

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of)
)
PALOMINO CAPITAL MANAGEMENT,)
)
Registrant.)

CFTC DOCKET NO. SD 05-04

**OPINION AND ORDER ACCEPTING OFFER OF
SETTLEMENT OF PALOMINO CAPITAL MANAGEMENT**

On this same date, 2005 the Commission filed a Notice of Intent to Suspend, Revoke, or Restrict Registration ("Notice") against registrant Palomino Capital Management ("Palomino").¹ Palomino has submitted an Offer of Settlement ("Offer"). Upon consideration, the Commission has determined to accept the Offer.² Solely on the basis of the consent evidenced by the Offer,

¹ The Notice alleges that Palomino's registration is subject to revocation, suspension, or restriction under Section 8a(2)(H) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 12a(2)(H) (2002), if the refusal, suspension, or revocation of the registration of Jeffrey Thomas Allen ("Allen"), principal and associated person of Palomino, is warranted because of a statutory disqualification listed in Section 8(a)(2). The Notice further alleges that Allen is subject to a statutory disqualification, in that a Commission Order Making Findings of Fact and Imposing Remedial Sanctions was entered against Allen on April 6, 2005, which finds that Allen violated Sections 4b(a) (2)(i) and (iii) and 4o(A) and (B). The Order also revoked Allen's registration, permanently prohibited Allen from acting in any capacity for which registration with the Commission is required under the Act, and imposed a personal trading ban of five years and a permanent ban against trading for others.

² In Palomino's Offer, without admitting or denying the allegations of the Notice, Palomino acknowledges 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, and any objection to the staff's participation in the Commission's consideration of the Offer; stipulates that the record basis on which this Opinion and Order ("Order") is entered consists of the Notice and the findings to which Palomino consented in the Offer, which are incorporated in this Order; and agrees that no agents or employees shall take any action or make any public statement denying, directly or indirectly, any findings 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 any: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. In addition, Palomino waives all claims which it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2002) and 28 U.S.C. § 2412 (2002) and Part 148 of the Commission Regulations, 17 C.F.R. Part 148, relating to, or arising from, this action.

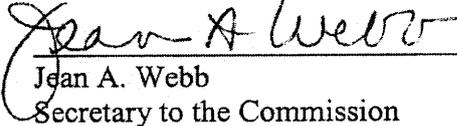
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COMMODITY FUTURES TRADING COMMISSION

and without adjudication on the merits, the Commission finds that the facts set forth in the Notice constitute cause for a statutory disqualification of Palomino under Section 8a(2)(H) of the Act.³

Accordingly, the Commission HEREBY ORDERS that Palomino's registration as a commodity pool operator is revoked.

A copy of this Order shall be served on Palomino at the address set forth in the Notice, on all contract markets, and on the National Futures Association.

By the Commission:



Jean A. Webb
Secretary to the Commission

Date: July 14, 2005

³ In its Offer, Palomino agrees 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.

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**NOTICE OF INTENT TO SUSPEND, REVOKE, OR
RESTRICT PALOMINO CAPITAL MANAGEMENT'S
REGISTRATION AS A COMMODITY POOL OPERATOR**

I.

The Commodity Futures Trading Commission ("Commission") has received information from its staff which tends to show, and the Commission's Division of Enforcement ("Division") alleges and is prepared to prove, that:

1. Palomino Capital Management ("Palomino") maintains its principal place of business at 411 Seventh Avenue, Suite 1202, Pittsburgh, PA, 15219.
2. Since September 25, 2003, Palomino has been registered with the Commission as a commodity pool operator ("CPO"), pursuant to Section 4m of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 6m (2002).
3. Jeffrey Thomas Allen ("Allen") is president and a principal of Palomino.
4. Starting on September 25, 2003, Allen was registered with the Commission as an associated person ("AP") of Palomino, pursuant to Section 4k of the Act, 7 U.S.C. § 6k (2002).

5. On April 6, 2005, the Commission entered an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions ("Order"), CFTC Docket No. 05-08. The Order:

- a. found that Allen had violated the anti-fraud provisions of Sections 4b(a)(i) and (iii), 4c(1)(A) and (B), 7 U.S.C. §§ 6b(a)(i) and (iii), and 6c(1)(A) and (B) (2002) and directed Allen to cease and desist from violating those provisions;
- b. revoked Allen's registration;
- c. permanently prohibited Allen from participating in the futures industry in any registered or exempt capacity except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2004);
- d. permanently prohibited Allen from trading for others on or subject to the rules of any registered entity and all registered entities shall refuse Allen all privileges thereon from trading on; and
- e. imposed a personal trading ban on Allen for a five year period from the date of the Order.

6. The facts set forth in paragraphs 3 through 5 above demonstrate that Allen is subject to a statutory disqualification from registration under Sections 8a(2)(E) of the Act, 7 U.S.C. § 8a(2)(E) (2002).

7. Because Allen is subject to a statutory disqualification, and Allen is a principal of Palomino, Palomino's registration is subject to revocation, suspension or restriction pursuant to Section 8a(2)(H) of the Act, 7 U.S.C. § 12a(2)(H) (2002).

II.

Pursuant to Section 3.60(a), 17 C.F.R. § 3.60(a) (2004), Palomino is hereby notified that a public proceeding shall be conducted in accordance with the provisions of Commission Regulation 3.60, 17 C.F.R. § 3.60 (2004), on the following questions:

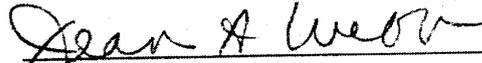
1. Whether the registration of Palomino as a CPO should be conditioned, suspended, restricted or revoked. Such proceeding shall be held before an Administrative Law Judge, in accordance with Commission Regulation 3.60, and all post-hearing procedures shall be conducted pursuant to Commission Regulation 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2004).

In accordance with the provisions of Commission Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2004), Palomino is entitled to file a response challenging the evidentiary bases of the statutory disqualification or show cause why, notwithstanding the accuracy of the allegation, their registration should not be suspended, revoked, or restricted. Such response must be filed with the Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and served upon Erin Vespe, Senior Trial Attorney, Division of Enforcement at the same address, within thirty (30) days after the date of service of this Notice upon Palomino in accordance with the provisions of Commission Regulation 3.60(b). If Palomino fails to file a timely response to this Notice, the allegations set forth herein shall be deemed to be true and the presiding officer may issue an Order of Default in accordance with the provisions of Commission Regulation 3.60(g), 17 C.F.R. § 3.60(g)(2004).

III.

The Hearing Clerk shall serve this Notice of Intent to Suspend, Revoke, or Restrict Registration by registered or certified mail pursuant to Commission Regulation 3.50, 17 C.F.R. § 3.50 (2004).

By the Commission.



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

Dated: July 14, 2005