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UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

Jacob Orvidas,

Respondent.

CFTC Docket No. 23-43

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 approximately October 2017 through at least July 2020 (“Relevant Period”), Jacob Orvidas (“Respondent” or “Orvidas”) violated Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6m(1), 6o(1)(A)-(B). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Orvidas 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, Orvidas has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Orvidas admits to the factual findings and legal conclusions herein, except for the factual finding regarding the amount of total restitution owed to members of the public (“pool participants”), which Orvidas neither admits nor denies;¹ consents to the entry of this Order Instituting

¹ Orvidas failed to substantiate to the Commission’s satisfaction his claim that he repaid a certain pool participant and thus was entitled to a lower restitution amount; accordingly, Orvidas admits that restitution is owed to pool participants, but neither admits nor denies the finding of the amount of total restitution owed, specifically, \$2,033,501.10 (“Restitution Finding”). With respect to the Restitution Finding, Respondent consents to the use of the Restitution Finding 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 the Restitution Finding 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 the Restitution Finding 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 Restitution Finding by any other party in any other proceeding.

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.

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, Orvidas fraudulently solicited at least four pool participants to trade leveraged Bitcoin in a commodity pool (“Orvidas Pool”), promising pool participants protection of their investments and significant profits. In reality, Orvidas lost almost all pool participant funds trading. To cover up his trading losses, Orvidas provided fictitious account statements to pool participants and offered extensive pretextual explanations for his failure to return their contributed assets. In addition, Orvidas did not register as a commodity pool operator (“CPO”).

This conduct violated Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6m(1), 6o(1)(A)-(B).

B. RESPONDENT

Jacob Orvidas is a resident of Utah. Orvidas has never been registered with the Commission.

C. FACTS

During the Relevant Period, Orvidas solicited pool participants to participate in the Orvidas Pool in which Orvidas would trade leveraged Bitcoin on their behalves. Orvidas told pool participants that he would combine their Bitcoin with Bitcoin contributed by others and deliver “equal proportionate profits” based on each’s contribution level. In his communications with pool participants, Orvidas falsely promised protection of pool participants’ contributions and outlandish profits. For example, Orvidas falsely told one pool participant that one client invested \$100,000 worth of Bitcoin and cashed out \$2.7 million. Separately, Orvidas told the same pool participant that “Crypto trading is a joke. It’s like printing money It’s nice when you have coins to margin trade on because you can open a high leverage short, dump your bags, and make a massive profit on the short.” Orvidas shared screenshots with pool participants purporting to reflect (but which did not accurately reflect) Orvidas’s historical trading gains. Orvidas falsely told a pool participant that he would never sell the pool participant’s Bitcoin and would instead use it only as collateral to margin Orvidas’s leveraged Bitcoin trading.

Based on these and similar fraudulent representations, pool participants contributed approximately 182.83 BTC (valued at a total of \$2,257,503.42 at the time of each Bitcoin contribution) in response to these solicitations. Orvidas pooled these contributions in a single trading account. Orvidas lost almost all of pool participants’ Bitcoin while trading it.

After pool participants contributed to the Orvidas Pool, Orvidas made additional misrepresentations to pool participants regarding the profitability of his trading and the availability of their funds. These included, but were not limited to:

- Orvidas created and updated a spreadsheet to falsely reflect purported trading profits and, more generally, repeatedly communicated that a pool participant had earned significant profits. For example, on October 22, 2018, Orvidas falsely communicated to the pool participant that the pool participant was “up about 17% from your [approximately \$1.4 million] USD value at the top” resulting from Orvidas “[selling] 900 coins at 15k and [taking] the [first] to CME and CBOE and [shorting] it . . . This market is hugely profitable in this range.”
- When that pool participant requested payment of profits and, eventually, return of his Bitcoin contribution, Orvidas offered extensive pretextual explanations for failure to deliver. For example, over the course of at least a year, Orvidas claimed:
 - that a “post-settlement audit with the SEC” delayed return of funds;
 - that “the settlement process [was] taking far longer than it should due to the involvement of large funds;”
 - that, eventually, he was “working on a partial release package . . . that will be paid outside of the locked up funds;”
 - but that all “fiat releases” to other clients needed to precede Bitcoin releases to the pool participant and others to avoid unspecified “complications;”
 - and that eventual Bitcoin releases needed to proceed one client at a time due to an unspecified “convoluted” pricing methodology.

Orvidas’s trading records reflect that these explanations were pretextual and false, as Orvidas, in fact, had simply lost nearly all pool participants’ Bitcoin while trading.

Orvidas substantiated to the Commission that, during the Relevant Period, he returned to one pool participant approximately 14.01 BTC (valued at a total of \$224,002.32 at the time of each transfer). As a result of Orvidas’s conduct, pool participants suffered net losses (pool participant contributions minus substantiated amounts returned to pool participants) of \$2,033,501.10.

III. LEGAL DISCUSSION

A. Orvidas Committed Fraud in Violation of Sections 4b(a)(2)(A)-(C) and 4o(1)(A)-(B) of the Act.

Section 2(c)(2)(D)(i) of the Act applies “to any agreement, contract, or transaction in any commodity that is . . . entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant . . . and . . . entered into, or offered (even if not entered

into), on a leveraged or margined basis” 7 U.S.C. § 2(c)(2)(D)(i). Bitcoin is a digital asset commodity under the Act. *E.g., CFTC v. McDonnell*, 287 F. Supp. 3d 213, 228 (E.D.N.Y. 2018). As set forth herein, Orvidas offered leveraged Bitcoin trading to pool participants who were not eligible contract participants, as defined by the Act. Thus, Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), applies to Orvidas’s conduct. Act § 2(c)(2)(D)(iii), 7 U.S.C. § 2(c)(2)(D)(iii) (applying Section 4b of the Act to transactions falling within Section 2(c)(2)(D)(i) of the Act).

Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C), makes it unlawful

[F]or any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

(A) to cheat or defraud or attempt to cheat or defraud the other person;

(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record; [or]

(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person

In his communications with pool participants, Orvidas misrepresented his alleged past trading success, the disposition of pool participants’ Bitcoin, Orvidas’s alleged trading profits, and the alleged reasons for Orvidas’s failure to return contributed assets. Accordingly, Orvidas defrauded pool participants in violation of Section 4b(a)(2)(A)-(C) of the Act.

In addition, Orvidas violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1). First, Orvidas acted as a CPO by operating the Orvidas Pool for the purpose of trading in leveraged Bitcoin, and soliciting, accepting, and receiving Bitcoin in connection therewith. *See* Act § 1a(10)(A)(ii), 7 U.S.C. § 1a(10)(A)(ii) (defining “commodity pool” to include pools formed to trade leveraged retail commodity transactions described in Section 2(c)(2)(D) of the Act); Act § 1a(11)(A)(i)(II), 7 U.S.C. § 1a(11)(A)(i)(II) (defining “CPO” to include persons engaging in a business that is of the nature of a commodity pool and soliciting, accepting, or receiving from others property in connection therewith). Section 4o(1)(A) of the Act prohibits CPOs, “by use of the mails or any means or instrumentality of interstate commerce, [from] directly or indirectly . . . employ[ing] any device, scheme, or artifice to defraud any client or participant or prospective client or participant.” In addition, Section 4o(1)(B) of the Act prohibits conduct that merely operates as a

fraud on pool participants. In engaging in the conduct described above, Orvidas defrauded pool participants in violation of Section 4o(1)(A)-(B) of the Act.

B. Orvidas Failed To Register As a Commodity Pool Operator in Violation of Section 4m(1) of the Act.

As described above, Orvidas acted as a CPO. Section 4m(1) of the Act, 7 U.S.C. § 6m(1), provides that it is unlawful for a CPO, unless registered, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as a CPO. Although required by the Act, Orvidas did not register with the Commission as a CPO. Accordingly, Orvidas violated Section 4m(1) of the Act.

IV. FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Orvidas violated Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6m(1), 6o(1)(A)-(B).

V. OFFER OF SETTLEMENT

Orvidas has submitted the Offer in which he:

- 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. Admits the findings of fact and conclusions of law contained in this Order, except for the Restitution Finding, which Orvidas neither admits nor denies;
- D. 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, §§ 201–53, 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;
- E. Agrees for purposes of the waiver of any and all rights under the Equal Access to Justice Act and the Small Business Regulatory Enforcement Fairness Act of 1996 specified in subparagraphs 6 and 7 above, that the Commission is the prevailing party in this action;
- F. Stipulates that the record basis on which this Order is entered shall consist solely of the findings of facts and conclusions of law contained in this Order to which Orvidas has admitted and/or consented;
- G. Consents, solely on the basis of the Offer, to the Commission’s entry of this Order that:
1. Makes findings by the Commission that Orvidas violated Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6m(1), 6o(1)(A)-(B);
 2. Orders Orvidas to cease and desist from violating Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Act;
 3. Orders Orvidas to pay restitution in the amount of two million, thirty-three thousand, five hundred and one dollars and ten cents (\$2,033,501.10), plus any post-judgment interest within thirty days of the entry of this Order;
 4. Orders Orvidas to pay a civil monetary penalty in the amount of five hundred thousand dollars (\$500,000), plus any post-judgment interest within thirty days of the date of entry of this Order; provided, however, that the penalty will be offset, up to two hundred and fifty thousand dollars (\$250,000), by the amount of civil monetary penalty payment made pursuant to an order of the Securities and Exchange Commission captioned “*In the Matter of Jacob R. Orvidas, Respondent*”;
 5. Appoints the National Futures Association (“NFA”) as Monitor in this matter;
 6. Orders that Orvidas 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)), for a period of 10 years after the date of entry of this Order, and all registered entities shall refuse him trading privileges during that period; and

7. Orders Orvidas 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. Orvidas shall cease and desist from violating Sections 4b(a)(2)(A)-(C), 4m(1), and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6m(1), 6o(1)(A)-(B).
- B. Orvidas shall pay restitution in the amount of two million, thirty-three thousand, five hundred and one dollars and ten cents (\$2,033,501.10) (“Restitution Obligation”) within thirty days of the date of the entry of this Order. If the Restitution Obligation is not paid in full within thirty days of the date of entry of this Order, 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.

To effect payment by Respondent and the distribution of restitution to Respondent’s customers, the Commission appoints NFA as “Monitor.” The Monitor shall receive payments of the Restitution Obligation and any post-judgment interest from Respondent and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, it shall not be liable for any action or inaction arising from its appointment as Monitor other than actions involving fraud.

Respondent shall make his payments of the Restitution Obligation and any post-judgment interest under this Order in the name of the “Orvidas 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 to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under 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 Charles Marvine, Deputy Director, Commodity Futures Trading Commission, 2600 Grand Boulevard, Suite 210, Kansas City, MO 64108.

The Monitor shall oversee Respondent’s Restitution Obligation and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to the Respondent’s customers or may defer distribution until such time as the Monitor may deem appropriate. In the event that the amount of payments of the Restitution Obligation to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a restitution distribution is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission, as discussed below. To the extent any

funds accrue to the U.S. Treasury for satisfaction of Respondent's Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in this Order.

- C. Orvidas shall pay a civil monetary penalty in the amount of five hundred thousand dollars (\$500,000) ("CMP Obligation") within thirty days of the date of the entry of this Order. If the CMP Obligation is not paid in full within thirty 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.

The CMP Obligation will be offset, up to two hundred and fifty thousand dollars (\$250,000), by the amount of any civil monetary penalty payment made pursuant to the "Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order" in *In the Matter of Jacob R. Orvidas, Respondent*, promulgated by the Securities and Exchange Commission ("SEC Order"). Orvidas shall provide proof of any payment pursuant to the SEC Order, including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the CMP Obligation is to be reduced, within thirty days of making such payment to:

Charles Marvine
Deputy Director, Division of Enforcement
Commodity Futures Trading Commission
2600 Grand Boulevard, Suite 210
Kansas City, MO 64108

Orvidas shall pay any portion of the CMP Obligation that has not been offset and any corresponding 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-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 email address to receive payment instructions and shall fully comply with those instructions. Orvidas shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondent and the name and docket number of this proceeding. Orvidas shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures

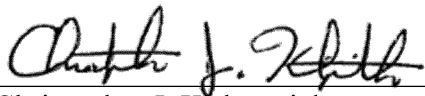
Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and to Charles Marvine, Deputy Director, Commodity Futures Trading Commission, 2600 Grand Boulevard, Suite 210, Kansas City, MO 64108.

- D. Orvidas 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)), for a period of 10 years after the date of entry of this Order, and all registered entities shall refuse him trading privileges during that period; and
- E. Orvidas shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Orvidas agrees that neither he nor any of his successors and assigns, agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, the Restitution Finding (the only factual finding in this Order Orvidas has not admitted) or creating, or tending to create, the impression that the Restitution Finding or this Order is without a factual basis; provided, however, that nothing in this provision shall affect Orvidas's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Orvidas and his successors and assigns 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. Orvidas agrees that he shall not, directly or indirectly, for a period of 10 years starting from the date of entry of this Order:
 - a. enter into any transactions involving "commodity interests" (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022)) or digital asset commodities, including Bitcoin, for Orvidas's own personal account or for any account in which Orvidas has a direct or indirect interest;
 - b. have any commodity interests or digital asset commodities, including Bitcoin, traded on his 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 or digital asset commodities, including Bitcoin;
 - d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests or digital asset commodities, including Bitcoin;
 - 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) (2022)), registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9).
3. Cooperation with Monitor: Respondent shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Respondent's customers, whom the Monitor, in its 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 he has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.
4. Cooperation, in General: Orvidas shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement and any other governmental agency or any self-regulatory organization, in this action, and in any current or future Commission investigation or action related thereto. Orvidas shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.
5. Partial Satisfaction: Orvidas understands and agrees that any acceptance by the Commission of any partial payment of Orvidas's Restitution Obligation or 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.
6. Change of Address/Phone: Until such time as Orvidas satisfies in full his Restitution Obligation and CMP Obligation as set forth in this Order, Orvidas 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.

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 8, 2023