

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

DAVID SMOTHERMON,

Defendant.

Case No. 19-CV-4185

ECF Case

**COMPLAINT FOR INJUNCTIVE  
AND OTHER EQUITABLE RELIEF  
AND FOR CIVIL MONETARY  
PENALTIES UNDER THE  
COMMODITY EXCHANGE ACT  
AND COMMISSION REGULATIONS**

**JURY TRIAL DEMANDED**

**I. INTRODUCTION**

1. Beginning at least as early as in or about December 2015 and continuing through on or about September 1, 2016 (the “Relevant Period”), defendant David Smothermon (“Smothermon” or “Defendant”), then employed as president of the gas division (the “Gas Division”) of a large commodities-trading company (the “Company”), caused false or misleading entries in the Company’s internal trading and traffic recordkeeping system (“T&T System”), such as the mark-to-market valuations of certain futures positions and the contract price, mark-to-market price, and/or quantity of certain contracts of sale of commodities in interstate commerce, in order to inflate the value of the trading book he oversaw and to conceal from the Company the millions of dollars of trading losses that he had incurred.

2. In particular, Smothermon schemed to inflate the reported mark-to-market profit-and-loss (“PnL”) value of the Gas Division’s overall trading book and thereby conceal his trading losses from the Company (1) by deceptively exaggerating the PnL of the Gas Division’s positions in futures contracts, such as New York Mercantile Exchange, Inc. (“NYMEX”) natural

gas futures contracts (“NYMEX futures”) positions, and (2) by deceptively exaggerating the PnL of certain of the Gas Division’s physical natural gas trades.

**3.** Smothermon was responsible for accurately valuing and reporting to the Company the mark-to-market value of the Gas Division’s various physical and derivatives positions, including but not limited to commodity futures contracts. This reporting involved directing the manual entry of position information, including but not limited to the present market price of the position, into the T&T System.

**4.** To conceal the multi-million-dollar trading losses he was incurring and to exaggerate the performance of the Gas Division, Smothermon caused false and deceptive entries to be entered into the T&T System.

**5.** In or around late August 2016, Smothermon was told that the Company planned to conduct in or around early September an audit of the Gas Division’s book as of on or about August 31, 2016. On or around September 1, 2016, Smothermon resigned.

**6.** Losses concealed or understated through Smothermon’s scheme ultimately grew to cause the Company and its Gas Division to suffer more than \$100 million in realized losses.

**7.** Through this conduct, Defendant was engaged, is engaging, or is about to engage in fraudulent acts and practices in violation of Sections 4b(a)(1)(A)-(C) and 6(c)(1) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 6b(1)(A)-(C), 9(1) (2012), and Commission Regulation (“Regulation”) 180.1(a), 17 C.F.R. § 180.1(a) (2018).

**8.** Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), the Commission brings this action to enjoin such acts and practices and compel compliance with the Act. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief,

including, but not limited to, trading bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

9. Unless restrained and enjoined by this Court, Defendant is likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as more fully described below.

## II. JURISDICTION AND VENUE

10. **Jurisdiction.** This Court has jurisdiction over this action under 28 U.S.C. § 1331 (2012) (federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), authorizes the Commission to seek injunctive and other relief against any person whenever it appears to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

11. **Venue.** Venue properly lies with the Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because Defendant is found in, inhabits, or transacts business in this District, or acts and practices in violation of the Act occurred, are occurring, or are about to occur within this District.

## III. THE PARTIES

12. Plaintiff **Commodity Futures Trading Commission** (“Commission” or “CFTC”) is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act and the Regulations. The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street N.W., Washington, D.C. 20581.

13. Defendant **David Smothermon** is a resident of Houston, Texas. Throughout the Relevant Period, Smothermon was the president and head trader of the Gas Division of the Company, whose principal place of business was in New York, New York. At times during the Relevant Period, Smothermon also was a member of the Company's board of directors. Smothermon worked in the division's office in Houston. Smothermon has never been registered with the Commission in any capacity.

#### IV. FACTS

##### The Gas Division's Business

14. During the Relevant Period, the Gas Division engaged in the purchase and sale of natural gas products, e.g., ethane, propane, butane, isobutane, and natural gasoline.

15. In or around 2011, Smothermon was promoted to president and head trader of the Gas Division.

16. By 2016, Smothermon had worked at the Gas Division for more than 10 years and had longstanding relationships with numerous Company employees and officers.

17. In or around January 2016, Smothermon was appointed to the Company's board of directors.

18. In or around May 2016, based on Smothermon's and the Gas Division's PnL performance in 2015, the Company awarded Smothermon a bonus in excess of \$14 million. Of that amount, approximately \$3.5 million was deferred.

##### Smothermon's Role at the Gas Division

19. As head trader of the Gas Division, Smothermon's responsibilities included trading natural gas products, such as futures, options on futures, and over-the-counter swaps.

20. At times, persons at the Company referred to trading of derivative financial products as "financial" trading.

**21.** During the Relevant Period, Smothermon had sole responsibility for trading financial products, such as futures contracts and swaps, on behalf of the Company's Gas Division.

**22.** As head trader of the Gas Division, Smothermon's responsibilities also included trading various physical natural gas products in interstate commerce, often in the form of forward contracts to be physically settled.

**23.** At times, persons at the Company referred to this type of trading as "physical" trading.

**24.** When Smothermon entered into a financial product position, such as a natural gas futures contract, his practice was to convey the terms of the position (e.g., product, quantity, price, and/or delivery month) to one of two administrative employees at the Gas Division, who would then enter the terms of the derivatives trade into the T&T System that tracked the Company's various positions.

**25.** Both Smothermon and another trader (the "Junior Trader") employed by the Gas Division engaged in physical trading.

**26.** When Smothermon or the Junior Trader entered into a physical contract, the practice was to convey those terms to one of the two administrative employees at the Gas Division.

**27.** The administrative employee typically then prepared a written contract reflecting the agreed-upon terms, and entered the terms of the physical contract into the T&T System that tracked the Company's various positions.

28. During the Relevant Period, the Company's practices and procedures required the Gas Division to provide reports of its trading positions to the Company so that the Company could better manage the Company's financial risk.

29. As president of the Gas Division, Smothermon was responsible for implementing the Company's risk control policy.

30. The Gas Division used the T&T System to generate reports of its trading positions, i.e., the Gas Division's trading book.

31. During the Relevant Period, the Gas Division conveyed those reports to the Company in New York, New York.

32. As president of the Gas Division, Smothermon knew these reports were conveyed to the Company. For instance, he typically was copied on e-mails sending the reports to the Company's New York office.

33. Generally, these reports purported to reflect, among other things, the Gas Division's physical and financial positions, including the quantity, contract price, and current mark-to-market value of those positions.

34. As president and head trader of the Gas Division, Smothermon was responsible for causing the accurate market value of the Gas Division's positions to be entered in the T&T System.

35. Smothermon knew this was his responsibility.

#### **Fraudulent Mismarking of Futures Positions**

36. NYMEX is a designated contract market and a registered entity under the Act with its principal place of business in New York, New York.

**37.** During the Relevant Period, Smothermon engaged in trading NYMEX futures contracts on behalf of the Gas Division.

**38.** Throughout the Relevant Period, Smothermon knew, received, and/or had access to true mark-to-market valuations of the NYMEX futures positions he had entered into for and on behalf of the Company, including broker quotations, the mark-to-market values as determined by the Company's futures commission merchant ("FCM"), and/or NYMEX futures settlement prices.

**39.** During the Relevant Period, Smothermon mismarked and caused to be mismarked the daily mark-to-market value of his NYMEX futures positions in the Company's T&T System.

**40.** The following are examples of NYMEX natural gas futures contracts whose values Smothermon deceptively mismarked:

Propane Non-LDH Mont Belvieu (OPIS) Futures	(NYMEX Commodity Code "1R")
Mont Belvieu LDH Propane (OPIS) Futures	(NYMEX Commodity Code "B0")
Conway Propane (OPIS) Futures	(NYMEX Commodity Code "8K")
European Propane CIF ARA (Argus) Futures	(NYMEX Commodity Code "PS")
Mont Belvieu Ethane (OPIS) Futures	(NYMEX Commodity Code "C0")
Mont Belvieu Normal Butane (OPIS) Futures	(NYMEX Commodity Code "D0")
Mont Belvieu Natural Gasoline (OPIS) Futures	(NYMEX Commodity Code "7Q")

**41.** Smothermon's marks concealed from the Company the true size of the Gas Division's mark-to-market trading losses.

**42.** As of March 31, 2016, Smothermon's marks of certain large futures contract positions deviated from NYMEX's daily settlement marks as well as from the true mark-to-market values of the Company's FCM.

**43.** For instance, as of March 31, 2016, Smothermon's mark of his trading book's large positions in Mont Belvieu ethane futures—as compared to NYMEX daily settlement marks as well as the marks of the Company's FCM—overstated the values of those positions by approximately \$25 million.

**44.** This overstatement was false and misleading.

**45.** In fact, as of March 31, 2016, Smothermon's marks overstated the values of various large futures positions he had entered into by more than \$50 million.

**46.** These overstatements were false and misleading.

**47.** The falsely inflated profit figures contributed to a deceptive appearance of the overall performance of the Gas Division's trading book in the reports provided to the Company.

**48.** Smothermon's mismarking grew over time.

**49.** For instance, as of August 31, 2016, approximately one day before Smothermon's resignation from the Gas Division, Smothermon's mark of his trading book's large positions in Mont Belvieu ethane futures—as compared to NYMEX daily settlement marks as well as the marks of the Company's FCM—overstated the values of those positions by approximately \$32 million.

**50.** This overstatement was false and misleading.

**51.** As of August 31, 2016, Smothermon's marks of his book's Mont Belvieu propane futures positions deviated from NYMEX's daily settlement marks as well as from the true mark-to-market values of the Company's FCM.

**52.** In fact, Smothermon's marks overstated the values of those positions by approximately \$35 million.

**53.** This overstatement was false and misleading.

**54.** As of August 31, 2016, Smothermon's marks of his book's Northwest Europe propane futures positions deviated from NYMEX's daily settlement marks as well as from the true mark-to-market values of the Company's FCM.

**55.** In fact, Smothermon's marks overstated the values of those positions by approximately \$12 million.

**56.** This overstatement was false and misleading.

**57.** Smothermon made and caused to be made these and other false and misleading representations and omissions of material facts to the Company during the Relevant Period by telephone and e-mail, among other means.

**58.** Smothermon made and caused to be made these and other false and misleading representations and omissions of material facts knowingly or with reckless disregard for the truth.

**59.** Smothermon did not make or cause to be made these false and misleading marks in good faith.

**Fraudulent Mismatching of Physical Transactions**

**60.** Smothermon knew, received, and/or had access to market prices relevant to the Gas Division's physical positions throughout the Relevant Period, including, e.g., broker quotations.

**61.** During the Relevant Period, on several occasions, Smothermon directed Gas Division employees to make changes in the entries in the T&T System relating to the terms and values of physical trades by the Gas Division.

**62.** At times, the changes were to the physical trades' contract price, quantity, and/or mark-to-market price.

**63.** At times, certain changed entries caused by Smothermon inflated the profits purportedly arising from those trades.

**64.** The falsely inflated profit figures contributed to a deceptive appearance of the overall performance of the Gas Division's trading book in the reports provided to the Company.

**65.** As one example, in or around August 1, 2016, Smothermon caused changes in the T&T System relating to the terms of a physical trade that had been previously executed and entered into the T&T System in or around July 2016.

**66.** This physical trade was a purchase of physical propane by the Gas Division, with delivery to begin the following year (2017). The original total quantity entered for the trade was approximately 34 million gallons of propane. The original contract price was floating—that is, to be determined later, during the applicable month of delivery in 2017, by reference to a benchmark.

**67.** In or around early August 2016, to create the false appearance of greater profits from this transaction, Smothermon caused an administrative employee to change the price entry in the T&T System to a fixed price that reflected a below-market price. The changed entry was more favorable to the Gas Division than what the trade actually entailed.

**68.** Smothermon directed this change even though there was no such change actually agreed upon by the Gas Division and its counterparty to the trade.

**69.** To further create a false appearance of greater profits from this transaction, on or around August 3, 2016, Smothermon caused an administrative employee to change the quantity of the trade entered in the T&T System to approximately double the true amount, i.e., to approximately 68 million gallons.

**70.** Smothermon directed this change even though there was no such change actually agreed upon by the Gas Division and its counterparty to the trade.

**71.** As a result, the T&T System, and reports generated therefrom and provided to the Company, reflected PnL for the Gas Division that was deceptively exaggerated by approximately \$19 million.

**72.** As another example, on or around August 1, 2016, Smothermon caused changes in the T&T System relating to terms of a physical trade that previously had been executed and entered into the T&T System in or around November 2015.

**73.** This physical trade was a sale of physical propane by the Gas Division, with deliveries on a monthly basis to begin in or around January 2017. The original total quantity entered for the trade was approximately 150,000 barrels per month, for a total of 1.8 million barrels (approximately 75.6 million gallons) of propane. The original contract price was fixed—that is, set at the time of the contract—at \$0.435 per gallon.

**74.** On or around August 1, 2016, to create the false appearance of greater profits from this transaction, Smothermon caused an administrative employee to change the price entries in the T&T System for several of the further-out delivery months to a higher fixed price of \$0.535 per gallon. The changed price entry was more favorable to the Gas Division, as the seller, than what the contract actually entailed and what the parties had actually agreed.

**75.** Smothermon directed this change even though there was no such change actually agreed upon by the Gas Division and its counterparty to the trade.

**76.** As a result, the T&T System, and reports generated therefrom and provided to the Company, reflected PnL for the Gas Division that was deceptively exaggerated by approximately \$5 million.

**77.** By these changes and others, Smothermon deceptively exaggerated the PnL of the Gas Division in reports to the Company.

**78.** Smothermon made and caused to be made these false and misleading representations and omissions of material facts to the Company during the Relevant Period by telephone and e-mail, among other means.

**79.** Smothermon made and caused to be made these false and misleading representations and omissions of material facts knowingly or with reckless disregard for the truth.

**80.** Smothermon did not make or cause to be made these false and misleading changes in good faith.

### **Unraveling of the Scheme**

**81.** By in or around August 2016, Smothermon's marks deviated from NYMEX's daily settlements and the true mark-to-market values of the Company's FCM such that Smothermon's valuation of the Gas Division's book reported to the Company was exaggerated by more than \$100 million, including an approximately \$80 million deviation in the value of his on-exchange futures positions.

**82.** In or around late August 2016, Smothermon was notified that the Company intended to do an audit of the Gas Division.

**83.** On or around September 1, 2016, Smothermon admitted to a colleague that the Gas Division's trading losses far exceeded the amounts previously reported to the Company.

**84.** On or around September 1, 2016, Smothermon admitted to the Company that he had mismarked his book.

**85.** On or around September 1, 2016, Smothermon notified the Company's Chief Operating Officer that he was resigning.

**86.** Following Smothermon's resignation, the Company unwound numerous positions whose values Smothermon had mismarked, at significant losses.

**87.** The total realized losses to the Company as a result of Smothermon's scheme were in excess of \$100 million.

**88.** In response to the substantial losses caused by Smothermon's scheme, the Company sold various assets, unwound various business lines, and laid off approximately 200 employees.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND REGULATIONS**

**Count I—Fraud by Manipulative or Deceptive Device or Contrivance**

**Violations of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3)**

**89.** Paragraphs 1 through 88 are re-alleged and incorporated herein by reference.

**90.** Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), makes it unlawful for any person, directly or indirectly, to:

use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after [July 21, 2010, the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act] . . . .

**91.** Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2018), provides:

It shall be unlawful for any person, directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly:

(1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;

(2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; [or]

(3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person . . . .

**92.** During the Relevant Period, as described above, Defendant violated 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3) by, among other things, in connection with a swap, contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, using or employing a manipulative device, scheme, or artifice to defraud, including, but not limited to, making untrue or misleading statements of material facts, or omitting material facts necessary to make the statements not untrue or misleading, including, but not limited to, knowingly misrepresenting the values and profit-and-loss of the Gas Division's physical, swaps, and/or futures positions.

**93.** Defendant engaged in the acts and practices described above willfully, intentionally, or recklessly.

**94.** By this conduct, Defendant violated 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3).

**95.** Each act of: (1) using or employing, or attempting to use or employ, a manipulative device, scheme, or artifice to defraud; (2) making, or attempting to make, untrue or misleading statements of material fact, or omitting to state material facts necessary to make the statements not untrue or misleading; or (3) engaging, or attempting to engage, in any act, practice, or course of business, which operated or would operate as a fraud or deceit upon any

person, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3).

**Count II—Fraud in Connection with Futures Contracts**

**Violations of 7 U.S.C. § 6b(a)(1)(A)-(C) (2012)**

**96.** Paragraphs 1 through 88 are re-alleged and incorporated herein by reference.

**97.** Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C) (2012), makes it unlawful for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person:

(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 . . . the other person . . . .

**98.** As set forth above, during the Relevant Period, in connection with futures contracts made, or to be made, for or on behalf of other persons, Smothermon (A) cheated or defrauded or attempted to cheat or defraud the Company, (B) willfully made or caused to be made to the Company false reports or statements, and caused the entry of false records, and (C) willfully deceived, or attempted to deceive, the Company by, among other things, knowingly offsetting and masking his losses in his trading positions and misrepresenting the Gas Division's profits and losses to the Company by inflating and mismarking, or causing to be inflated and

mismarked, the value of his positions in various natural gas futures contracts in the Company's Gas Division's proprietary accounts.

**99.** By this conduct, Smothermon violated 7 U.S.C. § 6b(a)(1)(A)-(C).

**100.** Smothermon acted with scienter and did not act in good faith.

**101.** Each act of (A) cheating or defrauding or attempting to cheat or defraud the Company, (B) willfully making or causing to be made to the Company any false report or entering or causing the entry of any false record, or (C) willfully deceiving or attempting to deceive the Company 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 the Company, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 6b(a)(1)(A)-(C).

## **VI. RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that the Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), and pursuant to its own equitable powers, enter:

- A.** An order finding that Defendant violated Sections 4b(a)(1)(A)-(C) and 6(c)(1) of the Act, 7 U.S.C. §§ 6b(1)(A)-(C), 9(1) (2012), and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2018);
- B.** An order of permanent injunction enjoining Defendant and any other person or entity associated with him, including but not limited to affiliates, agents, servants, employees, assigns, attorneys, and all persons in active concert or participation with Defendant, including any successor thereof, from:
  - i.** Engaging, directly or indirectly, in conduct in violation of 7 U.S.C. § 9(1), 17 C.F.R. § 180.1(a), and 7 U.S.C. § 6b(a)(1)(A)-(C);

- ii.** 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) (2012));
- iii.** Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2018)), for his own personal account(s) or for any account in which Defendant has a direct or indirect interest;
- iv.** Having any commodity interests traded on Defendant’s behalf;
- v.** Controlling or directing 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;
- vi.** Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- vii.** Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging 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) (2018); and/or
- viii.** Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2018)), 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) (2012)), registered, exempted from registration, or required to be registered with the Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

- C.** An order requiring Defendant to pay civil monetary penalties of not more than the civil monetary penalty prescribed by Section 6c(d)(1) of the Act, 7 U.S.C. § 13a-1(d)(1) (2012), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 129 Stat. 584 (2015), title VII, Section 701, *see* Regulation 143.8, 17 C.F.R. § 143.8 (2018), for each violation of the Act or Regulations, plus post-judgment interest;
- D.** An order directing Defendant, as well as any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received including, but not limited to, trading profits, revenues, salaries, commissions, fees, or loans derived directly or indirectly from acts or practices which constitute violations of the Act and Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;
- E.** An order directing Defendant, as well as any successors thereof, to make full restitution, pursuant to such procedure as the Court may order, to every customer and investor whose funds Defendant received, or caused another person or entity to receive, as a result of the acts and practices constituting violations of the Act and Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;
- F.** An order directing Defendant, as well as any successors thereof, to rescind, pursuant to such procedure as the Court may order, all contracts and agreements, whether express or implied, entered into between, with, or among Defendant and any customer or investor whose funds were received by Defendant as a result of

the acts and practices which constituted violations of the Act and the Regulations, as described herein;

**G.** An order requiring Defendant and any successors thereof to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2012); and

**H.** An order providing such other and further relief as the Court deems proper.

**VII. DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial.

\* \* \*

Dated: May 9, 2019

**COMMODITY FUTURES TRADING  
COMMISSION**

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