

OCT 16 2012

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By  Deputy Clerk

_____)	
U.S. COMMODITY FUTURES)	
TRADING COMMISSION,)	
)	CASE NO. 1:12-CV-1346-
Plaintiff,)	RWS
)	
v.)	
)	
CRABAPPLE CAPITAL GROUP LLC)	
and ROBERT A. CHRISTY,)	
)	
Defendant(s).)	
_____)	

**CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL
MONETARY PENALTY, AND OTHER EQUITABLE RELIEF AGAINST
CRABAPPLE CAPITAL GROUP LLC AND ROBERT A. CHRISTY**

I. INTRODUCTION

On April 19, 2012, plaintiff U.S. Commodity Futures Trading Commission (Commission) filed against defendants Crabapple Capital Group LLC (Crabapple) and Robert A. Christy (Christy) a Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief (Complaint) for violations of certain provisions of the Commodity Exchange Act (the Act), 7 U.S.C. §§ 1 *et seq.* (2006 & Supp. III 2009); the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010 (Dodd-Frank)), §§ 701-774,

124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. § 1 *et seq.*; and the Commission Regulations (Regulations), 17 C.F.R. §§ 1 *et seq.* (2012).

The Court entered an *ex parte* statutory restraining order (SRO) against defendants on April 19, 2012. On May 4, 2012, the Court issued a Consent Order for Preliminary Injunction and Other Equitable Relief against defendants (“PI Order”). The PI Order, among other things, mandated that the SRO remain in full force and effect; prohibited further violations of the Act, as amended, and Regulations; and ordered an accounting of defendants’ assets.

II. CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint against defendants without a trial on the merits or any further judicial proceedings, defendants:

1. Consent to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Crabapple and Christy (“Consent Order”);

2. Affirm that they have read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the Commission or any member, officer, agent, or representative thereof, or by any other person, to induce consent to this Consent Order;

3. Acknowledge service of the summons and Complaint;
4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1;
5. Admit the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act; the Act, as amended; and the Regulations.
6. Admit that venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(e);
7. Waive:
 - (a) any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2012), relating to, or arising from, this action;
 - (b) any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this action;

(c) any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing a civil monetary penalty or any other relief, including this Consent Order; and

(d) any and all rights of appeal from this action;

8. Consent to the continued jurisdiction of this Court over them for the purpose of implementing and enforcing the terms and conditions of this Consent Order and for any other purpose relevant to this action, even if defendants now or in the future reside outside the jurisdiction of this Court;

9. Agree that they will not oppose enforcement of this Consent Order by alleging that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and waive any objection based thereon;

10. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect their:

(a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants shall undertake all steps

necessary to ensure that their agents or employees under their authority or control understand and comply with this agreement;

11. By consenting to the entry of this Consent Order, neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which they admit. Further, Crabapple and Christy agree and intend that the allegations contained in the Complaint and all of the Findings of Fact and Conclusions of Law contained in this Consent Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (a) any current or subsequent bankruptcy proceeding filed by, on behalf of, or against Crabapple or Christy; (b) any proceeding pursuant to Section 8a of the Act, as amended, to be codified at 7 U.S.C. § 12a, and/or Part 3 of the Regulations, 17 C.F.R. pt. 3 (2012); and/or (c) any proceeding to enforce the terms of this Consent Order;

12. Agree to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 103 of Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against either Crabapple or Christy, whether inside or outside the United States; and

13. Agree that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against Crabapple or Christy in any other proceeding.

III. FINDINGS AND CONCLUSIONS

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, Permanent Injunction, Civil Monetary Penalties, and Restitution, pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, as set forth herein.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

A. Findings of Fact

1. The Parties to This Consent Order

14. The Commission is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, as amended, 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012).

15. Defendant Crabapple Capital Group LLC is a Georgia limited liability company formed on August 8, 2008, with its principal place of business at 12600 Deerfield Parkway, Milton, Georgia 30004. Christy is the sole principal and manager of Crabapple. At the time the Complaint was filed, Crabapple had at least two other employees in addition to Christy. Crabapple is engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise,

and, in connection therewith, solicited, accepted, or received from others, funds, securities, or property for the purpose of trading in commodity interests, including agreements, contracts, or transactions in foreign currency as described in Section 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C.

§ 2(c)(2)(C)(i). Crabapple has been registered as a commodity pool operator and commodity trading advisor since January 2011. Crabapple has been registered with the National Futures Association (NFA) as an off-exchange foreign currency (forex) firm since August 2011.

16. Defendant Robert A. Christy is a resident of Milton, Georgia and is the sole principal and manager of Crabapple. At all times, and with respect to all conduct described in this Complaint, Christy exercised sole ownership and control over Crabapple. Christy also managed and directed other employees of Crabapple who acted on Crabapple's behalf. Christy, either himself or through others acting at his direction, solicited customers for Crabapple; prepared and distributed or has directed others to prepare and distribute disclosure documents, monthly bulletins, marketing materials and other literature used to solicit customers for Crabapple; and executed or directed others to execute forex trades on behalf of Crabapple, all of which occurred within the scope of Christy's agency, employment, or office with Crabapple. Since January 2011, Christy has been registered with NFA as an associated person of Crabapple and as an NFA associate member. Christy is also

the CEO and owner of the Christy Investment Group, a Georgia corporation, which Christy describes as “a stand-alone trading and money management firm” with which Crabapple was affiliated.

2. Defendants Solicited Participants for a Forex Pool Operated by Crabapple

17. Beginning in October 2008, defendants marketed a forex pool operated by Crabapple and solicited and accepted contributions from pool participants. Defendants met many prospective pool participants through referrals. Defendants either met with these individuals in person or spoke with them over the phone about the benefits of forex investing and the specific advantages of investing in a forex pool operated by Crabapple.

18. Beginning in at least 2010, defendants also marketed the forex pool at financial tradeshows, where Christy promoted himself as “one of the country’s leading experts in currency trading, with decades of experience analyzing and investing in the global markets.” At these tradeshows, Christy lectured on forex investing and promoted forex as an alternative asset class investors could use for “true diversification” with “virtually no correlation with stocks, bonds, and mutual funds.” At these tradeshow presentations, defendants pitched interested attendees on investing in a “managed pool account” operated by Crabapple that trades forex.

3. Defendants Made False Statements Regarding Their History, Profitability, Past Forex Trading Performance, and the Size of the Pool

19. Both at tradeshows and in one-on-one meetings with prospective pool participants, defendants promoted Christy as a steady, stable, experienced hand, focused on generating modest but consistent profits for investors looking to diversify into forex. Christy touted his expertise in various forms of technical analysis and in techniques used to minimize the impact of unprofitable trades. Specifically, he described himself as “nationally recognized as an expert in the Point & Figure method of Technical Analysis.”

20. Both at tradeshows and in one-on-one meetings with prospective pool participants, defendants promoted Crabapple as a firm that employed a “conservative” trading strategy that sought consistent profits, in the range of 8 percent annually, with relatively less risk than other forex investments. Defendants claimed their investment objective was “to generate consistent and relatively low-risk growth with moderate changes on a month-to-month basis. Monthly drawdowns are strictly limited through risk management.” Defendants claimed that Crabapple was successful and earned annual profits greater than 8 percent from 2006 through 2011.

21. Defendants backed up their sales pitch with a forex trading performance history that purported to summarize Crabapple’s actual monthly and

annual trading results from 2006 to 2011. According to this performance history, Crabapple began trading in 2006 and returned average annual profits of 15.47 percent and average monthly profits of 1.29 percent. This performance history also claimed that from 2006-2011, Crabapple enjoyed 55 profitable months, compared to only 10 unprofitable ones, with monthly profits as high as 5.36 percent and monthly losses no worse than negative .74 percent.

22. Defendants included this performance history in several formats. They included it in the disclosure document, required by Regulation §4.21, 17 C.F.R. § 4.21 (2012), that they provided to prospective pool participants. They also included it in monthly bulletins they shared with current and prospective pool participants both in one-on-one meetings and at tradeshow. In addition, defendants discussed this performance history in one-on-one meetings with prospective pool participants, as well as during defendants' tradeshow presentations. Each pool participant solicited by defendants received documents that showed Crabapple generating consistent profits and minimal losses trading forex.

23. For example, one eventual pool participant attended a forex investing presentation by Christy at an August 2011 tradeshow in San Francisco. Afterwards, this person met with Christy to discuss the possibility of investing in forex through Crabapple. Christy gave this person a USB drive that included both

the disclosure document and a monthly bulletin containing the performance history described above. After reviewing these documents and the performance history, this person decided to participate in the forex pool operated by Crabapple and contributed \$25,000.

24. Between October 2008 and the date the Complaint was filed, defendants received a total of \$1,416,000 from twenty-two pool participants for the purpose of investing in forex. During that time, pool participants withdrew a total of \$188,620 from the pool.

25. Defendants' statements to pool participants regarding their forex trading performance were completely false. From 2006-2011, the time period covered by defendants' purported trading performance history, defendants incurred consistent trading losses in the forex trading accounts opened either in the name of Crabapple or in the name of Christy. During this time period, across all of defendants' forex trading accounts, they incurred net forex trading losses totaling \$176,440:

- a. In November 2005, Christy opened an account in his own name at FXCM, Inc. From November 2005 until the account closed in roughly October 2008, this account sustained a \$3,841 net loss;
- b. In December 2008, defendants opened an account in the name of Crabapple at Global Futures & Forex, Ltd. (GFT). From December 2008

- until the account closed in September 2011, this account sustained a \$160,885 net loss;
- c. In May 2011, defendants opened an account in the name of Crabapple at CitiFX Pro, a service offered by CitiBank, N.A. Between May 2011 and January 2012, this account sustained a \$11,343 net loss;
 - d. In October 2011, defendants opened a second account in the name of Crabapple at CitiFX Pro. Between October 2011 and January 2012, this account sustained a \$459 net loss;
 - e. In October 2011, defendants opened a trading account in the name of Crabapple at PFGBest. Between October 2011 and January 2012, this account generated a net profit of \$307.41; and
 - f. In January 2012, defendants opened a second trading account in the name of Crabapple at PFGBest. In January 2012, this account generated a net loss of \$220.12.

26. Defendants made other false statements to prospective pool participants and pool participants which suggested that Crabapple operated a legitimate and successful forex investment pool. Defendants falsely stated that Crabapple had been trading forex since January 2006. Defendants also described Crabapple as a “direct spin off” of the Christy Investment Group and falsely stated that the Christy Investment Group was “a stand-alone trading and money

management firm” with total assets under management “in excess of \$50,000,000.” In addition, defendants told at least one pool participant that the Crabapple pool included an investor who had contributed \$10 million. This statement was likewise false.

27. Defendants made all of these false statements to pool participants and prospective pool participants knowingly or with reckless disregard for the truth.

4. Defendants Misappropriated Pool Funds

28. Defendants gave their fraudulent scheme the appearance of legitimacy by marketing several different investment pools, including the “CCG2” pool and the “CGG3” pool. Defendants described the CCG2 pool as seeking “consistent and low-risk capital appreciation with moderate monthly variance.” Defendants described the CCG3 pool as having a “short term trade horizon that seeks aggressive growth with leverage.” Christy sent monthly bulletins to pool participants and prospective pool participants labeled, for example, as the “CCG2 Monthly,” which purported to discuss performance specifically for the CCG2 pool.

29. In reality, there was no CCG2 pool or CCG3 pool that existed independently from Crabapple itself or even as a separate bank account.

30. Instead, defendants pooled contributions from pool participants into a single non-interest bearing checking account at BB&T bank in the name of Crabapple. Defendants typically deposited contributions from pool participants

into this account directly. On some occasions, defendants deposited contributions into a non-interest bearing checking account at BB&T in the name of Christy Investment Group. Defendants frequently transferred funds between Christy Investment Group's checking account and Crabapple's checking account.

31. Christy treated Crabapple's checking account at BB&T not as a true investment pool, but as his personal piggy bank. He transferred his own personal funds into this account and commingled these funds with contributions from pool participants. He then used the money in Crabapple's checking account at BB&T account, including money contributed by pool participants, for a variety of personal, business, and marketing expenses, even though defendants told pool participants that these contributions would be used to trade forex.

32. In fact, since October 2008, defendants transferred only \$377,576 of the total \$1,416,000 they received from pool participants to forex trading accounts that defendants traded for the benefit of pool participants. Defendants kept the remainder of pool participants' funds in Crabapple's checking account at BB&T and used these funds for a variety of purposes other than trading forex, including:

- a. at least \$63,598 for air travel and lodging;
- b. at least \$33,191 for restaurant meals and groceries;
- c. at least \$14,700 for cash;

- d. at least \$18,207 paid to a photography business that Christy partially owned; and
- e. \$45,000 to trade equities and equities-based options and derivatives.

33. Furthermore, defendants transferred a net amount of \$304,843 of pool participants' funds from Crabapple's checking account at BB&T to the Christy Investment Group's checking account at BB&T. Christy used money in Christy Investment Group's checking account to write frequent and regular checks to family members.

34. Defendants also used \$349,532 of the money in Crabapple's checking account on various business and marketing expenses incurred by Crabapple. Defendants told pool participants that Crabapple charged an annual "management fee" of 1 percent of total pool assets and an additional "incentive fee" of 20 percent of monthly net new profits for any money invested specifically in the CCG3 pool. Defendants told pool participants that this management fee and the CCG3 incentive fee represented the only compensation defendants received for operating the investment pools. Defendants never told pool participants that either Christy or Crabapple were free to use funds in excess of 1 percent of total pool assets and, where applicable, 20 percent of net new profits earned by the CCG3 pool for business and marketing expenses incurred by Crabapple. However, the \$349,532 defendants used for various business and marketing expenses far exceeds any

amount defendants can reasonably claim represents their compensation under their advertised fee structure.

35. As of April 19, 2012, when the Court issued the SRO, only \$22,555 remained in Crabapple's checking account at BB&T used by defendants to hold funds contributed by pool participants.

36. From October 2008 through the present, defendants misappropriated at least \$1,054,971 from pool participants. Defendants misappropriated this money knowingly or with reckless disregard for the truth.

5. Defendants' Distributed False Account Statements to Pool Participants

37. Defendants disguised their unprofitable forex trading and misappropriation by distributing to pool participants, typically via email, false monthly account statements.

38. These false monthly account statements frequently indicated that pool participants were earning profits on their investments with Crabapple, even though in reality, Crabapple was losing money trading forex.

39. For example, one pool participant received monthly account statements from May 2011 through January 2012 showing overall profits in the range of 11 percent. However, over this time period, defendants experienced substantial net losses across all of their actively-traded forex accounts. Another pool participant received monthly account statements showing monthly profits as

high as 20 percent. However, defendants never achieved monthly profits sufficient to support such results. These and other pool participants relied on the false monthly account statements in deciding to keep their money in Crabapple's forex pool. Some pool participants invested additional money in the forex pool operated by Crabapple because the pool, according to these false monthly account statements, appeared to be profitable.

40. Because these monthly account statements falsely indicated to pool participants that defendants were earning profits trading forex, these account statements created the false impression for pool participants that defendants were entering into profitable forex transactions. The profitable forex transactions implied by these monthly account statements were, in fact, fictitious.

41. These false monthly account statements also did not disclose that defendants used pool participant money for defendants' business and personal expenses, rather than for forex trading. These monthly account statements falsely provided that the only pool participant money defendants withheld from pool participants' accounts was the amount charged for the annual 1 percent management fee and, where applicable, the incentive fee.

42. Defendants provided these false monthly account statements to pool participants knowingly or with reckless disregard for the truth.

6. Nature of Defendants' Transactions

43. Defendants are not financial institutions, registered broker dealers (or associated persons of a registered broker dealer), insurance companies, bank holding companies, investment bank holding companies, or financial holding companies. From at least October 2008 and until July 16, 2011, defendants solicited and received money from pool participants for the purpose of trading forex, and at least some of the counterparties to the forex transactions entered into by Crabapple were not financial institutions, registered broker dealers (or associated persons of a registered broker dealer), insurance companies, financial holding companies, or investment bank holding companies, as enumerated in Section 2(c)(2)(B)(II) of the Act, 7 U.S.C. § 2(c)(2)(B)(II) (Supp. III 2009). Since July 16, 2011, defendants solicited and received money from pool participants for the purpose of trading forex, and at least some of the counterparties to the forex transactions entered by Crabapple were not U.S. financial institutions, registered broker dealers (or associated persons of a registered broker dealer), or financial holding companies, as enumerated in Section 2(c)(2)(B)(II) of the Act, to be codified at 7 U.S.C. § 2(c)(2)(B)(II).

44. Neither Christy, Crabapple, nor the pool participants that provided funds to defendants were “eligible contract participants” as that term is defined in Section 1a(12)(A)(v & xi) of the Act, 7 U.S.C. § 1a(12)(A)(v & xi) (Supp. III

2009), and Section 1a(18)(A)(v & xi) of the Act, as amended, to be codified at 7 U.S.C. § 1a(18)(A)(v & xi) (providing that an “eligible contract participant” is an individual with total assets (the Act) or amounts invested on a discretionary basis the aggregate of which is (the Act, as amended) in excess of (i) \$10 million; or (ii) \$5 million and who enters the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual” or a corporation that (i) has total assets exceeding \$10 million; or (ii) a net worth exceeding \$1 million and enters into the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the entity in the conduct of the entity’s business”).

45. To the extent defendants offered to or used pool participant funds to trade forex, they offered to or traded contracts for foreign currency on a margined or leveraged basis in the trading accounts containing funds contributed by pool participants. The foreign currency contracts offered to or entered into by defendants neither resulted in delivery within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these foreign currency contracts remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).

7. Defendants Made False Statements to NFA During NFA's Examination

46. NFA is registered with the Commission as a futures association pursuant to Section 17(a) of the Act, 7 U.S.C. § 21(a) (2006). NFA serves as a self-regulatory organization for the U.S. futures industry. Under Commission oversight, NFA is responsible for certain aspects of the regulation of its member registrants. NFA's responsibilities include conducting audits and examinations of its registrants, like defendants, to ensure compliance with NFA rules.

47. In November 2011, NFA began an examination of defendants, after NFA employees attended one of Christy's tradeshow presentations and obtained defendants' marketing materials, including Crabapple's disclosure document and purported trade performance history.

48. In the course of NFA's examination, defendants made several oral and written knowingly false statements to NFA that concealed the fact that defendants had been operating a forex pool since at least October 2008.

49. For example, defendants provided NFA with false accounting records and related communications that concealed the existence of defendants' forex pool. Specifically, defendants provided NFA with a set of Quickbooks files for 2011 that falsely labeled each of fourteen large deposits into Crabapple's checking account at BB&T as a "loan from Christy." These transactions actually represented money defendants received from pool participants and deposited into Crabapple's

checking account at BB&T. When NFA asked defendants to provide backup documentation identifying the source of funds labeled as “loan from Christy,” defendants refused. Defendants also told NFA that Crabapple’s accountant routinely destroyed the underlying source material used to prepare the Quickbooks entries.

50. Additionally, on January 9, 2012, defendants willfully concealed the existence of their forex pool in a management representation letter sent to NFA. In this letter, which Christy signed on behalf of Crabapple, defendants certified that “[Crabapple] has not operated, nor does it currently operate any commodity/forex pools, and has not received any money from customers for this purpose.”

Defendants further certified that “we rendered advisory services to 2 clients with an aggregate equity of approximately \$24,077.” However, by December 15, 2011, defendants had solicited deposits from at least sixteen pool participants.

Defendants also willfully omitted the fact that one of the two clients for whom defendants rendered “advisory services” was also a pool participant and had contributed \$25,000 to the forex pool operated by Crabapple.

51. Further, on January 12, 2012, Christy wrote a letter to an NFA employee involved with the examination that contained the following additional false statements intended to mislead NFA and conceal the existence of the forex pool:

- a. Christy represented that he did not establish Crabapple until 2011;
- b. Christy represented that all of the money deposited with Crabapple “is mine from my savings”; and
- c. Christy represented that he was not pursuing clients because NFA had not yet approved Crabapple’s disclosure document.

8. Defendants Violated the Member Responsibility Action/Associate Responsibility Action (MRA/ARA) Issued by NFA

52. Based on its review of independently obtained trading records, NFA found that defendants had solicited customers using inflated performance results and other materially misleading information. NFA also found that defendants had been soliciting customers using an unapproved disclosure document and that defendants had provided false and misleading information to NFA during the audit. For all these reasons, NFA issued the MRA/ARA against defendants on January 23, 2012.

53. The MRA/ARA, among other things: (1) requires defendants to provide copies of the MRA/ARA to all customers; (2) prohibits defendants from soliciting or accepting any additional funds from pool participants or other customers; (3) prohibits defendants from disbursing or transferring any funds over which they or any person acting on their behalf exercises control, without prior approval from NFA; and (4) prohibits defendants from placing any trades on

behalf of customers, commodity pools, or investors except liquidation or risk reducing trades.

54. Between January 23, 2012, when the NFA issued the MRA/ARA, and April 20, 2012, when defendants were served with the SRO, defendants repeatedly violated the MRA/ARA in the following ways:

- a. Christy attempted to circumvent the restrictions of the MRA/ARA on his ability to solicit funds from current and prospective pool participants by establishing two new companies, Christy Group LLC and Falcon Hedge Risk Management LLC, through which he planned to operate a “hedge fund.” Between January 23, 2012 and April 20, 2012, Christy solicited money from both existing and prospective pool participants using a false performance history and advertising annual rates of return between 10 and 20 percent.
- b. Defendants continued to solicit and receive money from participants in the forex pool operated by Crabapple, notwithstanding the express prohibition in the MRA/ARA. On January 31, 2012, defendants received \$20,000 from a pool participant, which they deposited in Christy Investment Group’s account. On February 10, 2012, defendants received \$50,000 from another pool participant, which they likewise deposited in the Christy Investment Group account.

- c. Defendants' violated the express prohibition in the MRA/ARA that they were not to disburse or transfer any funds without prior NFA approval. In April 2012, defendants disbursed \$108,000 to two pool participants. On March 21, 2012, defendants withdrew \$9,759 from Crabapple's trading account with PFGBest. And between January 23, 2012 and April 20, 2012, defendants continued to use money in Crabapple's checking account, which held money received from pool participants. Defendants used money in this account for Christy's personal expenses, and transferred money from this account to Christy Investment Group's checking account, where it was used by Christy for miscellaneous purchases and distributions to members of his family. Defendants never sought NFA approval for any of these disbursements.
- d. Defendants never provided copies of the MRA/ARA to pool participants.

55. In addition, defendants never told pool participants that under the MRA/ARA, defendants were barred from placing any trades on behalf of the pool in Crabapple's forex trading accounts; instead, defendants distributed monthly account statements in March 2012 that created the false impression that defendants were still actively trading Crabapple's forex accounts. In addition, defendants sent a letter to pool participants that gave fictitious reasons for why defendants did not place any trades in Crabapple's forex accounts in February 2012.

B. Conclusions of Law

1. Jurisdiction and Venue

56. This Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the Commission that any 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, the Commission may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

57. The Commission has jurisdiction over the forex solicitations and transactions at issue in this action pursuant to Section 2(c)(2) of the Act, 7 U.S.C. § 2(c)(2) (Supp. III 2009), and the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2).

58. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(e), because defendants reside in this jurisdiction and the acts and practices in violation of the Act and Regulations occurred within this District.

2. Fraud in Connection with Forex

59. By the conduct described in paragraphs 14 through 55 above, beginning at least in October 2008 and until July 16, 2011, defendants Christy and Crabapple—acting by and through Christy, among others—violated Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 4b(a)(2)(A)-(C) (Supp. III 2009), in or in connection with forex contracts made for, on behalf of, or with other persons, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

60. By the conduct described in paragraphs 14 through 55 above, on and after July 16, 2011, defendants Christy and Crabapple—acting by and through Christy, among others—violated Section 4b(a)(2)(A)-(C), as amended, to be codified at 7 U.S.C. § 4b(a)(2)(A)-(C), in or in connection with forex contracts made for, on behalf of, or with other persons, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants;

misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

61. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

62. In making all the foregoing misrepresentations and omissions, Christy acted within the scope of his agency, employment, and office with Crabapple; therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2012).

63. At all relevant times, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (Supp. III 2009), and the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

3. Fraud in Connection with Off-Exchange Forex Transactions

64. Since at least October 18, 2010, defendants solicited and received money from pool participants for the purpose of entering into retail forex transactions as defined in Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2012).

65. By the conduct described in paragraphs 14 through 55 above, in connection with their solicitation and receipt of money from pool participants for the purpose of entering into retail forex transactions, since at least October 18, 2010, defendants Christy and Crabapple—acting by and through Christy, among others—and through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of telephone calls and electronic mail with pool participants and prospective pool participants) violated Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2012), by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

66. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

67. In making all the foregoing misrepresentations and omissions, Christy acted within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2.

68. At all relevant times, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) , pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

4. Fraud by Commodity Pool Operator

69. Since at least July 16, 2011, Crabapple has operated as a commodity pool operator in that it engaged in a business that is of the nature of an investment trust, syndicate or similar form of enterprise, and in connection therewith, solicited, accepted, or received funds, securities, or property from others for the purpose of trading in agreements, contracts, or transactions in foreign currency as described in Section 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C.

§ 2(c)(2)(C)(i). Since at least July 16, 2011, Christy acted as an AP of Crabapple in that, as an agent of Crabapple, he has solicited and accepted funds, securities, or property for Crabapple.

70. By the conduct described in paragraphs 14 through 55 above, Crabapple, acting as a CPO and acting by and through Christy, among others, and Christy, acting as an AP of Crabapple, through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of telephone calls and electronic mail with pool participants and prospective pool participants),

violated Section 4o of the Act, 7 U.S.C. § 6o (2006), by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

71. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

72. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2.

73. At all relevant times, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 4o of the Act, 7 U.S.C. § 6o, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

5. Fraud in Advertising by a Commodity Pool Operator

74. Since at least October 18, 2010, Crabapple has been a commodity pool operator as defined in Regulation 5.1(d), 17 C.F.R. § 5.1(d) (2012), because Crabapple solicited and received money for a pooled investment vehicle that engaged in retail forex transactions as defined by Regulation 5.1(m), 17 C.F.R. § 5.1(m). Since at least October 18, 2010, Christy was the principal of Crabapple.

75. By the conduct described in paragraphs 14 through 55 above, since at least October 18, 2010, Crabapple—acting by and through Christy, among others—and Christy, as principal of Crabapple, violated Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2012), by advertising investment in Crabapple in a manner that employed a device, scheme, or artifice to defraud a participant or client or a prospective participant or client, and that involved transactions, practices, or courses of business which operate as a fraud or deceit upon a participant or client or a prospective participant or client, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

76. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

77. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2.

78. At all relevant times, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Regulation 4.41(a), 17 C.F.R. § 4.41(a), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

6. Prohibited Activities by a Commodity Pool Operator

79. Since at least October 18, 2010, Crabapple has been a commodity pool operator as defined in Regulation 5.1(d), 17 C.F.R. § 5.1(d), because Crabapple solicited and received money for a pooled investment vehicle that engaged in retail forex transactions as defined by Regulation 5.1(m), 17 C.F.R. § 5.1(m).

80. By the conduct described in paragraphs 14 through 55 above, since at least October, 18, 2010, Crabapple—acting by and through Christy, among others—violated Regulation 4.20(a), 17 C.F.R. § 4.20(a) (2012), by failing to

operate defendant's investment pool as an entity separate from Crabapple itself. Instead, Crabapple received and pooled money contributed by pool participants and deposited this money in its own bank accounts and trading accounts.

81. By the conduct described in paragraphs 14 through 55 above, since at least October 18, 2010, Crabapple—acting by and through Christy, among others—violated Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2012), by commingling money received from pool participants with the money and other property of Christy and the Christy Investment Group, a corporation owned and controlled by Christy.

82. Crabapple engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

83. At all relevant times, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Regulations 4.20(a) and 4.20(c), 17 C.F.R. § 4.20(a) & (c), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

7. Fraud in Dealings with NFA

84. By the conduct described in paragraphs 14 through 55 above, defendants knowingly and willfully made misrepresentations to NFA in violation of Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4), in

the course of NFA's examination of defendants to conceal the existence of the forex pool operated by Crabapple and defendants' fraud in connection with that pool, including by, among other things, providing NFA with false accounting records that misrepresented the source of funds defendants deposited into Crabapple's bank account, falsely certifying to NFA in a management representation letter that defendants were not operating any commodity/forex pools and had not received any money from participants for such pools, and by making further false statements in correspondence with NFA regarding Crabapple's solicitation of pool participants and receipt of money received from pool participants, as described in paragraphs 46-51 above.

85. Christy made these representations to NFA within the scope of his employment or office for Crabapple. Therefore, Crabapple is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. §1.2, as principal for its agent's acts, omissions or failures of the Act, as amended.

86. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 9(a)(4) of the Act, as amended, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

87. Unless restrained and enjoined by this Court, there is a reasonable likelihood that defendants will continue to engage in the acts and practices described above and in similar acts and practices in violation of the Act and Regulations.

IV. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

88. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1, Christy; Crabapple; all corporations, limited liability companies, partnerships, or other entities owned by, controlled by (directly or indirectly), or otherwise affiliated with Christy or Crabapple, including but not limited to Christy Investment Group Ltd., Christy Group LLC, and Falcon Hedge Risk Management LLC; all agents, servants, employees, successors, assigns, or attorneys of Christy or Crabapple; and all persons insofar as they are acting in active concert or participation with Christy or Crabapple who receive actual notice of this Order by personal service or otherwise, are hereby prohibited and restrained from directly or indirectly, engaging in conduct that violates Section 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. § 4b(a)(2)(A)-(C); Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006); Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. §

13(a)(4); and Regulations 4.20(a) and (c), 4.41(a), and 5.2(b)(1)-(3), 17 C.F.R. §§ 4.20(a) & (c), 4.41(a), & 5.2(b)(1)-(3).

89. Christy; Crabapple; all corporations, limited liability companies, partnerships, or other entities owned by, controlled by (directly or indirectly), or otherwise affiliated with Christy or Crabapple, including but not limited to Christy Investment Group Ltd., Christy Group LLC, and Falcon Hedge Risk Management LLC; all agents, servants, employees, successors, assigns, or attorneys of Christy or Crabapple; and all persons insofar as they are acting in active concert or participation with Christy or Crabapple who receive actual notice of this Order by personal service or otherwise, are hereby prohibited and restrained from directly or indirectly:

- a. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a);
- b. 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) (2012)) (“commodity options”), security futures products, and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, to be codified at 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 either Christy or Crabapple has a direct or indirect interest;
- c. Having any commodity futures, options on commodity futures, commodity options, security futures products, and/or forex contracts traded on their behalf;
 - d. 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, security futures products, and/or forex contracts;
 - e. 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, security futures products, and/or forex contracts;
 - f. 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) (2012); and/or
 - g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent or any other officer or employee of any

person (as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a) 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) (2012).

V. RESTITUTION AND CIVIL MONETARY PENALTY

A. Restitution

90. Crabapple and Christy shall, jointly and severally, pay restitution in the amount of \$1,099,598 (“Restitution Obligation”), plus post-judgment interest. Post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

91. To effect payment of the Restitution Obligation and the distribution of any restitution payments to participants in the pool or pools operated by Crabapple (“Pool Participants”), the Court appoints the NFA as Monitor (“Monitor”). The Monitor shall collect restitution payments from Crabapple and/or Christy and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, NFA shall not be liable for any action or inaction arising from NFA’s appointment as Monitor, other than actions involving fraud.

92. Crabapple and/or Christy shall make Restitution Obligation payments under this Consent Order to the Monitor in the name “Crabapple Restitution Fund” and shall send such Restitution Obligation payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s, or bank money order, to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover letter that identifies the paying defendant or defendants and the name and docket number of this proceeding. Christy and/or Crabapple shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

93. Upon issuance of this Consent Order, the CFTC shall promptly provide each of the financial institutions identified in this paragraph with a copy of this Consent Order. Within thirty (30) days of receiving a copy of this Consent Order, each of the financial institutions identified in this paragraph is specifically directed to liquidate and release all funds in any account number identified below, whether the account is held singly or jointly, or in any other capacity, and to convey by wire transfer to an account designated by the Monitor, all funds in these accounts, less any amounts required to cover the financial institutions’ outstanding administrative or wire transfer fees. At no time during the liquidations, release,

and/or wire transfer of these funds pursuant to this Consent Order shall defendants be afforded any access to, or be provided with, any funds from these accounts. Defendants and all banks and financial institutions listed in this Consent Order, shall cooperate fully and expeditiously with the CFTC and Monitor in the liquidation, release, and wire transfer of these funds. The accounts to be liquidated, released, and transferred are:

<u>Name</u>	<u>Financial Institution</u>	<u>Account Number</u>	<u>Approx. Balance (as of August 8, 2011)</u>
<u>Crabapple Capital Group</u>	<u>BB&T Bank</u>	*****2282	<u>\$22,554.56</u>
<u>Christy Investment Group</u>	<u>BB&T Bank</u>	*****8051	<u>\$5,623.57</u>
<u>Robert A. Christy</u>	<u>BB&T Bank</u>	*****5947	<u>\$2,050.43</u>
<u>Christy Group LLC</u>	<u>BB&T Bank</u>	*****6803	<u>\$100</u>
<u>Falcon Hedge Risk Management LLC</u>	<u>BB&T Bank</u>	*****6811	<u>\$100</u>
<u>Crabapple Capital Group</u>	<u>Citibank N.A. (CitiFXPro)</u>	***8901	<u>\$33,253.09</u>
<u>CCG Attn: Robert A. Christy</u>	<u>TD Ameritrade</u>	***-***7682	<u>\$19,410.92</u>

94. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Pool Participants identified by the Commission, or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Restitution Obligation payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a

distribution to eligible Pool Participants is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part B below.

95. Christy and Crabapple shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Pool Participants, to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Christy and Crabapple shall execute any documents necessary to release funds that each has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.

96. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Pool Participants during the previous year. The Monitor shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

97. The amounts payable to each Pool Participant shall not limit the ability of any Pool Participant from proving that a greater amount is owed from

Christy and/ or Crabapple or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any Pool Participant that exist under state or common law.

98. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each Pool Participant who suffered a loss is explicitly made an intended third-party beneficiary of this Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by Christy and/or Crabapple to ensure continued compliance with any provision of this Consent Order and to hold Christy and/or Crabapple in contempt for any violations of any provision of this Consent Order.

99. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Christy and Crabapple's Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

B. Civil Monetary Penalty

100. Christy and Crabapple shall, jointly and severally, pay a civil monetary penalty in the amount of \$1,541,882 ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by

using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2006).

101. Christy and Crabapple shall pay their CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment by electronic funds transfer is chosen, Christy and/or Crabapple shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Christy and/or Crabapple shall accompany any payment of the CMP Obligation with a cover letter that identifies Christy and/or Crabapple and the name and docket number of this proceeding. Christy and/or Crabapple shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. Provisions Related to Monetary Sanctions

102. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment of Christy and Crabapple's Restitution Obligation or CMP Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Consent Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

VI. MISCELLANEOUS PROVISIONS

103. Notice: All notices required to be given by any provision in this Consent Order shall be sent certified mail, return receipt requested, as follows:

Notice to Commission:

Charles D. Marvine
Chief Trial Attorney
U.S. Commodity Futures Trading Commission
4900 Main Street, Suite 500
Kansas City, MO 64112

Notice to Defendants Robert A. Christy and Crabapple Capital Group LLC:

Jeffrey D. Barclay
Schuyler, Roche & Crisham, P.C.
One Prudential Plaza, Suite 3800
130 East Randolph Street
Chicago, IL 60601

All such notices to the Commission shall reference the name and docket number of this action.

104. Change of Address/Phone: Until such time as Christy and Crabapple satisfy in full their Restitution Obligation and CMP Obligation as set forth in this Consent Order, Christy and Crabapple shall provide written notice to the Commission by certified mail of any change to either of their telephone numbers and mailing address(es) within ten (10) calendar days of the change.

105. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

106. Invalidation: If any provision of this Consent Order or if the application of any provision or circumstance is held invalid, then the remainder of this Consent Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

107. Waiver: The failure of any party to this Consent Order or of any Pool Participant at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or Pool Participant at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent

Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

108. Acknowledgements: Upon being served with copies of this Consent Order after entry by the Court, Christy and Crabapple shall sign acknowledgements of such service and serve such acknowledgements on the Court and the Commission within five (5) calendar days.

109. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by Christy and/or Crabapple to modify or for relief from the terms of this Consent Order.

110. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Christy and Crabapple, upon any person under either Christy's or Crabapple's authority or control, and upon any person who receives actual notice of this Consent Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Christy and/or Crabapple.

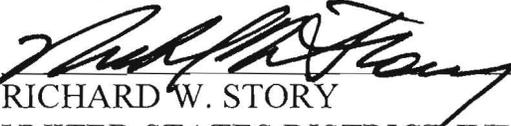
111. Authority: Christy hereby warrants that he is the sole principal and member of Crabapple, and that this Consent Order has been duly authorized by Crabapple, and he has been duly empowered to sign and submit this Consent Order on behalf of Crabapple.

112. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Consent Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.

113. Christy and Crabapple understand that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Consent Order.

114. There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief against Robert A. Christy and Crabapple Capital Group LLC*.

IT IS SO ORDERED on this 11th day of October, 2012.


RICHARD W. STORY
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF GEORGIA

CONSENTED TO AND APPROVED
BY:

Robert A. Christy
217 Roseville Place
Milton, GA 30004

Date: May __, 2012

Crabapple Capital Group LLC
12600 Deerfield Parkway, Suite 100
Alpharetta, GA 30004

By: Robert A. Christy, Manager and
Principal

Date: _____, 2012

Jeffrey D. Barclay, Esq.
Schuyler, Roche & Crisham, P.C.
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130 East Randolph Street
Chicago, IL 60601
(312) 565-8425
jbarclay@SRCattorneys.com

*Counsel for Defendants Crabapple
Capital Group LLC and Robert A.
Christy*

Date: _____, 2012

/s/ Jeffrey Viscomi
Sally Quillian Yates
United States Attorney
Jeffrey Viscomi (GA Bar No. 289074)
Assistant United States Attorney
United States Attorney's Office for the
Northern District of Georgia
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(404) 581-6036
(404) 581-6181
Jeffrey.Viscomi@usdoj.gov

and

/s/Thomas L. Simek
Charles D. Marvine
Missouri Bar No. 44906
Jo Mettenburg
Kansas Bar No. 19423
Thomas L. Simek
District of Columbia Bar No. 490030
U.S. Commodity Futures Trading
Commission
Division of Enforcement
4900 Main Street, Suite 500
Kansas City, MO 64112
816-960-7743 (Marvine)
816-960-7744 (Mettenburg)
816-960-7760 (Simek)
816-960-7754 (fax)
cmarvine@cftc.gov
jmettenburg@cftc.gov
tsimek@cftc.gov

Date: October 9, 2012

CONSENTED TO AND APPROVED

BY:

Robert A. Christy

Robert A. Christy
217 Roseville Place
Milton, GA 30004

~~August~~
Date: Sept 7, 2012

Robert A. Christy

Crabapple Capital Group LLC
12600 Deerfield Parkway, Suite 100
Alpharetta, GA 30004

By: Robert A. Christy, Manager and
Principal

~~Sept~~
Date: Sept 7, 2012

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*Counsel for Defendants Crabapple
Capital Group LLC and Robert A.
Christy*

Date: Sept 7, 2012

/s/ Jeffrey Viscomi
Sally Quillian Yates
United States Attorney
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and

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