

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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Office of Proceedings  
Proceedings Clerk

11:42 am, Jul 08, 2016

HENRI GUERIN

v.

OANDA CORP.

CFTC Docket No. 12-R-017

ORDER OF SUMMARY  
AFFIRMANCE

Upon review of the record and the parties' briefs,<sup>1</sup> we have determined that the findings and legal conclusions of the Judgment Officer are supported by the weight of the evidence and in accordance with applicable law; we therefore adopt them. We also find that none of the arguments on appeal made by the complainant raise important questions of law or policy. Accordingly, we summarily affirm the decision of the Judgment Officer.<sup>2</sup>

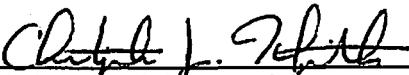
IT IS SO ORDERED.<sup>3</sup>

<sup>1</sup> For the first time on appeal, Oanda raises a challenge to our jurisdiction. Because the merits of this case are straightforward, we exercise hypothetical jurisdiction to bypass the jurisdictional question and reach the merits. *Reynolds v. Holder*, 581 Fed. App'x 79, 79 (2d Cir. 2014) (“[W]e may exercise hypothetical jurisdiction ‘where the jurisdictional constraints are imposed by statute, not the Constitution, and where the jurisdictional issues are complex and the substance of the claim is . . . plainly without merit.’”) (quoting *Ivanishvili v. U.S. Dep't of Justice*, 433 F.3d 332, 338 n. 2 (2d Cir.2006)); *Kramer v. Gates*, 481 F.3d 788, 791 (D.C. Cir. 2007) (explaining that the Supreme Court “explicitly recognized the propriety of addressing the merits where doing so made it possible to avoid a doubtful issue of statutory jurisdiction[.]”) (citing *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 96-97 & n.2 (1998)).

<sup>2</sup> Pursuant to Commission Regulation 12.406(b), 17 C.F.R. § 12.406(b) (2014), neither the initial decision nor the Commission's order of summary affirmance shall serve as a Commission precedent in other proceedings.

<sup>3</sup> A party may petition for review of a CFTC reparation order to the United States Court of Appeals for the circuit in which a hearing was held, if any; if no hearing was held, the petition may be filed in any circuit in which the opposing party is located. 7 U.S.C. §§ 9(11)(B), 18(e). Such a petition for review must be filed within 15 days after notice of the order; any such petition is not effective unless, within 30 days of the date of the Commission order, the

By the Commission (Chairman MASSAD and Commissioners BOWEN and GIANCARLO.)

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

Dated: July 8, 2016

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petitioning party files with the court a bond equal to double the amount of any reparation award.  
*Id.* § 18(e).