

**COMMODITY FUTURES TRADING COMMISSION
ENERGY MARKETS ENFORCEMENT RESULTS**

October 15, 2008

I. Summary

This memorandum provides an overview of the Commodity Futures Trading Commission's ("CFTC") recent efforts to address alleged wrongdoing in the energy markets. From December 2002 to date, the CFTC has filed a total of 43 enforcement actions charging a total of 73 respondents/defendants (42 companies¹ and 31 individuals). The CFTC has obtained \$445,465,000 in civil monetary penalties (see Section II, below) in settlement of these enforcement actions.² Four CFTC energy market-related enforcement actions remain pending (see Section III, below). Complementing the effect of its direct enforcement action, the CFTC has also achieved great success in this program area by working cooperatively with the Department of Justice on criminal actions (see Section IV, below).

II. Enforcement Actions Filed and Settled

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
1.	Dynegy Marketing And Trade; West Coast Power LLC	\$5 million	2	12/19/02	false reporting and attempts to manipulate	Houston, TX

¹ Enforcement actions remain pending against five of the 42 companies charged: Amaranth Advisors L.L.C.; Amaranth Advisors (Calgary) ULC; Optiver US, LLC; Optiver Holding BV; and Optiver VOF.

² The Commission has settled 39 enforcement actions with all named defendants/respondents. It has also reached settlements with some, but not all, of defendants in following enforcement actions: *CFTC v. Johnson, et al.*, No. H-05-0332 (S.D. Texas filed Feb. 1, 2005) (settled with Johnson, Moore, Tracy, Harp and Dyer; still pending against Dizona); and *CFTC v. Reed, et al.*, No. 05-D-178 (D. Colo. filed Feb. 1, 2005) (settled with Danyluk, McLaughlin, and Concord Energy, LLC; still pending against Reed).

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
2.	Enron Corp.; Hunter S. Shively	\$35 million (as to Enron) \$300,000 (as to Shively)	2	3/12/2003 settled 5/28/2004 (Enron) settled 7/16/2004 (Shively)	Enron and Shively: manipulation or attempted manipulation Enron only: operating an illegal futures exchange, and trading an illegal, off- exchange agricultural futures contract	Houston, TX
3.	El Paso Merchant Energy, L.P.	\$20 million	1	3/26/03	false reporting and attempts to manipulate	Houston, TX
4.	W. D. Energy Services, Inc. (Encana)	\$20 million	1	7/28/03	false reporting and attempts to manipulate	Houston, TX Denver, CO
5.	Williams Companies; Williams Energy Marketing and Trading	\$20 million	2	7/29/03	false reporting and attempts to manipulate	Tulsa, OK
6.	Enserco Energy, Inc.	\$3 million	1	7/31/03	false reporting and Attempted manipulation	Golden, CO
7.	Duke Energy Trading And Marketing, L.L.C.	\$28 million	1	9/17/03	false reporting and attempts to manipulate	Houston, TX Salt Lake City, UT

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
8.	American Electric Power Company, Inc.; AEP Energy Services, Inc.	\$30 million³	2	9/30/03 settled 1/26/05	false reporting and attempts to manipulate	Columbus, OH
9.	Reliant Energy Services, Inc.	\$18 million	1	11/25/03	false reporting, attempts to manipulate and wash sales	Houston, TX
10.	CMS Marketing Services & Trading; CMS Field Services	\$16 million	2	11/25/03	false reporting and attempts to manipulate	Tulsa, OK
11.	Robert Benjamin Harmon, Jr.	\$7,500	1	1/16/04	wash trading, non-competitive trading, and causing non-bona fide prices to be reported	Cos Cob, Connecticut
11.	Aquila Merchant Services	\$26.5 million	1	1/28/04	false reporting and attempts to manipulate	Kansas City, MO
12.	e prime, Inc. (Xcel)	\$16 million	1	1/28/04	false reporting and attempts to manipulate	Denver, CO

³ AEPES entered into a deferred prosecution agreement (Agreement) with the U.S. Department of Justice and the U.S. Attorney's Office for the Southern District of Ohio to avoid federal criminal charges. The Agreement requires AEPES to pay a \$30 million criminal penalty to resolve an investigation into AEPES' false reporting of natural gas trades. Additionally, AEP accepted a settlement agreement with the FERC to resolve an investigation into the natural gas storage and transportation activities of two intrastate pipeline units formerly owned by AEP and AEP-affiliated marketers. The FERC settlement requires AEP to pay a \$21 million civil penalty and to adopt a compliance plan to prevent future violations. Total Settlement with US Government was \$81 million.

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
13.	Entergy Koch Trading, L.P. (EKT)	\$3 million	1	1/28/04	false reporting	Houston, TX
14.	ONEOK Inc. ONEOK Energy Mkt'g and Trading Company, L.P.	\$3 million	2	1/28/04	false reporting	Tulsa, OK
15.	Calpine Corporation	\$1.5 million	1	1/28/04	false reporting	Houston, TX
16.	Joseph B. Knauth, Jr.	\$25,000	1	5/10/04	wash trading, non- competitive trading, and causing non-bona fide prices to be reported	Houston, TX
18.	Western Gas Resources, Inc.	\$7 million	1	7/1/04	false reporting and attempts to manipulate	Denver, CO
19.	NRG Energy, Inc.	\$2 million	1	7/1/2004 settled 2/13/2007	false reporting	Minneapolis, MN
20.	Coral Energy Resources, L.P.	\$30 million	1	7/28/04	false reporting and attempts to manipulate	Houston, TX
21.	Byron Biggs	\$30,000	1	8/11/04	wash trading, non- competitive trading, and causing non-bona fide prices to be reported	Ft. Worth, TX
22.	BP Energy Company	\$100,000	1	11/4/04	wash trading, non- competitive trading, and causing non-bona fide prices to be reported	Houston, TX

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
23.	Cinergy Marketing & Trading, L.P. (successor in interest to Cinergy Marketing & Trading, L.L.C.)	\$3 million	1	11/16/04	false reporting	Cincinnati, OH
24.	Mirant Americas Energy Marketing, L.P.	\$12.5 million	1	12/6/04	false reporting and attempts to manipulate	Atlanta, GA
25.	Christopher McDonald Michael Whalen Paul Atha	\$350,000 (McDonald); \$200,000 (Whalen); and \$200,000 (Atha)	3	2/1/2005 settled Whalen & McDonald 11/17/2006 settled Atha 11/7/2007	false reporting and attempts to manipulate	Atlanta, GA (McDonald & Atha) Houston, TX (Whalen)
26.	Darrell Danyluk, Shawn McLaughlin, and Concord Energy, LLC	McLaughlin (\$450,000); Danyluk (\$350,000); and Concord (\$800,000)	3	2/1/2005 settled 3/12/2007	false reporting and attempts to manipulate	Golden, CO
27.	Robert Martin, Jeffrey A. Bradley	Martin (\$25,000); and Bradley (\$100,000)	1	2/1/2005 settled Bradley 5/25/2007, and Martin 6/25/2007	false reporting and attempts to manipulate	Tulsa, OK
28.	Denette Johnson, Courtney Cubbison Moore, John Tracy, Robert Harp, and Kelly Dyer	\$1,000,000	5	2/1/2005 settled 11/7/2007	false reporting and attempts to manipulate	Houston, TX

	COMPANY	CIVIL MONETARY PENALTIES	DEFENDANTS/ RESPONDENTS	DATE FILED	CHARGES	HEADQUARTERS
29.	Michael Whitney	\$55,000	1	2/1/2005 settled 3/5/2008	false reporting and attempts to manipulate	Houston, TX
30.	Andrew Richmond	\$60,000	1	4/12/2005 settled 3/20/2007	false reporting and attempts to manipulate	Denver, CO
31.	Brion Scott McKenna	Registration revoked	1	5/20/05	manipulation	Tulsa, OK
32.	Joseph Foley	\$350,000	1	9/14/2005 settled 9/28/2006	false reporting and attempts to manipulate	Columbus, OH
33.	Shell Trading US Company Shell International Trading and Shipping Co. Nigel Catterall	\$300,000	3	1/4/2006	fictitious sales & noncompetitive trades and prearranged trading	Houston, Texas (STUSCO) London, UK (STASCO)
34.	BP Products North America, Inc. ⁴	\$125 million	1	6/28/2006 settled 10/25/2007	manipulation, attempts to manipulate. and cornering the market	Warrenville, Illinois
35.	Dominion Resources, Inc.	\$4.25 million	1	9/27/2006	false reporting	Richmond, VA
36	Energy Transfer Partners, LP; Energy Transfer Company (a/k/a/ La Grange Acquisition,	\$10 million	4	July 26, 2007 settled 3/17/2008	attempts to manipulate	Dallas, Texas Houston, Texas San Antonio, Texas

⁴ In a related matter, the U.S. Department of Justice entered into a deferred prosecution agreement with BP America Inc. that includes a criminal penalty of \$100 million, a payment of \$25 million to the U.S. Postal Inspection Consumer Fraud Fund, and restitution of approximately \$53 million.

	L.P.); Houston Pipeline Company; and ETC Marketing, Ltd					
37.	Marathon Petroleum Company LLC	\$1 million	1	8/1/2007	attempt to manipulate	Findlay, OH
38.	Paul K. Kelly	\$400,000	1	10/25/2007	attempt to manipulate	Lido Beach, New York
39.	Steven Karvellas	\$375,000	1	4/8/2008	fraudulent trade allocation	Allendale, New Jersey
40.	Thomas Maloney	\$62,500	1	4/8/2008	fraudulent trade allocation	Springfield, New Jersey
41	Sempra Energy Trading LLC	\$175,000	1	9/4/2008	trading card violations	Stamford, Connecticut

Citations To The Enforcement Actions Identified Above: *In re Dynegy Marketing & Trade, et al.*, CFTC Docket No. 03-03 (CFTC filed Dec. 18, 2002) (\$5 million civil monetary penalty); *CFTC v. Enron Corp., et al.*, No. H-03-909 (S.D. Tex. filed March 12, 2003) (\$35 million civil monetary penalty); *CFTC v. Hunter Shively*, No. H-03-909 (S.D. Tex. filed March 12, 2003) (\$300,000 civil monetary penalty); *In re El Paso Merchant Energy, L.P.*, Docket No. 03-09 (CFTC filed March 26, 2003) (\$20 million civil monetary penalty); *In re WD Energy Services Inc.*, Docket No. 03-20 (CFTC filed July 28, 2003) (\$20 million civil monetary penalty); *In re Williams Energy Marketing And Trading, et al.*, Docket No. 03-21 (CFTC filed July 29, 2003) (\$20 million civil monetary penalty); *In re Enserco Energy, Inc.*, Docket No. 03-22 (CFTC filed July 31, 2003) (\$3 million civil monetary penalty); *In re Duke Energy Trading And Marketing, L.L.C.*, Docket No. 03-26 (CFTC filed Sept. 17, 2003) (\$28 million civil monetary penalty); *CFTC v. American Electric Power Company, Inc., et al.*, No. C2 03 891 (S.D. Ohio filed Sept. 30, 2003) (\$30 million civil monetary penalty); *In re CMS Marketing Services and Trading Company, et al.*, Docket No. 04-05 (CFTC filed Nov. 25, 2003) (\$16 million civil monetary penalty); *In re Reliant Energy Services, Inc.*, Docket No. 04-06 (CFTC filed Nov. 25, 2003) (\$18 million civil monetary penalty); *In re Harmon*, Docket No. 03-25 (CFTC filed Jan. 16, 2004) (\$8,500 civil monetary penalty); *In re Aquila Merchant Services, Inc.*, Docket No. 04-08 (CFTC filed Jan. 28, 2004) (\$26.5 million civil monetary penalty); *In re Calpine Energy Services, L.P.*, CFTC Docket No. 04-11 (CFTC filed Jan. 28, 2004) (\$1.5 million civil monetary penalty); *In re ONEOK Energy Marketing And Trading Company, L.P., et al.*, Docket No. 04-09 (CFTC filed Jan. 28, 2004) (\$3 million civil monetary penalty); *In re Entergy-Koch Trading, LP*, Docket No. 04-10 (CFTC filed Jan. 28, 2004) (\$3 million civil monetary penalty); *In re e prime, Inc.*, Docket No. 04-12 (CFTC filed Jan. 28, 2004) (a wholly-owned subsidiary of Xcel Energy, Inc.; \$16 million civil monetary penalty); *In re Knauth*, Docket No. 04-15 (CFTC filed May 10, 2004) (\$25,000 civil monetary penalty); *In re Western Gas Resources, Inc.*, Docket No. 04-17 (CFTC filed July 1, 2004) (\$7 million civil monetary penalty); *In re Coral Energy Resources, L.P.*, Docket No. 04-21 (CFTC filed July 28, 2004) (\$30 million civil monetary penalty); *In re Biggs*, Docket No. 04-22 (CFTC filed Aug. 11, 2004) (\$30,000 civil monetary penalty); *In re BP Energy Co.*, Docket No. 05-02 (CFTC filed Nov. 4, 2004) (\$100,000 civil monetary penalty); *In re Cinergy*, CFTC Docket No. 05-03 (CFTC filed November 16, 2004) (\$3 million civil monetary penalty); *In re Mirant*, CFTC Docket No. 05-05 (CFTC filed Dec. 6, 2004) (\$12.5 million civil monetary penalty); *In re McKenna*, CFTC Docket No. SD 05-03 (CFTC May 20, 2005) (registration revocation); *In re Shell Trading US Company, et al.*, CFTC Docket No. 06-02 (CFTC filed Jan. 4,

2006) (\$300,000 civil monetary penalties); *In re Dominion Resources, Inc.*, CFTC Docket No. 06-06 (CFTC Sept. 27, 2006) (\$4,250,000 civil monetary penalty); *CFTC v. Foley*, No. 2:05 849 (S.D. Ohio filed Sept. 14, 2005, settled Sept. 28, 2006) (\$350,000 civil monetary penalty); *CFTC v. McDonald, et al.*, No. 1:05-CV-0293 (N.D. Ga. filed Feb. 1, 2005, settled Nov. 17, 2006, Nov. 7, 2007) (\$750,000 total civil monetary penalties); *CFTC v. NRG Energy, Inc.*, No. 04-cv-3090 MJD/JGL (D. Minn. filed July 1, 2004) (\$2 million civil monetary penalty); *CFTC v. Reed, et al.*, No. 05-D-178 (D. Colo. filed Feb. 1, 2005, settled March 13, 2007) (Danyluk, Mclaughlin, and Concord Energy, LLC total \$1.6 million civil monetary penalties; still pending against Reed); *CFTC v. Richmond*, No. 05-M-668 (OES) (D. Colo. filed April 12, 2005, settled March 20, 2007) (\$60,000 civil monetary penalty); *CFTC v. Bradley, et al.*, No. 05CV62-CVE-FHM (N.D. Okla. filed Feb. 1, 2005, settled May 25 and June 25, 2007) (Bradley \$100,000 civil monetary penalty; Martin \$25,000 civil monetary penalty); *CFTC v. Johnson, et al.*, No. H-05-0332 (S.D. Texas filed Feb. 1, 2005, settled Nov. 7, 2007) (Johnson, Moore, Tracy, Harp and Dyer \$1 million civil monetary penalty; still pending against Dizona); *CFTC v. Whitney*, No. H 05-333 (S.D. Texas filed Feb. 1, 2005, settled March 5, 2008) (\$55,000 civil monetary penalty); *In re Marathon Petroleum Company LLC*, CFTC Docket No. 07-09 (CFTC filed Aug. 1, 2007) (\$1 million civil monetary penalty); *CFTC v. BP Products North America, Inc.*, No. 06C 3503 (N.D. Ill. filed June 28, 2006, settled Oct. 25, 2007) (\$125 million civil monetary penalty); ; *CFTC v. Energy Transfer Partners, L.P., et al.*, No. 3-07CV1301-K (N.D. Tex. filed July 26, 2007, settled March 17, 2008) (\$10 million civil monetary penalty); *In re Kelly*, CFTC Docket No. 08-01 (CFTC Oct. 25, 2007) (\$400,000 civil monetary penalty); *In re Karvellas*, CFTC Docket No. 08-08 (CFTC filed April 8, 2008) (\$375,000 civil monetary penalty); *In re Maloney*, CFTC Docket No. 08-09 (CFTC filed April 8, 2008) (\$62,500 civil monetary penalty); and *In re Sempra Energy Trading LLC*, CFTC Docket No. 08-14 (CFTC filed Sept. 4, 2008)..

III. Enforcement Actions in Litigation

	ENERGY CASES PENDING	CHARGES	DATE FILED	HEADQUARTERS
1.	Anthony Dizona – pending <i>Denette Johnson, Courtney Cubbison Moore, John Tracy, Robert Harp, and Kelly Dyer - settled</i>	false reporting and attempts to manipulate	February 1, 2005	Houston, TX
2.	Matthew Reed - pending <i>Darrell Danyluk, Shawn Mclaughlin, and Concord Energy, LLC - settled</i>	false reporting and attempts to manipulate	February 1, 2005 settled 3/12/2007 with Darrell Danyluk, Shawn Mclaughlin, and Concord Energy, LLC	Golden, CO
3.	Amaranth Advisors L.L.C., Amaranth Advisors (Calgary) ULC, Brian Hunter	attempt to manipulate and false statements to a board of trade	July 25, 2007	Greenwich, CT Calgary, Alberta Province, Canada
4.	Optiver US, LLC, Optiver Holding BV, Optiver VOF, Christopher Dowson, Bastiaan Van Kempen, And Randal Meijer	manipulation, attempts to manipulate and false statements to a board of trade	July 24, 2008	Chicago, IL Amsterdam, The Netherlands

Citations To The Enforcement Actions Identified Above: *CFTC v. Johnson, et al.*, No. H-05-0332 (S.D. Texas filed Feb. 1, 2005) (charging false reporting and attempts to manipulate; settled 11/8/07 with Johnson, Moore, Tracy, Harp and Dyer; remains pending against Dizona); *CFTC v. Reed, et al.*, No. 05-D-178 (D. Colo. filed Feb. 1, 2005) (charging false reporting and attempts to manipulate; settled 3/12/2007 with Danyluk, Mclaughlin, and Concord Energy, LLC; remains pending against Reed); *CFTC v. Amaranth Advisors, L.L.C., et al.*, No. '07 CIV 6682 (S.D.N.Y. filed July 25, 2007); and *CFTC v. Optiver US, LLC* (S.D.N.Y. filed July 24, 2008).

IV. CFTC/DOJ Criminal Cooperative Enforcement Success

The following examples of criminal cases filed by the DOJ illustrate the success of the CFTC Division of Enforcement's cooperative enforcement in addressing alleged energy markets misconduct.

1. U.S. v. Todd Geiger (S.D. Tex. Dec. 12, 2002)
2. U.S. v. Abbott (D.D.C. June 28, 2006)
3. U.S. v. American Electric Power Company, Inc. (S.D. Ohio Jan. 26, 2005)
4. U.S. v. AEP Energy Services, Inc (S.D. Ohio Jan. 26, 2005)
5. U.S. v. Brian Leville (S.D. Tex. Feb. 10, 2005)
6. U.S. v. Brian Scott McKenna (N.D. Cal. May 20, 2005)
7. U.S. v. Christopher Bakkenist (S.D. Tex. Oct. 6, 2004)
8. U.S. v. Dallas Dean (S.D. Tex. Oct. 6, 2004)
9. U.S. v. Donald Guilbault (S.D. Tex. Oct. 6, 2004)
10. U.S. v. William Ham (S.D. Tex. Oct. 6, 2004)
11. U.S. v. Christopher Joseph McDonald (N.D. Cal. April 13, 2006)
12. U.S. v. Daryll Brown (N.D. Cal. April 31, 2006)
13. U.S. v. Darrell Danyluk (D. Colo. June 6, 2006)
14. U.S. v. Donald E. Burwell (S.D. Tex. Nov. 29, 2004)
15. U.S. v. Forney (N.D. Cal. Aug. 5, 2004)
16. U.S. v. James Brooks (S.D. Tex. Nov. 2, 2005)
17. U.S. v. James Phillips (S.D. Tex. Nov. 29, 2004)
18. U.S. v. Jeffrey Richter (N.D. Cal. Feb. 4, 2003)
19. U.S. v. Jerry Futch (S.D. Tex. Nov. 29, 2004)
20. U.S. v. Joseph Kennedy (W.D. Mo. Aug. 21, 2006)
21. U.S. v. Luke Larsen (W.D. Mo. Aug. 21, 2006)
22. U.S. v. Michael Whalen (N.D. Cal. April 13, 2006)
23. U.S. v. Michelle Valencia (S.D. Tex. Jan. 27, 2003)
24. U.S. v. Michelle Valencia (S.D. Tex. Jan. 2003)

25. U.S. v. Greg Singleton (S.D. Tex. Jan. 2003)
26. U.S. v. Paul Atha (N.D. Cal. April 13, 2006)
27. U.S. v. Reliant Energy Services (N.D. Cal. April 4, 2004)
28. U.S. v. Kevin Franke (N.D. Cal. April 2004)
29. U.S. v. Reggie Howard (N.D. Cal. April 2004)
30. U.S. v. Jackie Thomas (N.D. Cal. April 2004)
31. U.S. v. Lisa Flowers (N.D. Cal. April 2004)
32. U.S. v. Scott Thompson (S.D.N.Y. Sept. 28, 2006)
33. U.S. v. Shawn T. McLaughlin (D. Colo. Aug. 11, 2006)
34. U.S. v. Thomas Anderson (D. Minn. March 1, 2006)
35. U.S. v. Thomas J. Pool (N.D. Cal. Dec. 17, 2004)
36. U.S. v. Timothy Belden (N.D. Cal. Oct. 17, 2002)
37. U.S. v. Timothy Kramer (S.D. Tex. April 10, 2004)
38. U.S. v. Todd Reid (S.D. Tex. April 10, 2004)
39. U.S. v. Todd Bandy (W.D. Mo. Aug. 21, 2006)
40. U.S. v. Wesley C. Dalton (S.D. Tex. Nov. 2, 2005)
41. U.S. v. Williams Power Company (N.D. Cal. Feb. 22, 2006)
42. U.S. v. Mirant (N.D. Cal. July 12, 2007)
43. U.S. v. BP America Inc. (N.D. Ill. Oct. 25, 2007)
44. U.S. v. Mark David Radley (N.D. Ill. Oct. 25, 2007)
45. U.S. v. James Warren Summers (N.D. Ill. Oct. 25, 2007)
46. U.S. v. Cody Dean Claborn (N.D. Ill. Oct. 25, 2007)
47. U.S. v. Carrie Kienenberger (N.D. Ill. Oct. 25, 2007)