

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES COMMODITY )  
FUTURES TRADING COMMISSION, )  
 )  
Plaintiff, )  
 )  
v )  
 )  
GREEN TREE CAPITAL and LYNDON )  
LYDELL PARRILLA, )  
 )  
Defendants. )

C.A. No. 1:11-cv-10621-JLT

~~PROPOSED~~ **FINAL JUDGMENT ORDER FOR PERMANENT INJUNCTION,  
DISGORGEMENT, RESTITUTION, AND CIVIL MONETARY PENALTY  
AGAINST LYNDON LYDELL PARRILLA**

The Commodity Futures Trading Commission (“Commission”) commenced this action on April 12, 2011, by filing a Complaint for Injunctive and Other Equitable Relief (“Complaint”) charging Green Tree Capital (“Green Tree”) and Lyndon Lydell Parrilla (“Parrilla” or collectively “Defendants”) with fraud and misappropriation in connection with the solicitation of customers to trade foreign exchange currency transactions in violation of provisions of the Commodity Exchange Act, as amended (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).

Both Defendants were properly served with Summons. Green Tree failed to file an Answer or otherwise defend the Complaint and an order of Default Judgment was entered against Green Tree on June 29, 2011. [Doc. 25-26]. On April 4, 2013, Plaintiff filed its Motion for Summary Judgment against Parrilla. [Doc. 38].

On September 30, 2013, this Court found summary judgment in favor of the Commission as to all six claims and grounds asserted against Parrilla [Doc. 48] as follows: (1) violations of sections 4b(a)(2)(A) and (C) of the Commodity Exchange Act (the “Act”)<sup>1</sup>—fraud by misrepresentation, omission, and misappropriation; (2) violations of Commission Regulations 5.2(b)(1) and (3)—fraud by misrepresentation, omission, and misappropriation; (3) violations of sections 4b(1)(2)(B) of the Act—fraud by making false account statements; (4) violations of Commission Regulation 5.2(b)(2)—fraud by making false account statements; (5) violations of section 4o(1)(A) and (B) of the Act, as amended—fraud by a Commodity Trading Advisor (“CTA”); and (6) violations of Commission Regulation 5.3(a)(3)(i)—failure to register as a CTA.

**THE COURT FINDS:**

1. This Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the CFTC 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 CFTC 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.

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<sup>1</sup> The Commodity Exchange Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008) (“CRA”), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010) at 7 U.S.C. §§ 1 *et seq.* (hereinafter citations will refer to the “Act”), and Commission Regulations promulgated thereunder (“Regulations”) at 17 C.F.R. §§ 1.1 *et seq.*

2. The CFTC has jurisdiction over the forex solicitations and transactions at issue in this action pursuant to Section 2(c)(2)(D) of the Act, as amended by the Dodd-Frank Act, 7 U.S.C. § 2(c)(2)(D).

3. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, 7 U.S.C. § 13a-1(e), because the Defendant resided in this jurisdiction during the alleged conduct and the acts and practices in violation of the Act occurred within this District.

**IT IS HEREBY ORDERED THAT:**

**PERMANENT INJUNCTION**

4. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1, Defendant Parrilla is permanently restrained, enjoined, and prohibited from directly or indirectly:

- a. Cheating or defrauding, or attempting to cheat or defraud, other persons in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery that is made, or to be made, for or on behalf of, or with, any other person in violation of Sections 4b(a)(1)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A)-(C), and 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B).
- b. Using or employing manipulative or deceptive devices or contrivances in connection defraud in connection with contracts of sale of commodities in interstate commerce in violation of Sections Section 6(c)(1) of the Act, as amended, to be codified at 7 U.S.C. § 9, and Regulation 180.1(a), 17 C.F.R. § 180.1(a).
- c. Making fraudulent misrepresentations and/or failing to disclose facts in violation of Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A) and (C).
- d. Creating false account statements and issuing such statements in violation of Section 4b(a)(2)(B) of the Act, as amended 7 U.S.C. § 6b(a)(2)(B), and Regulation 5.2(b)(2), 17 C.F.R. § 5.2(b)(2).

- e. Misappropriating funds of customers in violation of Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. § 4b(a)(2)(A) and (C), and Regulation 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1) and (3).
- f. Committing fraud as a CTA, in violation of Section 4o(1)(A) and (B) of the Act, as amended 7 U.S.C. § 6o(1)(A) and (B).
- g. Failing to register with the CFTC as a CTA, in violation of Regulation 5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i).

5. Defendant Parrilla is also permanently restrained, enjoined and prohibited 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, 7 U.S.C. § 1a);
- b. Entering into any transactions involving commodity futures, options on commodity futures, 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)), commodity options (as that term is defined in Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2013)) (“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, 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;
- c. Having any commodity futures, swaps, options on commodity futures, commodity options, security futures products, and/or forex contracts traded on his 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, swaps, 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, swaps, 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) (2013); and/or
- g. 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 (as that term is defined in Section 1a of the Act, as amended, 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) (2013).

## **MONETARY SANCTIONS**

### **Disgorgement**

6. Defendant Parrilla shall pay Disgorgement in the amount of Three Million Three Hundred Fifty Three Thousand Nine Hundred Twenty Five Dollars [\$3,353,925], which is equal to the amount of funds misappropriated by Defendant Parrilla (“Disgorgement Obligation”).

7. Defendant Parrilla shall pay his Disgorgement 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, Defendant Parrilla shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendant Parrilla shall accompany payment of the Civil Monetary Penalty with a cover letter that identifies Defendant Parrilla and the name and docket number of this proceeding. Defendant Parrilla 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.

### **Restitution**

7. Defendant Parrilla shall pay Restitution in the amount of Four Million One Hundred Ninety Seven Thousand Three Hundred Forty Two Dollars [\$4,197,342], plus post-judgment interest, jointly and severally with co-Defendant Green Tree Capital, which is equal to the amount of funds investors verifiably lost due to Defendant Parrilla's fraudulent scheme ("Restitution Obligation"). 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 (2006).

8. Parrilla was convicted in a criminal action charging him for the misconduct that was at issue in this matter. *See United States of America v. Lyndon L. Parrilla*, Crim. No. 1:11-cr-10186-GAO, United States District Court for the District of Massachusetts ("Criminal Action"). On November 20, 2012, Parrilla was sentenced to, among other things, a term of 97 months imprisonment and ordered to pay restitution in the amount of \$4,675,156. For amounts disbursed to Defendant's defrauded customers as a result of satisfaction of any restitution ordered in the Criminal Action, the Defendant shall receive a dollar-for-dollar credit against the Restitution Obligation. Parrilla shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, copies of the form of payment to those defrauded customers.

9. To effect payment of the Restitution Obligation and the distribution of any restitution payments to Defendant's defrauded customers the Court appoints the National Futures

Association (“NFA”) as Monitor (“Monitor”). The Monitor shall collect restitution payments from Defendant Parrilla and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the NFA shall not be liable for any action or inaction arising from NFA’s appointment as Monitor, other than actions involving fraud.

10. Defendant Parrilla shall make Restitution Obligation payments under this Order to the Monitor in the name “Parrilla Restitution Fund” and shall send such 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 and the name and docket number of this proceeding. Defendant 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 21<sup>st</sup> Street, NW, Washington, D.C. 20581.

11. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of such funds in any equitable fashion to the Defendant’s defrauded customers 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 minimus* nature such that the Monitor determines that the administrative cost of making a distribution to participants and customers is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth below.

12. Defendant shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Defendant’s defrauded

customers to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Defendant 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.

13. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Defendant's defrauded customers 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 21<sup>st</sup> Street, NW, Washington, D.C. 20581.

14. The amount payable to each defrauded customer shall not limit the ability of any customer from proving that a greater amount is owed from Defendant or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any customer that exist under state or common law.

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

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

**Civil Monetary Penalty**

17. Defendant Parrilla shall pay a civil monetary penalty in the amount of Ten Million Dollars [\$10,000,000] (“CMP Obligation”), plus post-judgment interest, jointly and severally with co-Defendant Green Tree Capital, which represents roughly triple the monetary benefit that accrued to the Defendants. 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).

18. Defendant Parrilla shall pay his 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, Defendant Parrilla shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendant Parrilla shall accompany payment of the Civil Monetary Penalty with a cover letter that identifies Defendant Parrilla and the name and docket number of this proceeding. Defendant Parrilla 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.

### **MISCELLANEOUS ITEMS**

19. **Partial Satisfaction:** Any acceptance by the CFTC of partial payment of Defendant Parrilla's Disgorgement, Restitution, or Civil Monetary Penalty shall not be deemed a waiver of his obligation to make further payments pursuant to this Final Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

20. **Change of Address/Phone:** Until such time as Defendant Parrilla satisfies in full his Disgorgement, Restitution, and Civil Monetary Penalty obligations as set forth in this Final Order, Defendant Parrilla shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten (10) calendar days of the change.

21. **Injunctive and Equitable Relief Provisions:** The injunctive and equitable relief provisions of this Consent Order shall be binding upon Defendant Parrilla, upon any person under his 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 Defendant Parrilla.

22. **Continuing Jurisdiction of this Court:** This Court shall retain jurisdiction of this action to ensure compliance with this Final Order and for all other purposes related to this action, including any motion by Defendant Parrilla to modify or for relief from the terms of this Final Order.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Final Order against Defendant Parrilla*.

IT IS SO ORDERED on this 24 day of OCTOBER, 2013.

  
UNITED STATES DISTRICT JUDGE