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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

ENTERED

AUG 18 2000

SAMUEL L. KAY, CLERK
U. S. District & Bankruptcy Courts
Southern District of West Virginia

Commodity Futures Trading Commission

Plaintiff,

v.

Robert L. Dormagen, an individual,
Delta Financial Corporation, a
West Virginia corporation,

Defendants.

Case No. 6:00-0567

(proposed) CONSENT ORDER OF
PRELIMINARY
INJUNCTION AND OTHER
EQUITABLE RELIEF

COPY

Plaintiff Commodity Futures Trading Commission ("Commission") filed a six-Count Complaint for Injunctive and Other Equitable Relief ("Complaint") against Robert L. Dormagen ("Dormagen") and Delta Financial Corporation ("Delta") on July 3, 2000, seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 1 *et seq.* (1994), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (1999).

Without admitting or denying the allegations in the Complaint for the purpose of this Consent Order of Preliminary Injunction and Other Equitable Relief ("Order"), except as to jurisdiction and venue, which defendants admit, Defendants Dormagen and Delta consent to the entry of this Order and state that their consents are entered into voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent, or representative thereof, to induce Dormagen and Delta to consent to this Order.

The Court has considered the Complaint, declarations, exhibits, brief in support of Plaintiff's Motion for Preliminary Injunction and other papers filed herein and has been fully advised in the premises.

THE PARTIES AGREE AND THE COURT FINDS THAT:

1. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order promulgated thereunder.

2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, in that Defendants transacted business in this district, and the acts and practices in violation of the Act have occurred, or are occurring, or are about to occur within this district among other places.

3. Defendants enter their appearances and acknowledge receipt of the Complaint herein.

4. The Commission is an independent federal regulatory agency which is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.*

5. Defendant Dormagen currently resides in Crossville, Tennessee. Defendant Delta was operated by Dormagen as President out of his home in Ravenswood, West Virginia. Prior to March 1999, Defendants Dormagen's residence and Delta's principal place of business were in Ravenswood, West Virginia. Neither Dormagen nor Delta have ever been registered with the Commission in any capacity.

IT IS HEREBY ORDERED THAT:

1. Without admitting or denying Plaintiff's allegations, Defendants are restrained, enjoined, and prohibited, until further order of the Court, from directly or indirectly:

A. violating Section 4b(a)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(i)-(iii), by, in or in connection with any order to make, or the making of any contract or sale of any commodity for future delivery (including but not limited to foreign currencies), made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (A) hedging any transaction in interstate commerce in such commodity or the products or by products thereof, or (B) determining the price basis of any transaction in interstate commerce in such commodity, or (C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

a) cheating or defrauding or attempting to cheat or defraud other persons;

b) willfully making or causing to be made to other persons any false report or statement, or willfully entering or causing to be entered for such persons any false records; or

c) willfully deceiving or attempting to deceive other persons by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person;

B. violating Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 33.10, 17 C.F.R. § 33.10, by directly or indirectly: (a) cheating or defrauding or attempting to cheat or defraud any other person; (b) making or causing to be made to any other person any false report or statement thereof or causing to be entered for any person any false record thereof; and (c) deceiving or attempting to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the entry into, the

confirmation of the execution of, or the maintenance of, any commodity option transaction;

C. violating Section 4^o(1) of the Act, 7 U.S.C. § 6^o(1), by, while acting as a commodity pool operator (“CPO”) and a commodity trading advisor (“CTA”), employing devices, schemes or artifices to defraud commodity pool participants or prospective participants, and engaging in transactions, practices or courses of business that operate as a fraud or deceit upon commodity pool participants or prospective participants;

D. violating Section 4.13(b)(2)(i)(A)-(B) of the Regulations, 17 C.F.R. § 4.13(b)(2)(i)(A)-(B), by failing to deliver to each participant in a commodity pool, that either defendant operates or intends to operate, a copy of the monthly statement for the pool received from a futures commission merchant pursuant to Section 1.33 of the Regulations;

E. violating Section 4.20(c) of the Regulations, 17 C.F.R. § 4.20(c), by commingling the property of any pool that either defendant operates intends to operate with the property of any other person; and

F. violating Section 4d(1)-(2) of the Act, 7 U.S.C. § 6d(1)-(2), by acting as an unregistered futures commission merchant (“FCM”) and commingling customer funds.

2. IT IS FURTHER ORDERED that Defendant Dormagen and Delta are restrained, enjoined and prohibited, until further order of this Court, from directly or indirectly dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashier’s checks, funds, assets, or other property of, or within the custody, control or possession of Dormagen and/or Delta, wherever located, except that Dormagen shall be allowed to withdraw and utilize \$3,000 per month for reasonable and ordinary living expenses.

3. IT IS FURTHER ORDERED that Defendants Dormagen and Delta shall file with this Court and serve upon Plaintiff Commission an accounting or other statement under oath of all assets, whether located within or outside of the territorial United States, held in either Defendant's name or in which either of them has had any direct or indirect beneficial interest from March 1, 1996 through the date of this Order, stating:

A. The location and disposition of each asset and the name of the institution, account number, and location of each account with any bank, financial institution or brokerage firm;

B. The names, addresses, and telephone numbers of all persons and entities who entrusted funds with Dormagen and/or Delta, or any entity controlled by either Defendant, for investment in commodity futures or options contracts, and, for each investor, the dates and amounts of their investments and withdrawals;

C. The identity of all accounts for trading commodity futures or options, maintained operated, or controlled by either Defendant, for the period March 1, 1996 through the date of this Order; and

D. All information necessary to identify every transaction during the period March 1, 1996 through the date of this Order, in which any funds or other assets of any kind, or the interest and accrual on such funds, obtained from commodity futures or options customers in the matters alleged in the Complaint in this action, were received, transferred, invested, or otherwise disposed of or expended.

Such accounting or other statement under oath shall be filed within **thirty** calendar days after Defendants Dormagen and Delta are served with a copy of this Order.

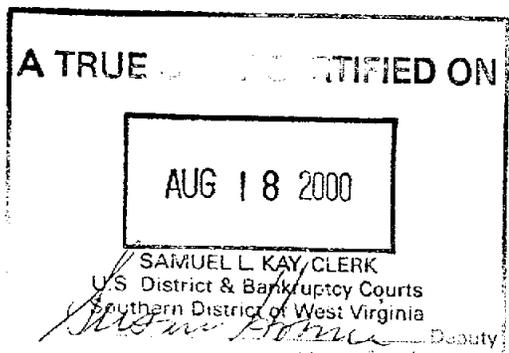
4. IT IS HEREBY FURTHER ORDERED that this Order shall be binding upon Defendants Dormagen and Delta, along with their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise (including service by facsimile transmission).

5. IT IS HEREBY FURTHER ORDERED that the Defendants, and all persons or entities who receive notice of this Order by personal service or otherwise, are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of either Defendant.

6. IT IS HEREBY FURTHER ORDERED that no bond need be posted by Plaintiff Commission because it is an agency of the United States of America.

7. IT IS HEREBY FURTHER ORDERED that this Order shall remain in force and effect until further order of this court, and that this Court retains jurisdiction of this matter for all purposes.

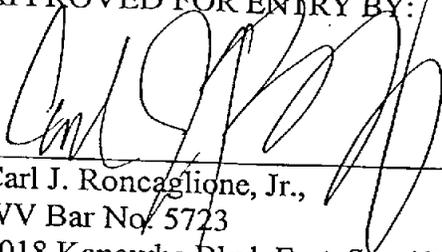
SO ORDERED on this 8 day of August, 2000 at 4:10 p.m.



Joseph R. Goodwin

HON. JOSEPH R. GOODWIN
United States District Judge
Southern District of West Virginia

CONSENTED TO AND
APPROVED FOR ENTRY BY:



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