

[Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION—N.D. III.: CFTC settles spoofing case against Oystacher, 3Red Trading for \\$2.5 million, \(Dec. 21, 2016\)](#)

Securities Regulation Daily Wrap Up

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By [Lene Powell, J.D.](#)

In a consent order in federal district court in Illinois, proprietary trader Igor Oystacher and his firm 3Red Trading LLC agreed to pay a \$2.5 million civil monetary penalty for spoofing and use of a manipulative or deceptive device while trading five futures contracts on four exchanges over several years. The court also appointed an independent monitor for three years, ordered the defendants to use certain compliance tools for 18 months, and prohibited the defendants from engaging in further violations as defined ([CFTC v. Oystacher](#), December 20, 2016, St. Eve, A.).

"This Order sends a strong message to the financial markets that the CFTC will aggressively investigate, prosecute, and penalize spoofing and manipulative conduct, whenever they occur," said CFTC Director of Enforcement Aitan Goelman.

Spoofing and manipulative or deceptive device. The CFTC filed its [complaint](#) against Oystacher and 3Red in October 2015. The CFTC accused Oystacher of manually placing large passive orders on one side of the market, at or near the best bid or offer price, with the intent of cancelling them before execution. These "spoof" orders were designed to create the false impression of growing market interest to trade in a certain direction and lure other market participants into placing similar orders on the same side of the market. Then, Oystacher would cancel or try to cancel all the spoof orders before they were executed, and almost simultaneously "flip" his position from buy to sell (or vice versa) by placing at least one aggressive order on the other side of the market at the same or better price. The new, genuine order then traded with market participants, resulting in profit for Oystacher and 3Red.

Subsequently, the CFTC [moved to disqualify an expert witness](#) and consulting firm hired by the defendants, alleging that a contract between the firm and the CFTC's own expert created a conflict of interest. The court declined to disqualify the witness, finding that this did not rise to a level of "side-switching" to merit the "extreme sanction" of disqualification. In July 2016, the court [denied the CFTC's motion for preliminary injunction](#), instead restricting the defendants' trading while the case proceeded. The court later [rejected a constitutional challenge](#) by the defendants, finding that Section 4c(a)(5)(C) of the Commodity Exchange Act (CEA) and CFTC Regulation 180.1 put the defendants on notice as to prohibited conduct involving spoofing and use of a manipulative or deceptive device.

In the consent order, the court found that Oystacher was among the largest traders, as measured by number of contracts, for short stretches between 2012 and 2014 in the copper, crude oil, natural gas, VIX, and E-Mini S&P 500 futures markets. Oystacher exploited a function of the trading platform called a "wash blocker" to cancel the spoof orders before they were filled. Oystacher also used "iceberg" or "hidden quantity" orders to partially conceal his trades. Noting that numerous exchanges have sanctioned Oystacher, the court found that he and 3Red intentionally or recklessly violated CEA Sections 4c(a)(5)(C) and 6(c)(1) and Regulation 180.1.

Sanctions. In addition to the \$2.5 million civil monetary penalty, the court specifically prohibited the defendants from engaging in certain trading behavior, including trading in a way that creates a false or misleading impression of market depth and/or book pressure. The court also appointed [James G. Lundy](#), former SEC attorney and current partner at Drinker Biddle & Reath, as independent monitor to watch the defendants' trading for three years and assess whether any CEA provisions are violated. Finally, the court ordered the defendants

to use specific compliance tools for 18 months and ordered 3Red's Chief Compliance Officer to file a monthly sworn affidavit attesting that the compliance tools are still in place and Oystacher has not violated any of them.

The case is [No. 15-cv-09196](#).

Attorneys: Elizabeth M. Streit for the CFTC. Stephen Jay Senderowitz (Dentons US LLP) for Igor B. Oystacher and 3 Red Trading LLC.

Companies: 3 Red Trading LLC

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