

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION**

**U.S. COMMODITY FUTURES TRADING  
COMMISSION,**

**Plaintiff,**

**v.**

**ROBERT STANLEY HARRISON,**

**Defendant.**

**No. 8:13-cv-00327-JDA**

**CONSENT ORDER FOR PERMANENT  
INJUNCTION, CIVIL MONETARY  
PENALTY, AND OTHER EQUITABLE  
RELIEF AGAINST DEFENDANT  
ROBERT STANLEY HARRISON**

**I. INTRODUCTION**

On February 6, 2013, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendant Robert Stanley Harrison (“Harrison” or “Defendant”) seeking injunctive and other equitable relief, as well as the imposition of a civil monetary penalty, for violations of Sections 4b(a)(1)(A)-(C), 4b(a)(2)(A)-(C), 4o(1), 4m(1), and 4k(2) of the Commodity Exchange Act (“CEA”), 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6b(a)(2)(A)-(C), 6o(1), 6m(1), and 6k(2), and Commission Regulations (“Regulations”) 4.20 and 5.2(b), 17 C.F.R. §§ 4.20 and 5.2(b). (ECF No. 1.) The Court entered an *ex parte* statutory restraining order against Defendant on February 7, 2013, and a Consent Order for Preliminary Injunction against Defendant on February 19, 2013. (ECF Nos. 12, 21.)

**II. CONSENTS AND AGREEMENTS**

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

1. Consents to the entry of this Consent Order for Permanent Injunction and Other Equitable Relief Against Robert Stanley Harrison (“Consent Order”);

2. Affirms that he has 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. Acknowledges service of the summons and Complaint;

4. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1 (2012);

5. Admits the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the CEA, 7 U.S.C. §§ 1, *et seq.*;

6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) (2012);

7. Waives:

(a) any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2014), relating to, or arising from, this action;

(b) any and all claims that he 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. Consents to the continued jurisdiction of this Court over him 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 Defendant now or in the future resides outside the jurisdiction of this Court;

9. Agrees that he 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 waives any objection based thereon;

10. Agrees that neither he nor any of his agents or employees under his 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 his: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendant shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement;

11. By consenting to the entry of this Consent Order, Defendant admits the allegations of the Findings of Fact and Conclusions of Law in this Consent Order. Further, Defendant agrees and intends 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 Defendant; (b) any

proceeding pursuant to Section 8a of the CEA, 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 *et seq.* (2014); and/or (c) any proceeding to enforce the terms of this Consent Order;

12. Agrees to provide immediate notice to this Court and the CFTC by certified mail, in the manner required by paragraph 57 of Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States; and

13. Agrees 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 Defendant in any other proceeding.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court, being fully advised in the premises, finds there is good cause for the entry of this Consent Order and there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, Permanent Injunction and Equitable Relief pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1 (2012), as set forth herein.

#### THE COURT HEREBY FINDS:

##### A. Findings of Fact

14. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the CEA, 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§1.1 *et seq.* The Commission maintains its principal office at Three Lafayette Centre, 1155 21<sup>st</sup> Street NW, Washington, D.C. 20581

15. Defendant **Robert Stanley Harrison** is an individual who resides in Easley, South Carolina. Defendant is the sole owner, registered agent, and trader of Investors Choice

Advisors LLC (“ICA” or “Pool”). Defendant has never been registered with the Commission in any capacity.

16. ICA is a South Carolina limited liability company created by Defendant on May 23, 2011, with its principal place of business located at the Defendant’s home in Easley, South Carolina.

17. From at least June 2011 until February 7, 2013, Defendant, while acting individually as an unregistered commodity pool operator (“CPO”), and by and through his agent, acting as an unregistered associated person (“AP”), devised, intended to devise, and executed a scheme to defraud and to obtain monies by means of false and fraudulent pretenses, representations, and promises in connection with the operation of ICA as a commodity pool.

18. Through his website, [www.investorschoiceadvisors.com](http://www.investorschoiceadvisors.com), and other advertising, Defendant solicited individuals to provide funds for trading commodity futures (“futures”) and retail foreign currency contracts (“forex”) through the Pool.

19. In order to induce individuals to participate in the Pool, Defendant made numerous false statements, including, but not limited to, the following:

- a. That profits of 100% in as little as 60 days were guaranteed;
- b. That the entire amount placed with Defendant would go to trade futures and forex;
- c. That Defendant was an experienced futures and forex trader and that he had a history of successful trading;
- d. That certain Pool participants had doubled their money; and
- e. That funds were placed in reserve to insure against loss of the Pool participants’ funds.

20. After receiving Pool participant funds via wire transfers, among other means,

Defendant and his agent distributed a purported “Investment Contract” to Pool participants via email which showed, among other things, the Pool participant’s principal investment and reiterated Defendant’s guarantee to return 100% profits – double the principal investment – to the Pool participant after 60 or 90 days. The “Investment Contracts” were agreements between the Pool participant and either “Robert Stanley Harrison” or “Robert Stanley Harrison Investors Choice Advisors.”

21. In order to induce participation in the Pool, Defendant and his agent made payments to certain Pool participants from later participants’ funds in a Ponzi-like manner.

22. In order to further the scheme, Defendant held teleconferences with Pool participants during which he made lulling statements regarding the return of Pool participant funds.

23. During the period of the scheme, Defendant accepted at least \$1,000,000 from approximately 390 Pool participants; misappropriated at least \$117,000, which he used for personal expenses; lost approximately \$289,000 of these funds trading futures and forex; returned the remainder to certain Pool participants.

24. Some of these funds were accepted by Defendant in his own name rather than in the name of the Pool; some were commingled with Defendant’s own funds; and some were misappropriated by Defendant.

25. Additionally, Defendant tried to induce a \$1,000,000 investment from an investor who, unbeknownst to Defendant, was an undercover operative of the Federal Bureau of Investigation. In seeking to obtain this \$1,000,000 Defendant made similar false claims of success and other misrepresentations as had been made to the actual victims.

## **B. Conclusions of Law**

### **1. Jurisdiction and Venue**

26. This Court has jurisdiction over this action pursuant to Sections 6c and 2(c)(2)(C) of the CEA, 7 U.S.C. §§ 13a-1 and 2(c)(2)(C) (2012), 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 CEA 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 CEA, or any rule, regulation or order thereunder.

27. Venue properly lies with this Court pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) (2012), because the Defendant resides in this jurisdiction and the acts and practices in violation of the CEA occurred within this District.

### **2. Fraud by Misrepresentations, False Account Statements, and Misappropriation of Pool Participant Funds**

28. By the conduct described in paragraphs 14 through 28 above, Defendant cheated and defrauded, or attempted to cheat and defraud, willfully deceived, or attempted to deceive, and otherwise engaged in a course of business that operated as a fraud on his Pool participants and prospective Pool participants by, among other things, knowingly or recklessly: misappropriating Pool participant funds, making fraudulent misrepresentations, and issuing false account statements, in violation of Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the CEA, 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C) (Supp. II 2009), Section 4o(1) of the CEA, 7 U.S.C. §§ 6o(1) (2006), and Regulation 5.2(b), 17 C.F.R. § 5.2(b) (2012).

### **3. Registration Violations**

29. Prior to July 15, 2011, Section 1a(5) of the CEA, 7 U.S.C. § 1a(5) (Supp. II 2009), defined a Commodity Pool Operator (“CPO”) as

any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, except that the term does not include such person not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

30. Since July 16, 2011, Section 1a(11) of the CEA, 7 U.S.C. § 1a(11) (Supp. V 2012), defines a CPO as any person who is

- (i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any—
  - (I) commodity for future delivery, security futures product, or swap;
  - (II) agreement, contract, or transaction described in section 2(c)(2)(C)(i) of this title or section 2(c)(2)(D)(i) of this title;
  - (III) commodity option authorized under section 6c of this title; or
  - (IV) leverage transaction authorized under section 23 of this title; or
- (ii) who is registered with the Commission as a commodity pool operator.

31. Section 4m(1) of the CEA, 7 U.S.C. § 6m(1) (2006), provides that it is unlawful for any CPO, unless registered, to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO.

32. During the Relevant Period, Defendant, individually and by and through his agent, used the mails or instrumentalities of interstate commerce in or in connection with a commodity pool as a CPO by failing to register as a CPO, in violation of Section 4m(1) of the CEA, 7 U.S.C. § 6m(1) (2006). Specifically, Defendant's agent advised certain Pool participants to send funds to her attention via U.S. certified mail or via wire transfer. Defendant's agent also

sent “Investment Contracts” to Pool participants via email. Therefore, Defendant violated Section 4m(1) of the CEA, 7 U.S.C. § 6m(1) (2006).

33. Section 4k(2) of the CEA, 7 U.S.C. § 6k(2) (2006), prohibits persons from being associated with a CPO as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for participation in a commodity pool, or (ii) the supervision of any person or persons so engaged, unless such person is registered. This section further prohibits CPOs from permitting such persons to become or remain associated with the CPO if the CPO knew or should have known that such persons were not so registered.

34. Defendant’s agent solicited funds for participation in the Pool operated by Defendant. Because Defendant’s agent was not registered as an AP of Defendant (the CPO), Defendant violated Section 4k(2) of the CEA, 7 U.S.C. § 6k(2) (2006).

#### **4. Illegal Operation of the Pool**

35. Regulation 4.20(a) provides that a CPO “must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.” Regulations 4.20(b) and (c) provide that all funds received by a CPO from pool participants must be received in the name of the pool and not be commingled with the funds of any other person, including the CPO.

36. As described above, during the Relevant Period, Defendant, while acting as a CPO, failed to operate the Pool as a legal entity separate from himself by issuing “Investment Contracts” that did not differentiate between himself and ICA and, of the Pool participant funds actually traded, by trading the bulk of those funds in trading accounts held in his name rather than the name of the Pool. In addition, Defendant accepted funds from Pool participants in his own name rather than in the name of the Pool and commingled Pool participants’ funds with his own funds and funds held in the names of persons and entities other than the pools. Therefore,

Defendant violated Regulation 4.20, 17 C.F.R. § 4.20 (2012).

37. The foregoing acts, omissions, and failures of Defendant's agent occurred within the scope of her employment, office, or agency with Defendant; therefore, pursuant to Section 2(a)(1)(B) of the CEA, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2012), Defendant is liable for his agent's acts, omissions, and failures in violation of the CEA and Regulations.

38. Unless restrained and enjoined by this Court, there is a reasonable likelihood that the Defendant will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the CEA and Regulations.

#### **IV. ORDER FOR PERMANENT INJUNCTION**

##### **IT IS HEREBY ORDERED THAT:**

39. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1 (2012), Defendant is permanently restrained, enjoined and prohibited from directly or indirectly from violating Sections 4b(a)(1)(A)-(C), 4b(a)(2)(A)-(C), 4o(1), 4m(1), and 4k(2) of the CEA, 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6b(a)(2)(A)-(C), 6o(1), 6m(1), and 6k(2) (2012), and Regulations 4.20 and 5.2(b), 17 C.F.R. §§ 4.20 and 5.2(b) (2014).

40. The Court is advised that the parties disagree on the imposition of permanent trading and registration bans on Defendant and that the Commission will move by separate motion for the imposition of an additional permanent injunction.

#### **V. RESTITUTION AND CIVIL MONETARY PENALTY**

##### **A. Restitution**

41. Defendant's violations of the CEA merit the award of significant restitution. However, the Court recognizes that the court in a related criminal action, entitled *United States v.*

*Harrison*, No. 8:13-cr-354 (D.S.C. Sep. 22, 2014), has ordered that the Defendant pay restitution in the amount of \$380,680 to the defrauded investors of the Defendant in connection with the same conduct at issue in this action. Accordingly, restitution is not ordered in this action.

**B. Civil Monetary Penalty**

42. Defendant shall pay a civil monetary penalty in the amount of two hundred and seventy-five thousand dollars (\$275,000.00) (“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 (2012).

43. Defendant 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 shall contact Nicki Gibson or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendant shall accompany payment of the CMP Obligation with a cover letter that identifies 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 21st Street, NW, Washington, D.C. 20581.

**C. Provisions Related to Monetary Sanctions**

44. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment of Defendant's CMP Obligation shall not be deemed a waiver of his 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.

**D. Cooperation**

45. Defendant shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.

**VI. MISCELLANEOUS PROVISIONS**

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

Notice to CFTC:

Rick Glaser  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Notice to Defendant:

Robert Stanley Harrison  
c/o Howard W. Anderson III, Esq.  
Law Office of Howard W. Anderson III, LLC  
PO Box 851  
402-3 Pendleton Rd.  
Clemson, SC 29633

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

47. **Change of Address/Phone:** Until such time as Defendant satisfies in full his CMP Obligation as set forth in this Consent Order, Defendant 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.

48. **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.

49. **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.

50. **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.

51. **Continuing Jurisdiction of this Court:** This Court shall retain jurisdiction of this action in order to implement and carry out the terms of all orders and decrees, including orders setting the appropriate amounts of restitution and civil monetary penalty, that may be entered

herein, to entertain any suitable application or motion for additional relief within the jurisdiction of the Court, to assure compliance with this Consent Order and for any other purpose relevant to this action.

52. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Defendant, 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.

53. 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.

54. Defendant understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings he may not challenge the validity of this Consent Order.

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 Defendant Robert Stanley Harrison*.

**IT IS SO ORDERED** on this 19th day of December, 2014, in Greenville, South Carolina.

s/Jacquelyn D Austin  
UNITED STATES MAGISTRATE JUDGE