

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of :  
: CFTC DOCKET NO. SD 04-08

STUART MICHAEL HELFFRICH, :  
: :

Registrant. :  
: \_\_\_\_\_

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2004 SEP - 3 P  
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PROCEEDINGS CLERK

NOTICE OF INTENT TO REVOKE, SUSPEND OR CONDITION REGISTRATION  
PURSUANT TO SECTIONS 8a(2) AND 8a(3) OF THE COMMODITY EXCHANGE ACT

I.

The Commodity Futures Trading Commission ("Commission") has received information from its staff which tends to show, and the Commission's Division of Enforcement alleges and is prepared to prove that:

1. Stuart Michael Helffrich ("Helffrich") resides in Chicago, Illinois 60657.
2. Since at least October 8, 1996, Helffrich has been registered with the Commission as a floor broker, pursuant to Sections 4e and 4f of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6e and 6f (2002).
3. From at least February 2000 through September 2003 (the "relevant period"), Helffrich has leased a full membership at the CBOT, which entitled him to trading privileges at the Chicago Board of Trade ("CBOT").
4. During the relevant period, Helffrich was employed as a floor broker for Gulf Trading Corporation ("Gulf"), a non-guaranteed introducing broker ("IB") of Tenco, Inc. ("Tenco"), a registered futures commission merchant ("FCM").

5. Helffrich's duties at Gulf, among other things, included managing customer accounts and checking that trades were correctly allocated to his customers' accounts. As relevant here, Helffrich managed two customer accounts, both of which traded for hedge purposes. One customer traded corn, soybeans, soybean meal, oats and wheat contracts while the other customer exclusively traded corn contracts. Helffrich did not have discretionary trading authority over these two customer accounts.

6. During the relevant period, Helffrich traded corn, soybeans and wheat contracts at the CBOT for his own futures trading account. Helffrich's futures trading account was carried by Gulf and cleared by Tenco.

#### The CBOT Disciplinary Action Against Helffrich

7. On February 12, 2004, the CBOT's Business Conduct Committee ("BCC") charged Helffrich with misallocating customer trades on several occasions during August and September 2003 by: 1) moving commodity futures trades that were executed for two of his customers, into either his own trading account or his error account; and 2) moving commodity futures trades that were executed for his own personal account into two of his customers' accounts. The BCC alleged that Helffrich moved trades between his customers' accounts and his own account to conceal the extent of his own debits and/or open trade equity during the relevant period. The BCC further alleged that after correcting the misallocations and liquidating the open positions in Helffrich's account, Helffrich's trading account had a debit balance of \$866,146.23, which was covered by Gulf, and that Gulf issued adjustments to one customer's trading account that totaled \$10,625.

8. As a result of the misconduct alleged in Paragraph 7, the BCC charged Helffrich with violating the following CBOT Rules: CBOT Rule 500.00, in that he engaged in fraud, dishonorable or dishonest conduct, or in conduct inconsistent with just and equitable principles of trade; CBOT Rule 504.00, in that he engaged in acts detrimental to the interest or welfare of the Exchange; and CBOT Rule 506, in that he engaged in reckless and unbusinesslike dealing inconsistent with just and equitable principles of trade.

9. On September 2, 2004, the BCC found that Helffrich violated CBOT Rules 500.00, 504.00 and 506.00. The BCC accepted Helffrich's Offer of Settlement, submitted without admitting or denying the allegations against him, and ordered that Helffrich be permanently barred from association with any CBOT member or member firm and ordered that he not reapply for membership at the Exchange.

#### The NASD Disciplinary Action Against Helffrich

10. From approximately November 1985 to August 1988, Helffrich was employed as an account executive with Dean Witter Reynolds Inc. ("Dean Witter") in Mesa, Arizona.

11. On October 20, 1989, the National Association of Securities Dealers ("NASD") filed a complaint against Helffrich for misconduct occurring during his employment with Dean Witter. Specifically, the NASD complaint alleged that Helffrich violated Article III, Sections 1 and 19(a) of the NASD Rules of Fair Practice in that he requested a \$500 disbursement from a customer's account at Dean Witter for delivery to the customer, failed to deliver the check to the customer and instead, signed the customer's name to the back of the check, endorsed the check to himself and used the money for his own benefit.

12. On April 5, 1990, the NASD issued its Initial Decision finding that Helffrich violated Article III, Sections 1 and 19(a) and entered sanctions against him which censured him, fined him \$5,000, ordered him to pay \$398.25 in costs, and suspended him from association with any member firm in any capacity for one year. The NASD also ordered that after the one-year suspension, Helffrich could only become associated with a member of the NASD under terms requiring additional supervision. The NASD's decision became final on January 23, 1991. On April 12, 1991, the NASD revoked Helffrich's registration for his failure to pay the \$5,000 fine and costs.

Helffrich's Willful Failure to Disclose the NASD Disciplinary Action Against Him On His Application for Registration as a Floor Broker

13. On June 16, 1996, Helffrich completed the National Futures Association ("NFA") Form 8-R in order to become registered as a floor broker. On his application, Helffrich willfully failed to disclose the NASD disciplinary action against him and the NASD's sanction, which revoked his NASD registration.

14. Helffrich also failed to disclose on his application for registration as a floor broker that he was discharged from Dean Witter as a result of a customer complaint or legal proceeding by a customer, an investigation, or any disciplinary action.

15. The facts underlying the disciplinary action set forth in Paragraphs 7 through 12 constitute a basis for statutory disqualification from registration under Sections 8a(3)(J) and (M) of the Act, 7 U.S.C. §§ 12a(3)(J) and (M) (2002), pursuant to which Helffrich's registration as a floor broker may be suspended, conditioned or revoked.

16. The facts set forth in Paragraphs 13 and 14 constitute a basis for statutory disqualification from registration under Sections 8a(2)(G) of the Act, 7 U.S.C. §§ 12a(2)(G)

(2002), pursuant to which Helffrich's registration as a floor broker may be suspended, conditioned or revoked.

## II.

Pursuant to Section 3.60(a), 17 C.F.R. § 3.60(a) (2004), Helffrich is hereby notified that a public proceeding shall be conducted in accordance with the provisions of Commission Regulation 3.60, 17 C.F.R. § 3.60 (2004), on the following questions:

1. Whether Helffrich is subject to statutory disqualification under Sections 8a(2)(G) and 8a(3)(J) and (M) of the Act, as set forth in Section I, above; and
2. If the answer to question 1 is affirmative, whether the registration of Helffrich as a floor broker should be suspended, restricted or revoked. Such proceeding shall be held before an Administrative Law Judge, in accordance with Commission Regulation 3.60, and all post-hearing procedures shall be conducted pursuant to Commission Regulation 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2004).

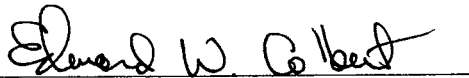
In accordance with the provisions of Commission Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2004), Helffrich is entitled to file a response challenging the evidentiary bases of the statutory disqualification or show cause why, notwithstanding the accuracy of the allegations, his registration should not be suspended, revoked, or restricted. Such response must be filed with the Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581, and served upon Diane M. Romaniuk, Senior Trial Attorney, Division of Enforcement at 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661, within thirty (30) days after the date of service of this Notice upon Helffrich in accordance with the provisions of Commission

Regulation 3.60(b). If Helffrich fails to timely file a response to this notice, the allegations set forth herein shall be deemed to be true and the presiding officer may issue an Order of Default in accordance with the provisions of Commission Regulation 3.60(g), 17 C.F.R. § 3.60(g) (2004).

III.

The Hearing Clerk shall serve this Notice of Intent to Suspend, Revoke, or Restrict Registration by registered or certified mail pursuant to Commission Regulation 3.50, 17 C.F.R. § 3.50 (2004).

By the Commission.



Edward W. Colbert  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Date: September 3, 2004