

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



_____)
In the Matter of:)
)
Southwest Group, LLC,)
)
Respondent.)
_____)

CFTC Docket No. 20-24

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

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that from April 2018 through at least September 2018 (the “Relevant Period”), Southwest Group, LLC (“Southwest Group” or “Respondent”) violated Section 2(c)(2)(C)(iii)(I)(aa) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa) (2018), and Commission Regulation (“Regulation”) 5.3(a)(6)(i), 17 C.F.R. § 5.3(a)(6)(i) (2019). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order imposing remedial sanctions should be issued.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings herein, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.¹

¹ Respondent consents to the entry of this Order and to the use of the findings herein in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not consent to the use of the Offer or this Order, or the findings herein, by any other party in any other proceeding.

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, Southwest Group acted as a retail foreign exchange dealer (“RFED”) without being registered with the Commission as such, by being, or offering to be, the counterparty to financed retail foreign currency (“forex”) transactions for U.S. retail forex customers who were not eligible contract participants (“ECPs”) as defined in Section 1a(18) of the Act, 7 U.S.C. § 1a(18) (2018). By acting as an RFED without being registered in that capacity, Southwest Group violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act and Regulation 5.3(a)(6)(i).

B. RESPONDENT

Southwest Group, LLC is a Florida limited liability company, formed in February 2018, that is currently active. Southwest Group maintains its principal office in Fort Myers, Florida. Southwest Group has never been registered with the Commission in any capacity.

C. FACTS

During the Relevant Period, Southwest Group, through its website www.currencyliquidator.com, offered transactions in off-exchange forex on a financed basis to retail customers located throughout the United States and who were not ECPs. These financed retail forex transactions did not result in actual delivery of forex within two days of the transactions.

Southwest Group offered to enter into, and entered into, transactions in forex with retail customers who were not ECPs by offering to act as the counterparty to transactions in Vietnamese Dong and/or Iraqi Dinar. Southwest Group, through its website, offered customers transactions in forex utilizing a “Premium+ Layaway Program” financing option. The “Premium+ Layaway Program” was financed by Southwest Group, acting as the counterparty to these retail forex transactions, which did not result in actual delivery of forex within two days of the transactions. Instead, retail customers received their forex either 30 or 45 days following the date of their forex transactions.

At no time during the Relevant Period was Southwest Group registered as an RFED or eligible for an exemption from the requirement to register as an RFED.

III. LEGAL DISCUSSION

Regulation 5.1(h)(1), 17 C.F.R. § 5.1(h)(1) (2019), defines an RFED as “any person that is, or that offers to be, the counterparty to a retail forex transaction,” subject to exceptions not relevant here. Pursuant to Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2018), “the term ‘person’ imports the plural or singular, and includes individuals, associates, partnerships,

corporations, and trusts.” Regulation 5.1(k) defines a “retail forex customer” as a person, other than an ECP, as defined in Section 1a(18) of the Act, acting on its own behalf and trading in any account, agreement, contract, or transaction described in Section 2(c)(2)(C) of the Act.

During the Relevant Period, Southwest Group acted as an RFED by being, or offering to be, the counterparty to financed retail forex transactions for retail forex customers. By failing to register as an RFED, Southwest Group violated Section 2(c)(2)(C)(iii)(I)(aa) of Act and Regulation 5.3(a)(6)(i).

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Southwest Group violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa) (2018), and Regulation 5.3(a)(6)(i), 17 C.F.R. § 5.3(a)(6)(i) (2019).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, without admitting or denying the findings 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 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 (2018) and 28 U.S.C. § 2412 (2018), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2019), 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, 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
 8. 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;
- D. 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; and
- 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 Southwest Group violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa) (2018), and Regulation 5.3(a)(6)(i), 17 C.F.R. § 5.3(a)(6)(i) (2019);
 2. Orders Southwest Group to cease and desist from violating Section 2(c)(2)(C)(iii)(I)(aa) of the Act and Regulation 5.3(a)(6)(i);
 3. Orders Southwest Group to pay a civil monetary penalty in the amount of seventy-five thousand dollars (\$75,000), plus post-judgment interest within ten (10) days of the entry of this Order; and
 4. Orders Southwest Group and its successors and assigns to comply with the conditions and undertakings set forth in the Offer and below in Section VI of this Order.

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

VI. ORDER

Accordingly, it is hereby ordered that:

- A. Southwest Group shall cease and desist from violating Section 2(c)(2)(C)(iii)(I)(aa) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa) (2018), and Regulation 5.3(a)(6)(i), 17 C.F.R. § 5.3(a)(6)(i) (2019).
- B. Southwest Group shall pay a civil monetary penalty in the amount of seventy-five thousand dollars (\$75,000) ("CMP Obligation"), plus post-judgment interest, within ten (10) days of the date of entry of the Order. If the CMP Obligation is not paid in full within ten (10) days of the date of entry of the Order, then post-judgment interest shall

accrue on the CMP Obligation beginning on the date of entry of the Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of the Order pursuant to 28 U.S.C. § 1961 (2018).

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
Division of Enforcement
6500 S. MacArthur Blvd.
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne 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 paying Respondent and the name and docket number of this proceeding. The paying 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, DC 20581.

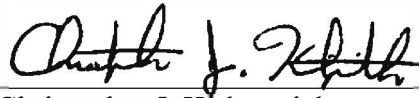
- C. Southwest Group and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Respondent agrees that neither it nor any of its agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings in the Order or creating, or tending to create, the impression that the 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. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of partial payment of Respondent'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.

3. Change of Address/Phone: Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent 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 as of this date.

By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: July 20, 2020