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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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U.S. COMMODITY FUTURES)	
TRADING COMMISSION,)	Civil Action No.: 11 CIV 05209 KBF
)	
Plaintiff,)	Judge Katherine B. Forrest
vs.)	
)	
HIGHLAND STONE CAPITAL)	
MANAGEMENT, L.L.C., FOREX)	
CAPITAL TRADING GROUP, INC.,)	
FOREX CAPITAL TRADING)	
PARTNERS, INC., JOSEPH BURGOS,)	
SUSAN G. DAVIS and DAVID E.)	
HOWARD II)	
)	
Defendants.)	

PERMANENT INJUNCTION AGAINST DEFENDANT JOSEPH BURGOS

On July 27, 2011, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a five-count Complaint against Defendants, Highland Stone Capital Management, L.L.C. (“Highland Stone”), Forex Capital Trading Group, Inc. (“Forex Group”), Forex Capital Trading Partners, Inc. (“Forex Partners”), Joseph Burgos (“Burgos”), Susan G. Davis (“Davis”) and David E. Howard II (“Howard”) (collectively “Defendants”) seeking injunctive and other equitable relief for violations of provisions of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 1 *et seq.* (2012), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* (2013).

On September 17, 2012, the Commission filed a Motion for an Order to Show Cause seeking the Entry of a Default Judgment against Defendants Forex Group and Forex Partners (collectively, the “Forex Capital Entities”), Highland Stone and Burgos. The Commission also filed a Motion for Summary Judgment against Defendants Davis and Howard. On November 26, 2012, Burgos appeared at the Show Cause hearing and he was thereafter permitted to file his Answer to the Complaint. On November 29, 2012, the Commission filed a Motion to Amend its Summary Judgment Motion to include Burgos.

The Court issued an Order of Default Judgment against the Forex Capital Entities and Highland Stone on November 30, 2012. On August 29, 2013, the Court issued an Order that granted in part and denied in part summary judgment against Davis and Howard. Specifically, the Order granted summary judgment as to the material misstatement and materiality aspects of Count I (Fraud in Connection with Forex), the entirety of Count III (Failure to Register as an Associated Person (“AP”) of a commodity trading advisor (“CTA”)) and Count V (Failure to Register as an AP of an introducing broker (“IB”)) against Davis and Howard. The Court denied summary judgment as to the scienter element only of Count I and the entirety of Counts II (liability as a control person for Failure to Register as a CTA) and IV (liability as a control person for Failure to Register as an IB) with respect to Davis and Howard, ordering that those issues and claims proceed to trial.

Also in the August 29, 2013 Order, the Court found specific facts warranting the entry of summary judgment on liability for each of the Counts in the Complaint against Burgos and held that a permanent injunction against him is warranted. Specifically, this Court found uncontested facts that show that Burgos is liable for committing Fraud in

Connection with Forex as alleged in Count I of the Complaint. The Court also found Burgos liable for failing to register as a CTA, both as a control person and as an AP of Highland Stone as alleged in Counts II and III.

Plaintiff also seeks a Court order assessing disgorgement and civil monetary penalties against Burgos. However, the Court will resolve issues relating to the award of that additional relief pending trial on the remaining charges against the other Defendants and post-trial penalty submissions.

THE COURT FINDS:

1. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission 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 thereunder.

2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(e) (2012), in that Defendant Burgos transacted business in this district and the acts and practices in violation of the Act have occurred within this district.

THE COURT ENTERS THE FOLLOWING ORDERS:

A. Prohibition on Conduct in Violation of the Act

IT IS HEREBY ORDERED that, based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, Burgos, his officers, agents, servants, employees, attorneys and all other persons who are in active concert with him are permanently restrained, enjoined and prohibited from directly or indirectly or in connection

with any order to make, or the making of, any contract of sale of any commodity for future delivery or swap made, or to be made, for or on behalf of, or with, any other persons:

1. cheating or defrauding or attempting to cheat or defraud other persons in violation of Section 4b(a)(2)(A) of the Act, 7 U.S.C. §§ 6b(a)(2)(A);

2. willfully making or causing to be made to other persons any false report or statement or willfully to enter or cause to be entered for other persons any false records, in violation of Section 4b(a)(2)(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(B);

3. willfully deceiving or attempting to deceive any other person 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 persons in violation of Section 4b(a)(2)(C) of the Act, 7 U.S.C. §§ 6b(a)(2)(C);

4. engaging, directly or indirectly, in the exercise of discretionary trading authority or in obtaining written authorization to exercise discretionary trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with retail forex transactions without being registered as a commodity trading advisor or an associated person of a commodity trading advisor, in violation of Section 2(c)(2)(C)(iii)(I)(aa) and (bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa) and (bb) and Sections 5.3(a)(3)(i) and (ii) of the Regulations, 17 C.F.R. §§ 5.3(a)(3)(i) and (ii) (2013).

B. Prohibition on Activities Related to Trading and Registration

IT IS FURTHER ORDERED that Burgos is permanently enjoined and prohibited from engaging, directly or indirectly, in:

1. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, 7 U.S.C. § 1a;
2. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3 (hh), 17 C.F.R. § 1.3(hh) (2013)) (“commodity options”), swaps (as that term is defined in Section 1a(47) of the Act, as amended, and as further defined by Commission regulation 1.3(xxx), 17 C.F.R. § 1.3(xxx)) (“swaps”), security futures products, foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for his own personal account or for any account in which he has a direct or indirect interest;
3. having any commodity futures, options on commodity futures, commodity options, swaps, security futures products and/or forex contracts traded on his behalf;
4. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, swaps, security futures products and/or forex contracts;
5. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, swaps, security futures products and/or forex contracts;

6. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2013); and/or

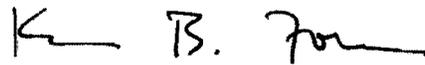
7. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a)(2013)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2013).

C. Scope of Injunction

The injunctive and other provisions of this Order shall be binding on Burgos and upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Burgos and upon any person who receives actual notice of this Order by personal service or otherwise insofar as such person is acting in active concert or participation with Burgos

SO ORDERED.

Dated: New York, New York
~~September~~, 2013
Oct. 29,



KATHERINE B. FORREST
United States District Judge

cc:

David Howard (via email)
Defendant *Pro Se*

Susan Davis (via email)
Defendant *Pro Se*

Joseph Burgos
Defendant *Pro Se*
31 East Erie Ave.
Rutherford, NJ 07070