

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

**RECEIVED CFTC**



Office of Proceedings  
Proceedings Clerk

**9:50 am, Aug 24, 2022**

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**In the Matter of:**

**Eric Schwartz,**

**Respondent.**

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) **CFTC Docket No. 22-22**  
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**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 in or about April 2020 to at least July 2020 (“Relevant Period”), Eric Schwartz (“Respondent”) violated Section 4c(a)(5)(C) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6c(a)(5)(C). 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 should be issued imposing remedial sanctions.

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 or conclusions 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.<sup>1</sup>

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<sup>1</sup> Respondent consents to the use of the findings of fact and conclusions of law in this Order 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 be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions 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 or conclusions in this Order, by any other party in any other proceeding.

## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

During the Relevant Period, Schwartz engaged in multiple instances of the disruptive trading practice known as “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution) involving Natural Gas (“NG”) and Reformulated Blendstock for Oxygenate Blending Gasoline (“RBOB”) futures contracts on the Chicago Mercantile Exchange (“CME”), a designated contract market. This conduct violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2018).

### B. RESPONDENT

Eric Schwartz is a resident of Illinois. Schwartz was a proprietary trader during the Relevant Period. Schwartz has never been registered with the Commission.

### C. FACTS

During the Relevant Period, Schwartz placed bids and offers for calendar spreads involving NG and RBOB futures contracts on the CME with the intent to cancel the bids and offers before execution. Schwartz’s spoofing activity involved placing a small order that he wanted to get filled (“Genuine Order”) on one side of the market; and on the opposite side of the same market, placing one or more larger orders at or near the best price that he intended to cancel before execution (“Spoof Order”), often for more than ten times the size of the Genuine Order. Generally, Schwartz quickly canceled the Spoof Order after placing it, and often after his Genuine Order was filled.

During the Relevant Period, Schwartz placed multiple Spoof Orders for NG and RBOB futures contracts.

## III. LEGAL DISCUSSION

Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C), makes it unlawful for “[a]ny person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” *See, e.g., United States v. Coscia*, 866 F.3d 782, 792-93 (7th Cir. 2017) (holding that because the Act clearly defines spoofing, it provides adequate notice of prohibited conduct), *cert. denied*, 138 S. Ct. 1989 (2018).

As described above, during the Relevant Period, Schwartz placed bids and offers for futures contracts listed on CME, a registered entity, with the intent to cancel those bids and offers before they were executed. By engaging in this conduct, Schwartz violated Section 4c(a)(5)(C) of the Act. *See CFTC v. Oystacher*, 203 F. Supp. 3d 934, 942 (N.D. Ill. 2016) (denying motion for judgment on the pleadings, holding that allegations of placing “both bids and offers with the intent to cancel those bids or offers before execution” constitutes “trading behavior [that] falls within the Spoofing Statute’s defined prohibition”).

#### **IV. FINDINGS OF VIOLATION**

Based on the foregoing, the Commission finds that, during the Relevant Period, Schwartz violated 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).

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

Respondent has submitted the Offer in which he, without admitting or denying the findings and conclusions herein:

- A. Acknowledges 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 he 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 (2022), relating to, or arising from, this proceeding;
  - 7. Any and all claims that he 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, including this Order;
- 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 Respondent violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C);
  2. Orders Respondent to cease and desist from violating Section 4c(a)(5)(C) of the Act;
  3. Orders Respondent to pay a civil monetary penalty in the amount of one hundred thousand dollars (\$100,000), plus any post-judgment interest;
  4. Orders that Respondent be prohibited from, directly or indirectly, engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40)), until four months after full payment and satisfaction of the CMP Obligation and any applicable interest, and all registered entities shall refuse him trading privileges during that period; and
  5. Orders Respondent 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 Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C).
- B. Respondent shall pay a civil monetary penalty in the amount of one hundred thousand dollars (\$100,000) ("CMP Obligation"). If the CMP Obligation is not paid immediately, 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, 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 266  
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 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 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, D.C. 20581.

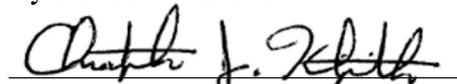
- C. Respondent is prohibited from, directly or indirectly, engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40)), until four months after full payment and satisfaction of the CMP Obligation and any applicable interest, and all registered entities shall refuse him trading privileges during that period; and
- D. Respondent shall comply with the following conditions and undertakings set forth in the Offer:
  - 1. Public Statements: Respondent agrees that neither he nor any of his agents or employees under his 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 and/or his agents' and/or employees': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent shall comply with this agreement, and shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement.
  - 2. Respondent agrees that he shall not, directly or indirectly, until four months after full payment of the CMP Obligation is received:
    - a. enter into any transactions involving commodity interests" (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022), for Respondent's own personal accounts or for any accounts in which Respondent has a direct or indirect interest;
    - b. have any commodity interests traded on Respondent's behalf;
    - c. control or direct the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
    - d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests;
    - e. apply for registration or claim exemption from registration with the Commission in any capacity, and engage in any activity requiring such registration or exemption from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2022); and/or

- f. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2022)), agent or any other officer or employee of any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2018)), registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9).
3. 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, this action.
4. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of his 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.
5. Change of Address/Phone: Until such time as Respondent satisfies in full his CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten calendar days of the change.
6. Until such time as Respondent satisfies in full his 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: August 24, 2022