

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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4:46 pm, Apr 04, 2013

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THOMAS COST

v.

MARK GOSCENSKI, TRENTON JAMES  
KIMMINAU and GLOBAL FUTURES  
EXCHANGE & TRADING COMPANY,  
INCORPORATED  
\_\_\_\_\_

CFTC Docket No. 07-R059

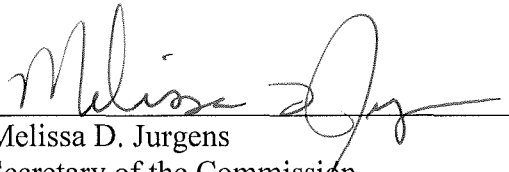
ORDER OF SUMMARY AFFIRMANCE

Our review of the record and the complainants' appellate submission establishes that the Judgment Officer committed no error material to the outcome of the proceedings and that the findings of the Judgment Officer are supported by the weight of the evidence; we therefore adopt them. In addition, the complainants have not raised important questions of law or policy regarding the alleged untimely assignment of futures contracts or wrongful liquidation of positions in their accounts. Accordingly, pursuant to Section 14 of the Commodity Exchange Act and Commission Regulation 12.406(b), we summarily affirm the initial decision and order of the Judgment Officer without an opinion.<sup>1</sup>

<sup>1</sup> Pursuant to Commission Regulation 12.406(b), 17 C.F.R. § 12.406(b), neither the initial decision nor the Commission's order of summary affirmance shall serve as Commission precedent in other proceedings.

IT IS SO ORDERED.<sup>2</sup>

By the Commission (Chairman GENSLER and Commissioner SOMMERS, CHILTON, O'MALIA AND WETJEN).

  
Melissa D. Jurgens  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: April 4, 2013

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<sup>2</sup> Under Section 6(c) and 14(e) of the Commodity Exchange Act, 7 U.S.C. §§ 9 and 18(e) (2006), a party may appeal a reparation order of the Commission to the United States Court of Appeals for only the circuit in which a hearing was held; if no hearing was held, the appeal may be filed in any circuit in which the appellee is located. The Commission has ruled that telephonic hearings are “held” in Washington, D.C., although parties may speak from several locations. *Dubois v. Alaron*, [2000-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,406 at 51,026 n. 16 (CFTC Oct. 26, 2000). The statute also states that such an appeal must be filed within 15 days after notice of the order and that any appeal is not effective unless, within 30 days of the date of the Commission order, the appealing party files with the court a bond equal to double the amount of any reparation award.