

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of

Pioneer Futures, Inc.,

Respondent.

CFTC Docket No: 07-05

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

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I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that Pioneer Futures, Inc. ("Pioneer") has violated Section 4g of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 6g (2000), and Sections 1.31 and 1.35(a) of the Commission's Regulations, 17 C.F.R. §§ 1.31 and 1.35(a)(2006). Therefore, the Commission deems it appropriate and in the public interest that a public administrative proceeding be, and hereby is, instituted to determine whether Pioneer has engaged in the violations as set forth herein and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of this administrative proceeding, Pioneer has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings of facts or violations herein, Pioneer acknowledges service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, As Amended, Making Findings and Imposing Remedial Sanctions (“Order”).¹

III.

The Commission finds the following:

A. SUMMARY

During the course of a private investigation concerning the trading of one or more floor brokers and floor traders at the Chicago Mercantile Exchange (“CME”), the Division of Enforcement (“DOE”) staff requested that Pioneer, through its guaranteed introducing broker (“IB”) Spike Trading, Inc. (“Spike”), produce copies of specific trading cards of two local traders and records of orders filled by one floor broker. Pioneer, through Spike, failed to produce the requested records in a timely fashion in violation of the Commission’s record-keeping rules.

¹ Pioneer consents to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, Pioneer does not consent to the use of the Offer, or the findings consented to in the Offer or this Order, as the sole basis for any other proceeding brought by the Commission, or to enforce the terms of this Order. Nor does Pioneer consent to the use of the Offer or this Order, or the findings consented to in the Offer or this Order, by any other party in any other proceeding.

B. SETTling RESPONDENT

Pioneer Futures, Inc. is located at One North End Avenue, Suite 1251, N.Y., N.Y. Pioneer is, and at all times relevant to this Order was, registered with the Commission as a futures commission merchant ("FCM"). At all times relevant to this Order, Pioneer was a clearing member of the CME. In 2002 and up to November 11, 2004, Pioneer provided clearing services to local traders at the CME through Spike. Spike referred to itself as the Spike Trading Division of Pioneer Futures, Inc. Even after Spike ceased to be an IB of Pioneer, Spike retained custody and control of the trading cards prepared by the local traders introduced by Spike to Pioneer. All of DOE's record requests for the trading cards prepared by floor traders who cleared their trades through Pioneer in 2002 were handled by Spike on behalf of Pioneer.

C. FACTS

On February 2, 2006 and March 26, 2006, pursuant to Section 4g of the Act and Regulations 1.31 and 1.35, DOE issued document requests to Pioneer for the production of the trading cards submitted between May and July 2002 by a local trader introduced to Pioneer by Spike. This request was for approximately 1,856 trading cards and Spike was unable to produce 60 of them.

This is not the first time that Spike has been unable to produce trading records requested by DOE; Pioneer was unable to produce a total of 49 trading cards in response to two earlier DOE Requests. First, on June 16, 2003, the DOE issued a document request to Pioneer, through Spike, for the production of the trading cards submitted by a local trader for several dates in 2002. Spike was unable to locate two of the requested trading cards. Second, on September 5, 2003, the Division requested, among other things, that Pioneer, through Spike, produce the original trading cards of another local trader and order tickets and associated broker cards for

identified orders filled by a specified floor broker on February 4, 2002. Pioneer, through Spike, failed to produce the requested trading records for February 4, 2002—totaling at least 47 trading records.

D. LEGAL DISCUSSION

Because Pioneer is a registered FCM, it is required to keep full, complete and systematic records of all transactions relating to its business or dealings in commodity transactions and to promptly produce all such records for inspection upon request of the Commission. Among those records, Pioneer is required to keep and produce the trading cards of the floor brokers who clear their personal accounts through it. Even though Pioneer delegated its recordkeeping responsibilities to Spike, its guaranteed IB, Pioneer continued to be responsible for the retention and production of these trading records. During the course of DOE's investigations, Pioneer, through Spike, failed to keep and promptly provide, upon requests of the Commission, 109 trading cards, in violation of Section 4g of the Act, 7 U.S.C. § 6g (2000), and Regulations 1.31 and 1.35(a), 17 C.F.R. §§ 1.31 and 1.35(a) (2006). *In re GNP Commodities, Inc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,360 at 39,217 (FCM's failure to produce office orders violated recordkeeping requirements).

IV.

OFFER OF SETTLEMENT

Pioneer has submitted an Offer of Settlement in which it neither admits nor denies the findings in this Order. Subject to the foregoing, Pioneer: acknowledges service of this Order and admits the jurisdiction of the Commission with respect to the matters set forth in this Order; waives: (1) service of the complaint and notice of hearing; (2) a hearing; (3) all post-hearing procedures; (4) judicial review by any court; (5) any objection to the staff's participation in the

Commission's consideration of the Offer; (6) 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 Regulations, 17 C.F.R. §§ 148.1, *et seq.*, relating to or arising from this action; and (7) 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.

Pioneer stipulates that the record basis on which this Order is entered consists of this Order and the findings to which it has consented in its Offer, which is incorporated in this Order. Pioneer consents to the Commission's issuance of this Order, which makes findings as set forth herein; orders Pioneer to cease and desist from violating the provisions of the Act and the Regulations it is found to have violated; orders that Pioneer shall be liable for payment of a civil monetary penalty of twenty-five thousand dollars (\$25,000); and orders Pioneer to comply with its undertaking as set forth in the Offer and this Order.

V.

FINDING OF VIOLATIONS

Solely on the basis of the consent evidenced by the Offer, and prior to any adjudication on the merits, the Commission finds that Pioneer violated Section 4g of the Act, 7 U.S.C. § 6g (2000), and Sections 1.31 and 1.35(a) of the Regulations, 17 C.F.R. §§ 1.31 and 1.35(a)(2006).

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. Pioneer cease and desist from violating Section 4g of the Act, 7 U.S.C. § 6g (2000), and Sections 1.31 and 1.35(a) of the Regulations, 17 C.F.R. §§ 1.31 and 1.35(a)(2006);

B. Pioneer pay a monetary penalty in the amount of twenty-five thousand dollars (\$25,000) due within ten (10) days of the date of this Order. Pioneer shall pay this penalty by 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

If the payment is to be made by electronic funds transfer, Pioneer shall contact Marie Bateman at 405-954-6569 for instructions. Pioneer shall accompany the payment of the penalty with a cover letter that identifies Pioneer, and the name and docket number of this proceeding. Pioneer shall simultaneously transmit a copy of the cover letter and the form of payment to: Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. If this amount is not paid in full within fifteen (15) days of the due date, Pioneer 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;

C. Pioneer shall comply with the following undertaking set forth in its Offer:

Neither Pioneer nor any of its employees, agents, or representatives shall take any action or make any public statement denying, directly or indirectly, any finding in the Order, or creating, or tending to create, the impression that the Order is without a factual basis; provided, however, that nothing in this provision affects Pioneer's: (i) testimonial obligations; or (ii) right to take appropriate legal positions in other proceedings to which the Commission is not a party.

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

By the Commission.



Eileen Donovan
Acting Secretary to the Commission
Commodity Futures Trading Commission

Dated: March 7, 2007