the name and docket number of this proceeding to Melanie E. Damian, the Court-appointed receiver ("Receiver") in the Blueprint LLC litigation, at the address below:

Melanie E. Damian, Court-Appointed Receiver for Blueprint LLC  
Damian and Valori LLP  
1000 Brickell Avenue, Suite 1020  
Miami, Florida 33131

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.

The Receiver shall distribute these restitution funds to persons defrauded by Blueprint LLC consistent with the District Court's Amended Order Granting Receiver's Unopposed Motion To Approve Initial Distribution to Allowed Claimants issued December 27, 2023.

- C. Respondent shall pay a civil monetary penalty in the amount of seven hundred fifty thousand dollars (\$750,000) ("CMP Obligation"). If the CMP Obligation is not paid immediately in full, then post-judgment interest shall accrue on the unpaid portion of 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, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
6500 S. MacArthur Blvd.  
HQ Room 266  
Oklahoma City, OK 73169  
9-amz-ar-cftc@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact Tonia King or her successor at the above 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 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.

D. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. Public Statements: Respondent agrees that neither it nor any of its successors and assigns, 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 Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, 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 with Receiver: Respondent shall cooperate with the Receiver as appropriate to provide such information as the Receiver deems necessary and appropriate to identify Respondent's customers, whom the Receiver, in her sole discretion, may determine to include in any plan for distribution of any restitution payments. Respondent shall execute any documents necessary to release funds that it has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.
3. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission or the Receiver of any partial payment of Respondent's Restitution Obligation or 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/Phone: Until such time as Respondent satisfies in full its Restitution Obligation and CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission and the Receiver by certified mail of any change to their telephone number and mailing address within ten calendar days of the change.
5. Notices to Creditors: Until such time as Respondent satisfies in full its Restitution Obligation and 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 creditors required to be furnished to the Commission under Title 11 of the United States

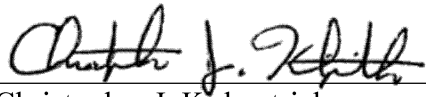


Code or other applicable law with respect to such insolvency, receivership  
bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission  
Office of the General Counsel  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street N.W.  
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: September 23, 2024