

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

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U.S. COMMODITY FUTURES	)	
TRADING COMMISSION,	)	
	)	Case No.: 8:09-CV-1811-T-17MAP
Plaintiff,	)	
vs.	)	
	)	
BEAU DIAMOND and	)	
DIAMOND VENTURES LLC,	)	
	)	
Defendants.	)	

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**FINAL JUDGMENT ORDER OF RESTITUTION AND  
CIVIL MONETARY PENALTY AGAINST DEFENDANTS  
BEAU DIAMOND AND DIAMOND VENTURES LLC**

This matter comes before the Court upon Plaintiff Commodity Futures Trading Commission's ("Commission" or "CFTC") Application for Entry of a Default Judgment Order of Restitution and Civil Monetary Penalty against Defendants Beau Diamond ("Diamond") and Diamond Ventures LLC ("DVL") (collectively "Defendants") and Incorporated Memorandum of Law. In an order entered on April 16, 2010, this Court found Defendants to be in default and granted judgment as to the liability of Defendants and entered permanent injunctions against them. The Court, having considered the entire record in this matter, including the Application and Memorandum, finds that good cause exists for the entry of the relief requested and grants the CFTC's Application for final judgment and the requested relief. Accordingly, this Court hereby:

ORDERS that judgment shall be and hereby is entered in favor of Plaintiff Commission and against Defendants Diamond and DVL and imposes an order for restitution and civil monetary penalties as follows:

**I. RELATED CASES**

1. On March 31, 2009, Diamond filed a voluntary Chapter 7 bankruptcy petition. On November 9, 2009, the Chapter 7 Bankruptcy Trustee, Shari Streit Jansen, moved for substantive consolidation against Diamond and DVL and the entry of a Final Default Judgment against both parties. On January 25, 2010, the bankruptcy court granted the Trustee's motion for substantive consolidation and entered a Default Judgment Order Substantively Consolidating Diamond Ventures, LLC into the Bankruptcy Estate of Beau Diamond. *In re Beau Diamond*, No. 09-bk-06199, (Bankr., M.D. Fla. (Tampa)), which is pending.

2. On December 17, 2009, the United States Attorney for the Middle District of Florida filed an 18-count indictment against Diamond, charging him with wire fraud, mail fraud, illegal monetary transactions, and transportation of stolen property. On July 21, 2010, a jury found Diamond guilty on all counts of the indictment. Diamond remains in the custody of the United States Marshals and his sentencing is set for November 23, 2010. *See, U.S.A. v. Diamond*, No. 09-CR 00586 (M.D. Fla. (Tampa)).

**II. MONETARY SANCTIONS**

**A. Restitution**

3. Defendants' violations of the Commodity Exchange Act merit the award of restitution to DVL customers defrauded by Defendants. Defendants shall pay restitution in

the amount of \$1,071,035.26, plus post-judgment interest (the "Restitution Obligation").

Defendants are jointly and severally liable for payment of the Restitution Obligation.

4. Post-judgment interest shall accrue commencing on the date of entry of this Order and shall be determined by using the United States Treasury Bill rate prevailing on that date pursuant to 28 U.S.C. § 1961.

**B. Civil Monetary Penalty**

5. Defendants shall pay to the CFTC a civil monetary penalty in the amount of \$3,213,105.00 plus post-judgment interest (the "CMP Obligation"). Defendants are jointly and severally liable for payment of the CMP Obligation.

6. Post-judgment interest shall accrue on the CMP Obligation commencing on the date of entry of this Order and shall be determined by using the United States Treasury Bill rate prevailing on that date pursuant to 28 U.S.C. § 1961.

**C. Payment Procedures, Priority of Monetary Sanctions and Partial Payments**

7. To effect payment by Defendants and the distribution of restitution, the Court appoints the National Futures Association ("NFA") as Monitor. The Monitor shall collect restitution payments from Defendants, and make distributions as set forth below. Because the Monitor is not being compensated for these services, and these services are outside the normal duties of the Monitor, it shall not be liable for any action or inaction arising from their appointment as Monitor, other than actions involving fraud.

8. Defendants shall make their required restitution payments under this Order in the name of "Diamond/DVI - Restitution Fund" and shall send such restitution payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's

check, or bank money order, to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover of a letter that identifies the the paying Defendant and the name and docket number of the proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to (a) Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and (b) Chief, Office of Cooperative Enforcement, Division of Enforcement at the same address.

9. The Monitor shall oversee Defendants' Restitution Obligation, and shall have the discretion to determine the manner for distribution of funds in an equitable fashion to DVL customers, or may defer distribution until such time as the Monitor may deem appropriate. In the event that the amount of restitution payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative costs of making a restitution distribution 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 paragraph 11 below.

10. Defendants shall execute any documents necessary to release funds that they have in any repository, bank, investment or other financial institution wherever located, in order to make partial or total payment toward the Restitution Obligation.

11. Defendants 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, 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: Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-6569

If payment is to be made by electronic funds transfer, Defendants shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Defendants shall accompany payment of the CMP Obligation with a cover letter that identifies them and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to: a) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21<sup>st</sup> Street, NW, Washington, DC 20581; and b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

12. To the extent that any funds accrue to the U.S. Treasury as a result of the Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in paragraph 9 above.

13. All payments by Defendants pursuant to this Order shall first be applied to satisfaction of the Restitution Obligation. After satisfaction of the Restitution Obligation in full, payments by Defendants pursuant to this Order shall be applied to satisfy their CMP Obligation.

14. Any acceptance by the Commission and/or the Monitor of partial payment from Defendants of the Restitution Obligation and/or CMP Obligation shall not be deemed a waiver of Defendants' obligation to make further payments pursuant to this Order, or a waiver of the Commission's and/or Monitor's right to seek to compel payment from Defendants of any remaining balance.

15. Defendants shall not transfer, or cause others to transfer, funds or other property to the custody, possession, or control of any members of their family or any other person or entity for the purpose of concealing such funds from this Court, the Commission, or the Monitor until the Restitution Obligation and the CMP Obligation set forth above have been satisfied in full.

16. All notices required by this Order shall be sent by certified mail, return receipt requested. Notices to the CFTC shall be sent to the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581. Defendants shall provide the CFTC with written notice of all changes to their contact telephone number(s) and/or mailing address(es) within ten (10) calendar days of the change(s).

17. Nothing in this Order is intended to limit or constrain the Trustee's fulfillment of its responsibilities and duties as Trustee under the laws of the United States, the bankruptcy Code and/or the orders of the United States bankruptcy Court.

18. This Court shall retain jurisdiction of this cause to assure compliance with this Order, the Restitution Obligation and for all other purposes related to this action. This Order shall be interpreted and enforced according to the Federal Rules of Civil Procedure, the Local

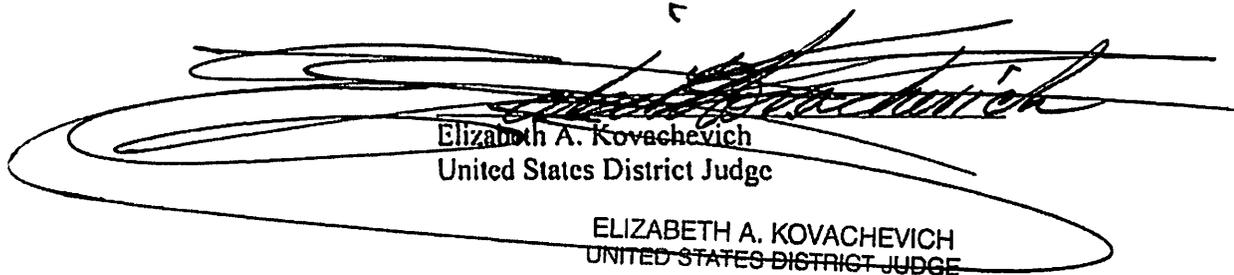
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Rules of the United States District Court for the Middle District of Florida, Tampa Division, and all provisions of the Act and Commission Regulations relating or referring to the obligations hereunder.

19. There being no just cause for delay, the Clerk of the Court shall enter final judgment against Diamond and DVL in this action forthwith and without further delay.

There being no pending matters remaining in this matter, the case may be closed.

DONE AND ORDERED this 30<sup>th</sup> day of DECEMBER 2010.

  
Elizabeth A. Kovachevich  
United States District Judge  
ELIZABETH A. KOVACHEVICH  
UNITED STATES DISTRICT JUDGE

Copies to:  
All parties and counsel of record