UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of:	CFTC Docket No. 04 - 21
CORAL ENERGY RESOURCES, L.P.	ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS
Respondent.	

ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTION 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS

I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that Coral Energy Resources, L.P. ("CER") has violated Section 9(a)(2) of the Act, as amended, 7 U.S.C. § 13(a)(2) (2002). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether CER ("Respondent") engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, the Respondent has submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Without admitting or denying the findings of fact herein, the Respondent consents to the entry of this Order, and acknowledges service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions ("Order"). Respondent consents to the use by the Commission of the findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party.[1]

[1] Respondent does not consent to the use of its Offer or the findings in this Order as the sole basis for any other proceeding brought by the Commission, other than a proceeding brought to enforce the terms of this Order. Respondent does not consent to the use of the Offer or the findings in this Order by any other person or entity in this or any other proceeding. The findings

III.

A. SUMMARY

From at least January 2000 through September 2002, CER employees knowingly delivered false, misleading or knowingly inaccurate market information concerning natural gas transactions that affects or tends to affect the price of natural gas in interstate commerce and could affect or tend to affect the price of natural gas futures contracts traded on the New York Mercantile Exchange ("NYMEX"). Such conduct violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2002). During that same period, CER employees attempted to manipulate the price of natural gas in interstate commerce or for future delivery. Such conduct also violated Section 9(a)(2) of the Act.

B. RESPONDENT

Coral Energy Resources, L.P. ("CER") is a limited partnership organized and existing under the laws of the State of Delaware. CER is a wholly owned subsidiary of Coral Energy Holdings, L.P. CER's principal place of business is 909 Fannin Street, Suite 700, Houston, Texas. During all times relevant herein, CER marketed natural gas, other energy-related products to a wide range of customers across North America. Specifically, CER conducted natural gas marketing operations at eastern and western power and gas trading hubs for the Eastern and Western United States.

The Commission finds the following:

C. FACTS

1. <u>Natural Gas Market Participants' Use of Information from Publications</u>

During the relevant period, natural gas was a commodity that traveled in interstate commerce through a network of pipelines across the United States. Companies such as the Respondent were in the business of buying and selling natural gas for profit. Traders employed by these companies entered into transactions calling for the physical delivery of natural gas.

During the relevant period, natural gas traders reported natural gas market information to reporting firms like Natural Gas Intelligence ("*NGI*") and *Inside FERC.* These reporting firms compile their price indexes using price and volume information taken from actual, fixed price, physical, natural gas trades executed between two counterparties. Accordingly, these reporting firms sought from natural gas traders specific market information, i.e., price and volume data, derived from fixed price, physical, natural gas trades the traders actually executed. Natural gas traders submitted price and volume data to various reporting firms so that they would use their market information in compiling their indexes. Natural gas traders generally knew that these

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made in this Order are not binding on any other person or entity, including, but not limited to, any person or entity named as a defendant or respondent in any other proceeding.

reporting firms sought to compile their indexes using price and volume data derived from fixed price, physical, natural gas trades.

These reporting firms' price indexes are widely used by natural gas market participants for various purposes, including the pricing and settlement of natural gas transactions in interstate commerce. Moreover, natural gas futures and options traders refer to the indexes for price discovery and for assessing price risks. For instance, an increase in prices at a natural gas trading hub signals either stronger demand or weakened supply, and futures traders take account of both price movements and changes in the supply/demand balance when conducting their futures trading.

Consequently, because market participants use the natural gas price indexes in the natural gas spot, over-the-counter derivatives, futures, and options markets, the price and volume data reported by natural gas traders to reporting firms is market information that affects or tends to affect the price of natural gas in interstate commerce, and could affect or tend to affect the natural gas futures and options contracts traded on the NYMEX.

2. CER Employees' Reporting of Natural Gas Market Information

From at least January 2000 through September of 2002, Respondent's employees knowingly delivered reports to *NGI* and *Inside FERC,* which sought information concerning CER's fixed price, physical, natural gas transactions, either via facsimile, and/or via the Internet through electronic mail. CER traders reported price and volume data to those reporting firms as if such information was derived from fixed price, physical, natural gas trades CER had actually executed. However, CER never actually executed many of the trades reported. CER traders also reported executed trades with altered price and/or volume data. CER traders also failed to report some actual trades to the reporting firms. Respondent's employees knew that the reports they delivered to these reporting firms contained false, misleading or knowingly inaccurate information.

As described above, from at least January 2000 through September of 2002, CER employees knowingly delivered information to reporting services about trades that CER never executed and trades with altered price and/or volume data, and failed to report information about some trades that were actually executed. CER employees reported this market information with the intent to affect the price of natural gas in interstate commerce or for future delivery.

D. LEGAL DISCUSSION

1. The Knowing Delivery of False, Misleading or Knowingly Inaccurate Market Information,

Section 9(a)(2) of the Act makes it unlawful for any person "knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce[.]" *See, e.g., United Egg Producers v. Bauer Int'l Corp.*, 311 F. Supp. 1375, 1383 (S.D.N.Y. 1970) (concluding that false press releases regarding egg importation "tended to affect the price of eggs in interstate commerce"); *In re Soybean Futures Litig.*, 892 F. Supp. 1025, 1046 (N.D. Ill. 1995) (concluding that false reports can influence prices and constitute part of a manipulation claim).

As discussed above, natural gas price and volume information reported to *NGI* and *Inside FERC* is market information that affects or tends to affect the market price of natural gas, and could affect or tend to affect the price of futures traded on the NYMEX. Respondent violated Section 9(a)(2) of the Act when its employees knowingly delivered false, misleading or knowingly inaccurate price and/or volume information, including non-existent trades, to various reporting firms.[2]

2. **The Attempted Manipulation of the Price of Natural Gas in Interstate Commerce or For Future Delivery**

Sections 6(c) and 6(d) of the Act together authorize the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission "has reason to believe that any person . . . has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce or for future delivery on or subject to the rules of any registered entity . . . or otherwise is violating or has violated any of the provisions of [the] Act." Section 9(a)(2) provides that it is unlawful for "[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to corner or attempt to corner any such commodity."

The following elements generally are required to show an attempted manipulation: (1) an intent to affect the market price; and (2) some overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,371 at 21,447 (CFTC Feb. 18, 1977). To prove the intent element of manipulation or attempted manipulation, it must be shown that Respondent "acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand." *In re Indiana Farm Bureau Cooperative Association*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep (CCH) ¶21,796 at 27,281 (CFTC Dec. 17, 1982). "[I]ntent is the essence of manipulation." *Id.* at 27,282.

CER specifically intended to affect the price of natural gas in interstate commerce or for future delivery. The provision of reports to *Inside FERC* and *NGI*, as described above, constitute

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[2] Under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2002), and Section 1.2 of the Commission's Regulations, 17 C.F.R. § 1.2 (2003) the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust. "[I]t does not matter if the principal participated in or even knew about the agent's acts; he is strictly liable for them." *Stotler and Co. v. CFTC*, 855 F.2d 1288, 1292 (7th Cir. 1988) (citing *Cange v. Stotler*, 826 F. 2d 581, 589 (7th Cir. 1987); *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966-67 (7th Cir. 1986)). Consequently, Respondent is liable for its employees' violations of the Act.

overt acts in furtherance of attempts to manipulate the price of natural gas in interstate commerce, which, if successful, could have affected the price of natural gas in interstate commerce or prices of NYMEX natural gas futures contracts.. Accordingly, Respondent violated Section 9(a)(2) of the Act.

IV.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondent violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2002).

V.

OFFER OF SETTLEMENT

Respondent has submitted an Offer of Settlement in which, without admitting or denying the findings herein, CER acknowledges service of the Order; admits the jurisdiction of the Commission with respect to the matters set forth in this Order and, for any action or proceeding brought by the Commission based upon violations of or for enforcement of the Order; waives service and filing of a complaint and notice of hearing, a hearing, all post-hearing procedures, judicial review by any court, any objection to the staff's participation in the Commission's consideration of the Offer, any claim of Double Jeopardy based on the institution of this proceeding or the entry of any order imposing a civil monetary penalty or other relief, and all claims which it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), and Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2004), relating to, or arising from, this action; stipulates that the record basis on which this Order is entered consists solely of this Order, including the findings in this Order; and consents to the Commission's issuance of the Order. Pursuant to the Offer of Settlement herein, Respondent agrees to entry of an Order, in which the Commission makes findings, including findings that Respondent violated Section 9(a)(2) of the Act and orders that Respondent cease and desist from violating this provision of the Act that it has been found to have violated; and the Respondent will be liable for paying a total civil monetary penalty of Thirty Million Dollars ($30,000,000); and Respondent will comply with the undertakings set forth in this Order.

Upon consideration, the Commission has determined to accept the Offer.

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

1. Respondent shall cease and desist from violating Section 9(a)(2) of the Act (2002);

2. Respondent will be liable for paying a total civil monetary penalty of 30 Million Dollars ($30,000,000) within ten (10) business days of the date of the entry of the Order, and make such payment by electronic funds transfer to the account of the Commission at the United States Treasury or by certified check or bank cashier's check made payable to the Commodity Futures Trading Commission, and addressed to Dennese Posey, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Respondent and the name and docket number of this proceeding. Copies of the cover letter and the form of payment shall be simultaneously transmitted to Gregory G. Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. If payment is not made in accordance with the requirements of this paragraph, Respondent shall be subject to further proceedings pursuant to Section 6(c) and Section 6(e)(2) of the Act, 7 U.S.C. §§ 9 and 9a(2) (2002), for violating a Commission Order; and

3. Respondent shall comply with the following conditions and undertakings, as specified:

(a) <u>Future Cooperation With the Commission</u>

Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement ("Division"), in this proceeding, and in any investigation, civil litigation, or administrative matter conducted or brought by the Commission related to the subject matter of this proceeding or any current or future Commission investigation related thereto. Respondent agrees to cooperate fully and expeditiously with the Commission's ongoing efforts to discover documents and information related to reporting trade prices and/or volumes to energy reporting services and price indexes. As part of such cooperation with the Commission, Respondent agrees to:

(1) preserve all records relating to the subject matter of this proceeding, including, but not limited to audio files, e-mails, and trading records for a period of five years from the date of this Order; and

(2) comply fully, promptly, and truthfully with any inquiries or requests for information from the Commission including, but not limited to, inquiries or requests:

(i) for authentication of documents;

(ii) for any documents within Respondent's possession, custody, or control, including inspection and copying of documents;

(iii) to produce any current (as of the time of the request) officer, director, employee, or agent of Respondent regardless of the employee's location and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and

(iv) for assistance in locating and contacting any prior (as of the time of the request) officer, director, or employee of Respondent.

Respondent also agrees that it will not undertake any act that would limit its ability to fully cooperate with the Commission. Respondent designates Mark H. Tuohey, III of the law firm Vinson & Elkins L.L.P. to receive all requests for information pursuant to this undertaking. Should Respondent seek to change the designated person to receive such requests, notice shall be given to the Division of such intention 14 days before it occurs. Any person designated to receive such request shall be located in the United States.

(b) <u>Public Statements</u>

By neither admitting nor denying the findings of fact, Respondent agrees that neither they nor any of their agents or employees under their authority and control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in the Order or creating, or tending to create, the impression that the Order is without factual or legal basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take factual or legal positions in other proceedings or investigations to which the Commission is not a party. Respondent will undertake all steps necessary to assure that all of their agents and employees under their authority and control understand and comply with this agreement.

(c) Miscellaneous Provision

This Order shall inure to the benefit of and be binding on Respondent's successors, assigns, beneficiaries and administrators.

By the Commission.

Jean A Webb

Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission

Dated: July 28, 2004