

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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In the Matter of:	)	
	)	
Eric Zuccarelli,	)	<b>CFTC Docket No. S.D. 97-3</b>
	)	
Registrant.	)	
	)	

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**OPINION AND ORDER ACCEPTING**  
**OFFER OF SETTLEMENT OF REGISTRANT ERIC ZUCCARELLI**

On March 5, 1997, the U.S. Commodity Futures Trading Commission (“Commission”) filed a Notice of Intent to Revoke, Suspend, or Condition Registration as a Floor Broker (“Notice”) against Eric Zuccarelli (“Zuccarelli”).<sup>1</sup> Zuccarelli has submitted an Offer of Settlement (“Offer”), which upon consideration, the Commission has determined to accept.<sup>2</sup> Solely on the basis of the consent evidenced by the Offer, and without any adjudication on the merits, the Commission finds that the facts set forth in the Notice constitute good cause for a statutory disqualification of Zuccarelli from registration under Section 8a(3)(M) of the Commodity Exchange Act (“Act”), 7 U.S.C. §12a(3)(M) (2001), which provides a basis by

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<sup>1</sup> The Notice alleges facts which constitute good cause for a statutory disqualification of Zuccarelli from registration under Section 8a(3)(M) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §12a(3)(M) (1994), which provides a basis by which Zuccarelli’s registration may be revoked, suspended, or restricted under §8a(4) of the Act, 7 U.S.C. §12a(4) (1994).

<sup>2</sup> In his Offer, without admitting or denying the allegations of the Notice, Zuccarelli, *inter alia*, admits service of the Notice, admits the jurisdiction of the Commission with respect to the matters set forth in the Notice, waives 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 upon the institution of this proceeding or the entry of any order imposing a civil penalty or any other relief, and all claims which he may possess under the Equal Access to Justice Act, 5 U.S.C. §504, and 28 U.S.C. §2412 (2001) and Part 148 of the regulations promulgated under the Commodity Exchange Act, as amended (“Regulations”), 17 C.F.R. §§148.1 *et seq.*, relating to or arising from this action; and stipulates that the record basis on which this Opinion and Order (“Order”) is entered consists of the Notice, the findings consented to in the Offer, which are incorporated in this Order, and the Supplemental Sponsor Certification Statement submitted in connection with the Offer.

which Zuccarelli's registration may be revoked, suspended, conditioned, or restricted under Section 8a(4) of the Act, 7 U.S.C. §12a(4) (1994).<sup>3</sup>

Accordingly, the Commission **HEREBY ORDERS** that Zuccarelli's registration as a floor broker shall be suspended and restricted as follows:

1. Zuccarelli's registration as a floor broker shall be suspended for six months beginning on the Monday following the entry of this Opinion and Order ("Order");
2. At the end of Zuccarelli's six-month suspension, Zuccarelli's registration as a floor broker shall be restricted as follows:
  - a. Zuccarelli shall not act as a floor broker or floor trader pursuant to Sections 4e and 4f of the Act, 7 U.S.C. §§6(e) and 6(f) (2001), and as defined under Section 1.3(n) and 1.3(x) of the Regulations, 17 C.F.R. §1.3(n) and 1.3(x) (2001), unless his activities as a floor broker or floor trader are subject to a Supplemental Sponsor Certification Statement ("Certification Statement"), in either Form A or Form B attached hereto, as applicable, executed and submitted to the Commission by a qualified sponsor and in accordance with Section 3.60(b)(2) of the regulations promulgated under the Commodity Exchange Act, as amended ("Regulations"), 17 C.F.R. §§3.60(b)(2). A qualified sponsor shall be Zuccarelli's employer who has executed Form A, or if he has no employer, another floor broker who has executed Form B.
  - b. Immediately upon Zuccarelli's qualified sponsor ("Sponsor") ceasing to act as Sponsor, Zuccarelli shall stop acting as a floor broker or floor trader until his activities are once again subject to a new Certification Statement, in the applicable form, executed and submitted to the Commission;
  - c. Zuccarelli shall not serve on any disciplinary committee, arbitration panel, oversight panel or governing board of any self-regulatory organization ("SRO") registered or required to be registered with the Commission;
  - d. Zuccarelli shall not directly or indirectly act in any supervisory capacity over anyone registered or required to be registered with the Commission and shall not directly or indirectly act as a principal, partner, officer, or branch office manager of any entity registered or required to be registered with the Commission;

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<sup>3</sup> In his Offer, Zuccarelli agrees to the use of these findings in this proceeding and in any other proceeding by the Commission or to which the Commission is a party.

- e. The Certification Statement will become part of Zuccarelli's registration file, and shall be a public document and may be made available to any SRO and state and federal governmental entities;
  - f. Zuccarelli shall send written notification to the Membership Department of all exchanges where he has floor trading privileges that his registration is subject to restrictions and conditions. Such written notification shall include a copy of this Order and the Certification Statement;
  - g. Within five days after Sponsor notifies Zuccarelli in writing that he is terminating his sponsorship of Zuccarelli for any reason, Zuccarelli and Sponsor will each file with the Director of the Commission's Division of Enforcement, the Director of the Commission's Division of Clearing and Intermediary Oversight, the National Futures Association ("NFA"), and the Membership Department of the exchange where Zuccarelli has trading privileges, a written notice of such termination. Such written notice shall fully set out the reasons that caused Sponsor to terminate the supervision;
  - h. Zuccarelli acknowledges that failure to comply with this Order shall constitute a violation of this Order and may subject him to administrative or injunctive proceedings pursuant to the Act; and
  - i. The restrictions set forth in this Order shall remain in effect for two years from the date on which Zuccarelli's six-month suspension of his registration as a floor broker is lifted.
3. Additionally, Zuccarelli's registration as a floor broker shall be subject to the following conditions for the duration of Zuccarelli's six-month suspension and two-year restricted registration:
- a. If the Commission, the NFA, or any other SRO or a law enforcement agency or regulatory agency institutes a proceeding charging Zuccarelli with violation of the Act, the Regulations, the rules or requirements of the NFA or any other SRO, the terms of this Order, or a disciplinary offense as defined in Section 1.63(a)(6) of the Regulations, 17 C.F.R. §1.63(a)(6) (2001), Zuccarelli shall notify Sponsor, and Zuccarelli and Sponsor shall immediately notify the Commission and the NFA in writing of such action;
  - b. Zuccarelli's registration shall be automatically suspended if he is charged with violating the terms of a Commission order, violating the terms of a Federal Court order enjoining violations of the Act or Regulations, or a disciplinary offense as defined in Regulation 1.63(a)(6), 17 C.F.R. §1.63(a)(6) (2001), except that as to offenses defined in Regulation 1.63(a)(6)(i)(c), suspension shall occur if fines aggregating \$5,000 or

more are imposed during the period of these restrictions rather than during a calendar year; and

- c. If Zuccarelli's registration is automatically suspended pursuant to Paragraph 3(b) of this section, the period of suspension shall terminate six months after the date of the suspension, unless the Commission files within that period a Notice of Intent to Revoke, Suspend, Condition, or Restrict Registration pursuant to Regulation 3.60(a), 17 C.F.R. §3.60(a) (2001), or a Complaint in either an administrative or injunctive action. If such Notice or Complaint is filed within the six-month period, Zuccarelli's registration shall be suspended until a final order is entered resolving all issues arising under such Notice or Complaint.

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

Unless otherwise specified, the provisions of this Order shall be effective on this date.

The Office of Proceedings shall serve a copy of this Order upon Zuccarelli, upon the National Futures Association, and upon all contract markets.

By the Commission.

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

Dated: July 29, 2002