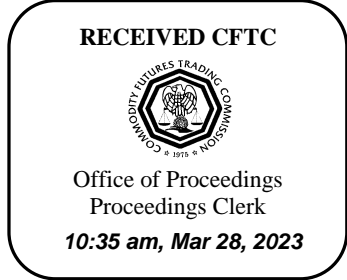


UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



In the Matter of:)
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)
 BBL COMMODITIES LP,) **CFTC Docket No. 23-08**
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 Respondent.)
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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 since at least December 2017 to the present (“Relevant Period”), BBL Commodities LP (“Respondent” or “BBL”) violated Commission Regulation (“Regulation”) 166.3, 17 C.F.R. § 166.3 (2022). 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.¹

¹ 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, specifically on December 29, 2017, Respondent, a registered Commodity Pool Operator (“CPO”) and Commodity Trading Advisor (“CTA”), engaged in trading of Gasoil futures calendar spreads. On October 4, 2019, a foreign board of trade registered with the Commission (i.e., ICE Futures Europe (“ICE” or “ICE Futures Europe”)) announced the settlement of a disciplinary action against the broker firm that executed the trades on behalf of BBL (“Executing Broker”), pursuant to which ICE determined that the trading activity was disruptive, reckless, and disorderly, based on the quantity and timing of the orders and that failings in the Executing Broker’s pre- and post-trade systems and controls had also occurred. By failing to diligently supervise those trading activities by its employees, Respondent violated its supervisory obligations under Regulation 166.3, 17 C.F.R. § 166.3 (2022).

B. RESPONDENT

BBL COMMODITIES LP is a Delaware limited partnership located in New York, New York. BBL has been registered with the Commission as a CPO and CTA since August 2013.

C. FACTS

During the Relevant Period, BBL engaged in trading of commodity interest accounts, including futures contracts traded on or subject to the rules of designated contract markets as well as registered foreign boards of trade on behalf of its commodity pool and/or managed accounts (which included U.S. investors). As such, BBL was required diligently to supervise the handling by its employees and agents of all commodity interest accounts carried, operated, advised, or introduced by BBL (including commodity interest accounts carrying futures position traded on or subject to the rules of designated contract markets and foreign boards of trade) and all employee activities relating to its business as a Commission registrant.

As set forth below, BBL did not maintain an adequate supervisory system with respect to potentially disruptive trading and consequently engaged in trading on December 29, 2017 that ICE determined—in connection with the settlement of a disciplinary action against the Executing Broker—to be disruptive, reckless, and disorderly.

Respondent’s Trading on December 29, 2017

On December 27, 2017, a senior-level BBL employee with supervisory authority (“BBL Supervisor”) instructed two BBL employees to place “a v wap order to buy 2000 [barrels]” of the February 2018 / December 2018 “Feb18/Dec18”) ICE Gasoil futures calendar spread two days later, on December 29, 2017.² By “v wap,” the BBL Supervisor meant a VWAP, or volume weighted average price order. Although the BBL Supervisor had initially had directed BBL personnel to have the trade executed over the last ten minutes on the last trading day of the

2 This size order equated to 2,685 Gasoil futures contracts.

calendar year (which period also included the two-minute settlement period for the contract), on December 28, 2017, the BBL Supervisor directed that the execution time be cut in half to the last five minutes of trading.

On December 28, 2017, a BBL employee sent a series of instant messages (“IMs”) to the Executing Broker:

- asking to confirm that the ICE Gasoil “settles/closes at 730 am” on December 29, 2017;
- requesting to “put in a time slice order³ for around that time tomorrow morning,” noting that he did not want to “forget and miss the liquidity [sic]”; and
- placing an order to buy “2,685 contracts of [the Feb18/Dec18 ICE Gasoil calendar spread], from 725am to 730am tomorrow morning.”

On December 28, 2017, the BBL Supervisor decided to increase the size of BBL’s order by 1,500 contracts, i.e., from 2,685 to 4,185 contracts, and directed the Executing Broker to keep the execution timing the same—namely the last five minutes of the trading day, which included the two-minute settlement window from 7:28 a.m. (EST) to 7:30 a.m. (EST). When a sales trader at the Executing Broker asked if BBL wanted to increase the time for execution “given [the 1,500-lot] increase,” the BBL Supervisor declined to do so, stating, “same time” (emphasis added).

Even a 1,000-lot Gasoil futures order was a large order for BBL, and a 4,185-lot order was among the larger—if not largest—of Gasoil futures orders BBL ever placed.

At approximately 7:17 a.m. (EST) on December 29, 2017, the Executing Broker sales trader sent an IM to the BBL Supervisor: “[I] know liquidity will improve as we approach settle. But it is definitely a little thin right now. Are you sure you do not prefer to start early?” The BBL Supervisor responded: “start at 722.” Having been informed by the Executing Broker sales trader that liquidity was “definitely a little thin right now,” BBL did not take any steps to mitigate any potential disruption by, for example, decreasing the lot size, deferring the execution time, or placing a limit price on the order at that time.

Although BBL had requested the Executing Broker use a “time slice” order, the Executing Broker elected to use the Executing Broker’s “time weighted average price” (“TWAP”) algorithm which takes the size of an order and the designated time period for execution, and divides the order across that period to achieve execution at a time-weighted average price. The Executing Broker’s TWAP and time slice algorithms were similar except that for a time slice order, the trader would manually input tranche size, whereas for a TWAP order the algorithm determined tranche size to adhere to an even execution schedule.

At approximately 7:22:33 a.m. (EST) on December 29, 2017, the Executing Broker sales trader sent an IM to BBL: “in motion on the Gasoil.” At 7:23:36 a.m. (EST), the Executing Broker sales trader sent an IM to BBL indicating that he had executed 700 ICE Gasoil futures calendar spreads at a price of \$28.05 per contract. By approximately 7:24:38 a.m. (EST), the

³ A “time slice” order refers to an algorithmic order by the Executing Broker to trade a given volume over a specified time period over a set execution schedule.

Executing Broker sales trader sent an IM to BBL indicating that he had executed 1,274 lots of the order. Less than 30 seconds later, at approximately 7:25:00 a.m. (EST), the Executing Broker sales trader sent an IM to BBL: “mkt moving higher. let me know if you want to use a limit.” A limit order is an order in which the customer specifies a minimum sale price or maximum purchase price; in this instance, the Executing Broker sales trader was asking BBL if they would like to specify a price above which BBL would not pay. The BBL Supervisor responded forty seconds later: “use a 38 limit.” This meant that the Executing Broker should use a price limit of \$38 and not buy any ICE Gasoil Feb18/Dec18 calendar spreads at higher than \$38 per contract. Approximately three seconds later, the BBL Supervisor messaged the Executing Broker stating that the limit price should be “38.500.”

In order to follow the BBL Supervisor’s instructions, the Executing Broker canceled BBL’s market TWAP order and entered a TWAP order for the remaining balance, as a TWAP order with a price limit of \$38.50, i.e., that would stop executing if the calendar spread traded above \$38.50.

During the execution, the BBL Supervisor watched the market, and was aware that the price of the Feb18/Dec18 Gasoil futures calendar spread was increasing. At approximately 7:27:19 a.m. (EST), the BBL Supervisor messaged the Executing Broker: “keep buying.” At approximately 7:30:07 a.m. (EST), the Executing Broker sales trader messaged BBL: “all done.”

When the Executing Broker executed BBL’s order on December 29, 2017, the price of the Feb18/Dec18 Gasoil futures calendar spread spiked.

ICE Futures Europe Investigation and Determinations as to December 29, 2017 Trading

On December 29, 2017, the ICE Futures Europe Market Surveillance department noted a spike in the price of the Feb18/Dec18 Gasoil futures calendar spread before and during the settlement window on the final trading day of the calendar year. On October 4, 2019, ICE announced the settlement of a disciplinary action against the Executing Broker, noting that “During the course of the investigation which was subsequently undertaken by [ICE], it was determined that the timing and quantity of the orders submitted by [the Executing Broker] on behalf of a client [i.e., BBL] were disruptive, reckless and disorderly and that failings in [the Executing Broker’s] pre- and post-trade systems and controls had also occurred.”

BBL Failed to Maintain an Adequate Supervisory System with Respect to Disruptive Trading

During the Relevant Period, BBL maintained a written Compliance Manual and a written Code of Conduct. Those documents referenced training wherein BBL personnel should be provided training, including, “the applicable laws and regulations and rules of the NFA and contract markets and registered derivatives transaction execution facilities,” the “Firm’s obligation to the public to observe just and equitable principles of trade,” and “how to act honestly and fairly and with due skill, care and diligence in the best interest of customers and the integrity of the markets.”

However, neither the Compliance Manual nor the Code of Conduct specifically addressed potentially disruptive trading. BBL lacked written policies or procedures for the detection and

deterrence of disruptive trading by its employees or directing the implementation of the firm's trading strategies in such a manner as to avoid disruptive trading.

Nor did BBL's written policies and procedures provide any guidance to BBL staff with respect to assessing the potential disruptive impact of BBL's orders; assessing liquidity prior to placing orders; describing appropriate or inappropriate trading during settlement periods; or mitigating the potential disruptive impact of BBL's orders. Although BBL also conducted annual training, that training did not provide adequate guidance to BBL personnel with respect to potentially disruptive trading.

As a result of those supervision failures, on December 27, 2017, BBL placed a large order with the Executing Broker to be executed in the final minutes of the settlement period on December 29, 2017—and decided on December 28, 2018 to increase the order size—without adequately considering the potential disruptive impact of BBL's trading.

III. LEGAL DISCUSSION

A. Failure to Supervise

Regulation 166.3 Regulation 166.3, 17 C.F.R. § 166.3 (2021), provides:

Each Commission registrant, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.

Regulation 166.3 imposes upon registrants an affirmative duty to supervise their employees and agents diligently by establishing, implementing and executing an adequate supervisory structure and compliance program. *See In re Vision Fin. Mkts. LLC*, CFTC No. 13-36, 2013 WL 5376144, at *2 (Sept. 24, 2013) (consent order); *CFTC v. Carnegie Trading Grp., Ltd.*, 450 F. Supp. 2d 788, 805 (N.D. Ohio 2006); *In re Logista Advisors LLC*, CFTC No. 17-29, 2017 WL 4386949 (Sept. 29, 2017) (consent order regarding failure to supervise disruptive trading on a foreign futures exchange). 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 In re GNP Commodities, Inc.*, CFTC No. 89-1, 1992 WL 201158, at *17-19 (Aug. 11, 1992) (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), *aff'd sub nom. Monieson v. CFTC*, 996 F.2d 852 (7th Cir. 1993).

A violation under Regulation 166.3 is an independent violation for which no underlying violation is necessary. *See CFTC v. Trinity Fin. Grp., Inc.*, No. 92-6832-CIV, 1997 WL 820970, at *29 n.6 (S.D. Fla. Sept. 29, 1997), *aff'd in relevant part, vacated in part and remanded sub nom. CFTC v. Sidoti*, 178 F.3d 1132 (11th Cir. 1999). Consequently, a violation of Regulation

166.3 is demonstrated by showing that either: (1) the registrant's supervisory system was generally inadequate, or (2) the registrant failed to perform its supervisory duties diligently. *See In re Forex Capital Mkts. LLC*, No. 12-01, 2011 WL 4689390, at *3 (Oct. 3, 2011) (consent order); *see also Trinity Fin. Grp., Inc.*, 1997 WL 820970, at *29 (finding Regulation 166.3 liability where registrants' purported "measures to deter and detect" wrongdoing were "illusory," registrants "failed to establish and maintain meaningful procedures for detecting and deterring" misconduct, and registrants "failed to take reasonable steps to correct" problems of which they were aware). Evidence of violations that "should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly" is probative of a failure to diligently supervise. *In re Paragon Futures Assoc.*, CFTC No. 88-18, 1992 WL 74261, at *14 (Apr. 1, 1992).

Here, BBL failed to establish and implement an adequate supervisory system through policies and procedures to detect whether its employees were engaging in disruptive trading or for deterring its employees from such conduct. BBL's written policies and procedures did not contain guidance regarding disruptive or manipulative trading activities. Nor did they contain any guidance with respect to assessing the potential disruptive impact of BBL's orders or assessing liquidity prior to placing orders, describe appropriate or inappropriate trading during settlement periods, or address mitigating the potential disruptive impact of BBL's orders. BBL's annual compliance training also failed to adequately address potentially disruptive trading. As a result of BBL's inadequate supervision, BBL engaged in trading that was determined, based on the quantity and timing of the orders, to be disruptive, reckless, and disorderly by ICE Futures Europe as part of their investigation of and settlement with the Executing Broker.

In short, during the Relevant Period, Respondent failed to establish and implement an adequate supervisory system to detect employees' disruptive trading or to deter BBL employees' disruptive trading and BBL failed to perform its supervisory duties diligently in violation of Regulation 166.3.

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, BBL Commodities LP violated Regulation 166.3, 17 C.F.R. § 166.3 (2022).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, 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 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 (2022), 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, 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 Regulation 166.3, 17 C.F.R. § 166.3 (2022);
 2. Orders Respondent to cease and desist from violating Regulation 166.3.
 3. Orders Respondent to pay a civil monetary penalty in the amount of four hundred thousand dollars (\$400,000), plus any post-judgment interest; and
 4. 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 (2022).

- B. Respondent shall pay a civil monetary penalty in the amount of four hundred thousand dollars (\$400,000) (“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 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 and to the Manal Sultan, Deputy Director, Division of Enforcement, Commodity Futures Trading Commission, 290 Broadway, 6th Floor, New York, NY 10007.

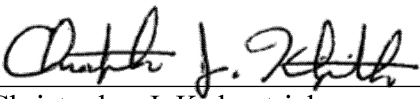
- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. **Public Statements:** Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action 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 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 any 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 calendar days of the change.
4. Until such time as Respondent satisfies in full 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 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: March 28, 2023