

UNITED STATES OF AMERICA
BEFORE THE
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of: : CFTC Docket No. 10-09
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Moore Capital Management, LP, : **ORDER INSTITUTING PROCEEDINGS**
Moore Capital Advisors, LLC and : **PURSUANT TO SECTIONS 6(c), 6(d) and**
Moore Advisors, Ltd., : **8a OF THE COMMODITY EXCHANGE**
: **ACT AND MAKING FINDINGS AND**
: **IMPOSING REMEDIAL SANCTIONS**
Respondents. :

I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that Moore Capital Management, LP ("MCM"), Moore Capital Advisors, LLC ("MCA"), and Moore Advisors, Ltd. ("MA") (collectively "Respondents" or "Moore Capital") violated Sections 6(c), 6(d), and 9(a)(2) of the Commodity Exchange Act (the "Act"), as amended, 7 U.S.C. §§ 9, 13b, and 13(a)(2) (2006), and that MCM violated Commission Regulation ("Regulation") 166.3, 17 C.F.R. §166.3 (2009). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and they hereby are, instituted to determine whether Respondents engaged in the violations set forth herein, and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondents submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondents acknowledge service of this Order Instituting Proceedings Pursuant to Sections 6(c), 6(d) and 8a of the Commodity Exchange Act and Making Findings and Imposing Remedial Sanctions ("Order").¹

¹ Respondents consent to the entry of this Order, the use of these findings in this proceeding and in any other proceeding against Respondents brought by the Commission or to which the Commission is a party; provided, however, that Respondents do not consent to the use of the Offer, or the findings or conclusions consented to in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor do Respondents consent to the use of the Offer or this Order, or the findings or conclusions consented to in the Offer or this Order, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

During the period of at least November 2007 through May 2008 (the "Relevant Period"), a former portfolio manager for MCM (the "Former PM") attempted to manipulate the settlement prices of palladium and platinum futures contracts traded on the New York Mercantile Exchange ("NYMEX"). The Former PM engaged in a trading practice known as "banging the close." Specifically, the Former PM caused to be entered market-on-close ("MOC") buy orders that were executed in the last ten seconds of the closing period for both contracts in an attempt to exert upward pressure on the settlement prices of the futures contracts. The Former PM engaged in this trading strategy frequently throughout at least the Relevant Period.

During the Relevant Period, MCM failed to supervise diligently the Former PM's trading on behalf of Respondents and failed to have sufficient policies and procedures designed to detect and deter the violations of the Act and Regulations found herein.

In accepting Moore Capital's Offer, the Commission recognizes the Respondents' significant cooperation during the Division of Enforcement's investigation of this matter and their representations concerning the remedial steps undertaken by Respondents during the investigation.

B. Respondents

Moore Capital Management, LP is a multi-strategy investment management firm with headquarters at 1251 Avenue of the Americas, New York, New York. During the Relevant Period, MCM and its affiliates managed several investment funds that invested in a wide variety of instruments, including but not limited to commodities, futures, and equities. During the Relevant Period, MCM had approximately twenty-five portfolio managers trading an estimated \$15,500,000,000 in assets under management. MCM is registered as a commodity trading advisor ("CTA") and is a principal of MCA. MCM is the successor in interest to Moore Capital Management, LLC which was a registered CTA. The Former PM was an employee of Moore Capital Management, LLC.

Moore Capital Advisors, LLC is a Delaware limited liability company and a registered commodity pool operator ("CPO") and CTA, with headquarters at the same address as MCM. MCM is a principal of MCA. MCA, along with MA, served as the co-general partner of the Moore Macro Fund, LP and the Moore Global Fixed Income Master Fund, LP.

Moore Advisors, Ltd. is a Bahamian international company and registered as a CPO. MA, along with MCA, served as the co-general partner of the Moore Macro Fund, LP and the Moore Global Fixed Income Master Fund, LP.

C. Facts

1. NYMEX Palladium and Platinum Futures Contracts

Palladium and platinum futures contracts are traded on the NYMEX. During the Relevant Period, the majority of trades in NYMEX palladium and platinum futures contracts were executed on the electronic trading platform, GLOBEX, rather than on the floor. The number of traders in the palladium and platinum pit on the NYMEX floor was fewer than ten on any given date.

The settlement prices of both the NYMEX palladium and platinum futures contracts are calculated based on the volume-weighted average price of all transactions conducted both on the trading floor and on Globex, during the two-minute closing period for the contracts. The closing period for trading palladium futures contracts is from 12:58 p.m. to 1:00 p.m., and the closing period for trading platinum futures contracts is from 1:03 p.m. to 1:05 p.m. Globex and the trading pit trade side-by-side through the close. Trading continues on Globex after the close of trading in the pit.

Trading in both contracts was relatively illiquid, and the Former PM's trading in the contracts on the close frequently accounted for a significant portion of the volume.

The Former PM's trading strategy took advantage of these key characteristics of these two futures markets – thinly traded, illiquid, and volume-weighted average settlement price calculations – to attempt to manipulate the daily settlement prices.

2. The Manipulative Scheme

During at least the Relevant Period, the Former PM frequently engaged in a trading strategy in an attempt to manipulate upward the settlement prices of the palladium and platinum futures contracts. The platinum and palladium trades executed by the Former PM were placed in two Moore Capital investment funds, the Moore Macro Fund, LP and the Moore Global Fixed Income Master Fund, LP. MCA and MA acted as the CPOs for these two funds and MCM was the trading advisor.

During at least the Relevant Period, the Former PM either directly or through Moore Capital execution clerks, placed MOC buy orders in platinum and palladium futures contracts through an associated person (the "AP") of a futures commission merchant ("FCM"). The FCM then relayed the Former PM's orders to the floor through a NYMEX floor clerk. The Former PM's MOC buy orders executed on the floor during the close generally ranged from 20 to 100 contracts, which were relatively large orders for the relatively illiquid palladium and platinum markets. Typically, the Former PM's orders constituted a large percentage of the volume of trading on the close.

The Former PM or his execution clerk routinely submitted MOC buy orders in platinum and platinum futures to the AP through Instant Messages ("IMs"), among other means. The Former PM often placed MOC orders with the FCM's AP with directions that indicated that he wanted to push the settlement prices higher.

To effectuate the Former PM's manipulative scheme, the AP waited until the last ten seconds of the closing periods of platinum and palladium futures trading to place the Former PM's buy orders with the floor clerk, who worked in the NYMEX trading pit.

The Former PM engaged in this manipulative strategy throughout the Relevant Period.

3. MCM's Supervision of the Former PM

During the Relevant Period, MCM failed to supervise diligently the Former PM's manner of trading on behalf of Respondents and failed to have sufficient policies and procedures designed to detect and deter the violations of the Act and Regulations found herein. While MCM's policies prohibited manipulative trading, MCM did not have adequate procedures to detect and deter possible manipulative trading. For instance, MCM did not monitor or review the communications of the Former PM and the executing clerks or the Former PM's end-of-day trading to identify possible manipulative schemes.

Also, while MCM's written policy required violations to be reported to compliance, that policy did not provide sufficient guidance or means to ensure that possible violations were reported. For example, in one instance, an execution clerk was concerned about the Former PM's trading on the close but failed to bring his concerns to compliance because he felt intimidated by the Former PM's aggressive management style.

D. Legal Discussion

1. Respondents' Employee Attempted to Manipulate the Settlement Prices of NYMEX Palladium and Platinum Futures Contracts

Together, Sections 6(c), 6(d), and 9(a)(2) of the Act prohibit acts of attempted manipulation. Section 9(a)(2) of the Act makes it 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." Sections 6(c) and 6(d) of the Act 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."

The following two elements are required to prove an attempted manipulation: (1) an intent to affect the market price, and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.* [1975-77 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977); *CFTC v. Bradley*, 408 F. Supp. 2d 1214 (N.D. Okla. 2005).

Here, MCM's Former PM entered or caused to be entered MOC buy orders during the close of trading in the palladium and platinum futures contracts with the intent to move higher the settlement prices of the platinum and palladium futures contracts.²

By this conduct, Respondents, through the acts of the Former PM, violated Sections 6(c), 6(d) and 9(a)(2) of the Act (2006).³

2. MCM Had Inadequate Systems and Procedures to Supervise Its Business as a Registrant

Regulation 166.3 requires that every Commission registrant (except APs who have no supervisory duties) supervise diligently the handling by its partners, employees and agents of all of its commodity interest accounts and activities relating to its business as a registrant. In order to prove a violation of Regulation 166.3, it must be demonstrated that either: (1) the registrant's supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995); *In re Paragon Futures Ass'n*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,266 at 38,850 (CFTC Apr. 1, 1992); *Bunch v. First Commodity Corp. of Boston*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,352 at 39,168-69 (CFTC Aug. 5, 1992).

Under Regulation 166.3, a registrant has a "duty to develop procedures for the detection and deterrence of possible wrongdoing by its agents." *Samson Refining Co. v. Drexel Burnham Lambert, Inc.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,596 at 36,566 (CFTC Feb. 16, 1990) (quoting *Lobb v. J.T. McKerr & Co.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,568 at 36,444 (CFTC Dec. 14, 1989)). "A showing that the registrant lacks an adequate supervisory system can be sufficient" to establish a breach of duty under Regulation 166.3. *In re Collins*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,194 at 45,744 (CFTC Dec. 10, 1997). The lack of an adequate supervisory system can be established by showing that the registrant failed to develop proper procedures for the detection of wrongdoing. *CFTC v. Trinity Fin. Group Inc.*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,179 at 45,635 (S.D. Fla. Sept. 29, 1997), *aff'd in relevant part, vacated in part and remanded sub nom. Sidoti v. CFTC*, 178 F.3d 1132 (11th Cir. 1999). The existence of violations

² *In re DiPlacido*, [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970 at 62,484 (CFTC Nov. 5, 2008), *aff'd*, 2009 U.S. App. LEXIS 22692 (2d Cir. Oct. 16, 2009), *cert. denied*, 2010 U.S. LEXIS 2461 (March 22, 2010) ("[S]ettlement prices are market prices that can be manipulated.").

³ Respondents are liable for the actions of the Former PM who acted as their employee and/or agent in trading on behalf of Moore Capital funds. Under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2 (2009), 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.

that should have been detected by a diligent system of supervision is independent proof of a failure to supervise. See *Paragon Futures Ass'n*, ¶ 25,266 at 38,850.

Based upon the supervisory failures described above, MCM failed to have an adequate supervisory system and procedures in place designed to both detect and deter the violations of the Commission's laws and Regulations found herein. MCM failed to have adequate policies and procedures in place to monitor trading and to supervise the acts of its employees, officers or agents.

By these acts, failures and omissions, MCM violated Regulation 166.3, 17 C.F.R. § 166.3 (2009).

IV.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondents attempted to manipulate the settlement prices of palladium and platinum futures contracts traded on the NYMEX in violation of Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, and 13(a)(2) (2006). The Commission further finds that MCM failed to have an adequate supervisory system and procedures designed to detect and deter potentially manipulative practices in violation of Regulation 166.3, 17 C.F.R. § 166.3 (2009).

V.

OFFER OF SETTLEMENT

Respondents have submitted an Offer in which they acknowledge service of this Order and admit the jurisdiction of the Commission with respect to the matters set forth in this Order and waive: (1) the filing and service of a complaint and notice of hearing; (2) a hearing; (3) all post-hearing procedures; (4) judicial review by any court; (5) any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer; (6) any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2009), relating to or arising from this action; (7) any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121, §§ 201-253, 110 Stat. 847, 857-68 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to or arising from this action; and (8) any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief.

Respondents stipulate that the record basis on which this Order is entered consists of this Order and the findings in this Order consented to in their Offer. Respondents consent to the Commission's issuance of this Order that: (1) makes findings that Respondents each violated Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, and 13(a)(2) (2006), and that MCM also violated Regulation 166.3, 17 C.F.R. § 166.3 (2009); (2) orders Respondents to cease and desist from violating Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, and

13(a)(2) (2006); (3) orders MCM to cease and desist from violating Regulation 166.3, 17 C.F.R. § 166.3 (2009); (4) orders Respondents to pay, jointly and severally, a civil monetary penalty in the amount of Twenty-Five Million Dollars (\$25,000,000), plus post-judgment interest; (5) restricts Respondents' registrations as CPOs and/or CTAs for a period of three years from the date of this Order by requiring Respondents and their successors and assigns to each comply with the undertakings consented to in the Offer and set forth below; and (6) orders Respondents comply with the conditions and undertakings as set forth in the Offer and incorporated in this Order.

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

VI.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Respondents shall cease and desist from violating Sections 6(c), 6(d), and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b, and 13(a)(2) (2006), and MCM shall further cease and desist from violating Regulation 166.3, 17 C.F.R. § 166.3 (2009).
2. Respondents shall pay, jointly and severally, a civil monetary penalty in the amount of Twenty-five Million Dollars (\$25,000,000), plus post-judgment interest, within ten (10) days of the date of the entry of this Order. Post judgment interest shall accrue beginning eleven (11) days after entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961. Respondents shall pay their civil monetary penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone 405-954-6569

If payment by electronic transfer is chosen, Respondents shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the penalty with a cover letter that identifies Respondents and the name and docket number of this proceeding. Respondents shall simultaneously submit a copy of the cover letter and the form of payment to: (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street, N.W., Washington, D.C. 20581; and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity

Futures Trading Commission, at the same address. In accordance with Section 6(e)(2) of the Act, as amended, 7 U.S.C. § 9a(2) (2006), if this amount is not paid in full within fifteen (15) days of the due date, Respondents shall be prohibited automatically from the privileges of all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until it has shown to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of the payment has been made.

3. Respondents' registrations as CTAs and CPOs shall be restricted insofar as Respondents shall comply with the undertakings set forth below for a period of three (3) years from the date of this Order. Respondents represent that they have already undertaken and are implementing certain compliance enhancements.
 - a. Respondents shall institute, update and/or strengthen policies and procedures designed to detect, deter, discipline, and correct potential wrongdoing and violations of the Act and Regulations, including the type of violative conduct found by the Commission in this matter, and that are reasonably designed to provide diligent supervision in accordance with Regulation 166.3. Such policies and procedures shall include but not be limited to:
 - i. policies and procedures regarding supervision of execution, trading and back office personnel, and portfolio managers, including but not limited to reviews of trading desks and portfolio managers relating to order entry and trading practices for commodity futures, options on commodity futures, commodity options, and foreign currency subject to the Act and Regulations, with the reviews and results being documented;
 - ii. policies and procedures to ensure that questionable, unusual or unlawful activity is promptly and directly reported to, and addressed and investigated by, Moore Capital's compliance or legal personnel; and
 - iii. policies and procedures requiring periodic review of electronic communications and audio recordings as described in subparagraphs b and c below; such review will include the opening and closing periods of markets and expiration of trading on futures contracts; and
 - b. Respondents shall implement a policy requiring that any person communicating in writing (e.g., text messages, facsimile, chat, Instant Messaging, electronic mail) concerning non-equity (with the exception of exchange traded funds based on commodities or commodity futures) trading, transactions, prices and/or trading strategies shall use digital or electronic media which is recorded and maintained by Respondents.

Respondents shall record and maintain a record of all such communications for a period of at least two (2) years, unless otherwise required to be retained for five (5) years pursuant to Regulation 1.31.

- c. Respondents shall implement a policy requiring that any person engaging in audio communications reflecting non-equity (with the exception of exchange traded funds based on commodities or commodity futures) order placement, execution or handling shall use digital or electronic media which is recorded and maintained by Respondents. Respondents' policy shall also require that all non-privileged, business related telephonic communications occurring through each execution desk handling non-equity trading shall be recorded and maintained by Respondents. Respondents shall maintain such recorded audio and telephonic communications for a period of at least six (6) months.
- d. Respondents shall either implement a system of trade recording to include all elements of the transactions, such as order entry and execution time, or in its report to the Division explain why such system is not commercially feasible or practicable.
- e. Respondents shall ensure that compliance personnel have experience and knowledge of commodity futures and options trading, regulation and compliance.
- f. Respondents shall enhance and continue to provide mandatory training programs, which shall be updated annually, addressing the ethics, compliance and legal requirements of the Act and Regulations, including abusive and manipulative trading practices and indicators of such practices, to be given to Moore Capital professional staff, including all directors, officers, managers, portfolio managers, traders, associated persons, execution desk personnel, compliance personnel, and employees involved in any aspect of Moore Capital's commodity and/or commodity derivatives businesses. Such training programs will be provided within 120 days of the date of the employee's start date in one of the aforementioned positions and on an annual basis. Respondents will create and maintain documentation that the required individuals noted above have fulfilled their compliance training.
- g. Moore Capital shall submit a report to the Commission's Division of Enforcement within 120 days of the issuance of this Order. The report shall include the steps taken to comply and the results of its compliance with the above undertakings, including a detailed description of internal controls, policies and procedures formulated and implemented.
- h. Respondents shall distribute a copy of this Order to all current and future employees, principals and officers and shall ensure that all required disclosures of the Commission's actions are made.

4. Respondents also shall comply with the following conditions and undertakings as specified:

a. **Trading Restriction**

Respondents agree not to engage in trading platinum and palladium options on commodity futures and commodity futures within fifteen minutes of the beginning of the closing period for trading until the end of the closing period for trading of those commodities for a period of two (2) years from the date of this Order.

b. **Future Cooperation with the Commission**

Respondents shall continue to cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement ("DOE"), and all other federal government agencies (hereafter collectively referred to as the "Government") in this proceeding, and in any investigation, civil litigation, or administrative matter related to the subject matter of this proceeding or any current or future Government investigation related thereto. As part of such cooperation, Respondents agree 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; and
- (2) comply fully, promptly, and truthfully to any inquiries or requests for information including but not limited to inquiries or requests:
 - (i) for authentication of documents;
 - (ii) for any documents within Respondents' 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 Respondents, regardless of the employee's location and at such location that minimizes Commission travel resources, 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 Respondents.

Respondents also agree that they will not undertake any act that would limit their ability to fully cooperate with the Commission; provided, however, that nothing in this Order shall require Respondents to disclose any information that is protected by the attorney-client privilege, the attorney work product doctrine, or other legally recognized privilege.

Respondents designate the Akin Gump Strauss Hauer & Feld LLP law firm to receive all requests for information pursuant to this undertaking. Should Respondents seek to change the designated person to receive such requests, notice shall be given to the DOE of such intention 14 days before it occurs. Any person designated to receive such request shall be located in the United States.

c. Public Statements

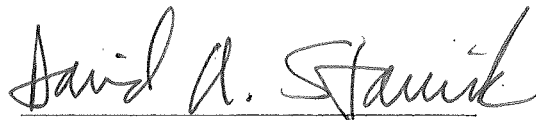
Respondents agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order, or creating, or tending to create, the impression that this Order is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

5. Miscellaneous Provisions

- a. This Order shall inure to the benefit and be binding on successors, assigns, beneficiaries and administrators of Respondents.
- b. If any Respondent fails to comply with any of the conditions or undertakings of this Order applicable to it, the entity failing to comply shall be subject to further proceedings pursuant to Sections 6(c) and 6(e)(2) of the Act, 7 U.S.C. §§ 9 and 9a(2) for violating a Commission Order.

The provisions of this Order shall be effective as of this date.

By the Commission.

A handwritten signature in cursive script that reads "David A. Stawick". The signature is written in black ink and is positioned above a horizontal line.

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: April 29, 2010