

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GLOBAL PRECIOUS METALS TRADING
COMPANY, LLC and MICHAEL GHAEMI,

Defendants.

Case No. 1:13-cv-21708

Hon. U Ungaro
Hon Mag. E.Torres

**ORDER ENTERING
FINAL JUDGMENT BY
DEFAULT AGAINST GLOBAL
PRECIOUS METALS TRADING
AND MICHAEL GHAEMI**

This matter is before the Court on Plaintiff U.S. Commodity Futures Trading Commission's ("Plaintiff," "Commission," or "CFTC") Motion For Entry of Final Judgment By Default ("Motion") against Defendants Global Precious Metals Trading Company, LLC ("GPMT") and Michael Ghaemi ("Ghaemi"). For the reasons stated below, the Commission's Motion is GRANTED and an Order of Permanent Injunction together with civil monetary penalties, restitution and disgorgement relief is contained herein.

I. BACKGROUND

On May 13, 2013, the Commission filed a Complaint for Permanent Injunction, Civil Monetary Penalties, and Other Equitable Relief ("Complaint") against GPMT and Ghaemi. The Commission's Complaint alleges that from at least July 16, 2011 to August 2012, Defendants solicited and accepted approximately \$800,000 from nine U.S. retail customers for the purpose of purchasing physical precious metals. Instead of purchasing physical precious metals for retail customers, Defendants defrauded them by misappropriating virtually all of the customers' funds

in using a portion of the funds for personal and other unauthorized expenses, and to margin a speculative metals trading account in London. The Complaint alleges that Defendants further defrauded their customers by misrepresenting and omitting material information regarding the nature of the investments to customers. In addition to falsely representing that actual physical metals were being purchased for the customers, Defendants falsely represented to customers that such precious metals were being held in secured depositories, and further, fraudulently charged customers interest on purported loans to finance the purchase of the physical metals.

Additionally, Plaintiff's Complaint alleges that Defendants failed to inform customers about Ghaemi's disciplinary history with the National Futures Association ("NFA"), the futures industry self-regulatory organization, for making misleading and deceptive sales solicitations to customers and recommending trades to customers for the purpose of generating commissions for himself when he was registered as an associated person of an options trading firm.

Finally, the Commission's Complaint also alleges that Defendants' misappropriation ultimately caused the loss of virtually all of the customers' funds. Further, after all the customers' funds were lost, Defendants were attempting to defraud more customers by attempting to "recapitalize" GPMT by soliciting investments from large investors to use as operating funds.

Plaintiff Commission's Complaint charges that this conduct violated provisions of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1 *et seq.* (2006 & Supp. IV. 2011), and the Commission's Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012) ("Commission Regulations").

II. PROCEDURAL HISTORY

Defendants were properly served with a summons and complaint. Ghaemi filed an Answer on behalf of himself and GPMT on June 13, 2013, which contained a number of deficiencies. That same day, the Magistrate ordered GPMT to secure counsel by June 19, 2013, or risk default. By June 19, 2013, GPMT had not secured counsel. On July 1, 2013, the Court struck Defendants' Answer and Defendants were given until July 22, 2013 to file their Answer. Although properly served, and on notice to file an Answer, Defendant Ghaemi did not do so until July 29, 2013. Defendant GPMT did not file an Answer. Thereafter, pursuant to Court Order, defaults were entered against Defendants GPMT and Ghaemi.

The Court has carefully considered the Complaint, the factual allegations of which are well-pled and hereby taken as true, the Commission's Motion and the Exhibits in support thereof and, being fully advised and familiar with the record in this matter, hereby enters findings of fact and conclusions of law, and issues a final order of permanent injunction that provides for restitution, a civil monetary penalty, and other equitable relief pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. IV. 2011), as set forth herein.

III. FINDINGS OF FACT

1. 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 Act and the Regulations promulgated thereunder.
2. Defendant **GPMT** is located in Coral Gables, Florida and licensed to do business in Florida. GPMT has never been registered with the Commission.
3. Defendant **Michael Ghaemi** resides in Miami, Florida, and is the founder and sole principal of GPMT. Ghaemi directed and controlled GPMT's day-to day operations. Ghaemi was registered intermittently as an associated person with the Commission from 1996 to 2007, but does

not have any current registration status with the Commission. In 2009, the NFA disciplined Ghaemi for making a misleading and deceptive sales solicitation, including misrepresenting the profit potential of heating oil and orange juice futures contracts, downplaying the risk of loss, and recommending trades to customers that were for the purpose of generating commissions for himself. The NFA fined Ghaemi \$10,000 and barred him from NFA membership for two years.

4. Ghaemi began formally operating GPMT in 2008. GPMT and Ghaemi claimed to sell physical precious metals, store such precious metals for customers in secured depositories and issue loans to customers to facilitate the customers' purchasing of such metals. Defendants solicited and accepted \$801,170 from nine U.S. retail customers for the purchasing of such physical precious metals.

5. GPMT offered and entered into transactions in commodities with customers who were retail customers because they do not meet the Act's definition of eligible contract participants or eligible commercial entities. GPMT's customers did not invest on a discretionary basis the \$5 or \$10 million threshold set out in the Act.

6. GPMT did not in fact purchase or store metal for customers, nor did GPMT issue loans to customers. Instead, Defendants pooled customer funds into its bank account which Ghaemi controlled, misappropriated a portion of the customers' funds by using the funds for personal and other unauthorized expenses, and sent a portion of the funds to a margin trading account that Ghaemi opened at an overseas over-the-counter trading bullion and currency trading firm.

7. By November 2011 virtually all of the customer funds were lost to either the Defendants' personal or other unauthorized use of their funds or through Defendants' speculative trading of their funds. As a result, Defendants' customers were left with no precious metals and with only a fraction of their funds having been returned to them. Defendants

thereafter attempted to recapitalize GPMT, which would have required more soliciting more customers. After Commission staff began investigation GPMT and Ghaemi, Defendants purportedly closed down the company.

8. Of the \$801,170 Defendants obtained from US customers, Defendants have returned \$64,191 to customers. GPMT customers have suffered \$736,979 in losses. Defendants used \$186,860 to pay personal and other unauthorized expenses.

IV. CONCLUSIONS OF LAW

A. Jurisdiction and Venue are Proper

9. This Court possesses jurisdiction over this action pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. IV. 2011), which authorizes the Commission to seek injunctive and other relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder. Defendant has engaged, is engaging, or is about to engage in acts or practices that constitute a violation of the Act and Commission Regulations. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), because Defendants reside in and transacted business within this District and the acts and practices in violation of the Act occurred, are occurring, or are about to occur, within this District.

B. Entry of Default Judgment Against Defendants is Appropriate

10. After obtaining an entry of default, a party must apply to the court for an entry of default judgment. *See* Fed. R. Civ. P. 55(b). Entry of default judgment is within a district court's sound discretion. *See CFTC v. Gutterman*, No. 12-21047-CIV, 2012 WL 2413082, at *4 (S.D. Fla. June 26, 2012) (citing *Hamm v. DeKalb Cnty.*, 774 F.2d 1567, 1576 (11th Cir. 1985)).

C

After default has been entered, a defendant is deemed to have admitted all well-pled factual allegations in the complaint, except those relating to unspecified damages. *Id.* (citing *Sampson v. Brewer, Michaels & Kane, LLC*, No. 6:09-cv-2114-Orl-31DAB, 2010 WL 2432084 (M.D. Fla. May 26, 2010)); *see Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987) (quoting *Nishimatsu Const. Co., Ltd. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975)); *see also* Fed. R. Civ. P. 8(b)(6) (effect of failure to deny an allegation). As supported by Plaintiff's Motion and Memorandum For Entry of Default Judgment and documents referenced therein, entry of this judgment is warranted.

C. The Defendants Violated the Commodity Exchange Act

The Defendants Offered and Entered into Retail Commodity Transactions as Defined by Section 2(c)(2)(D) of the Act

11. Congress granted the Commission authority in Section 742 of the Dodd Frank Act of 2010, codified at Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D), to prohibit the entering into, or offering to, retail customers, any agreement, contract or transaction in any commodity on a leveraged, margined or financed basis ("retail commodity transactions"), unless such a transaction is conducted on a regulated commodities exchange, and also to prohibit fraud in connection with such transactions. Defendants have offered or entered into off-exchange retail commodity transactions in precious metals such as gold, silver, platinum and palladium, on a leveraged, margined or financed basis and they have committed fraud in connection therewith.

12. GPMT offered and entered into transactions in commodities with retail customers, who do not meet the Act's definition of eligible contract participants or eligible commercial entities.

13. Because Defendants offered and entered into financed precious metals transactions with non-eligible contract participants and non-eligible commercial entities,

Defendants offered and entered into retail commodity transactions as set forth in Section 2(c)(2)(D) of the Act.

Defendants Offered and Entered Into Off-Exchange Retail Commodity Transactions, Violating Section 4(a) of the Act

14. Section 2(c)(2)(D) makes Section 4(a) of the Act, 7 U.S.C. § 6(a), applicable to retail commodity transactions. Section 4(a), in pertinent part, and as applied to retail commodity transactions, makes it illegal for any person to offer to enter into, enter into, execute, confirm the execution of, or conduct any office or business anywhere in the United States for the purpose of soliciting, or accepting any order for, or otherwise dealing in retail commodity transactions unless the transactions are conducted on a regulated exchange.

15. Defendants offered to enter into and entered into retail commodity transactions by virtue of their offering to or entering into financed precious metals transactions with retail customers as described above. Defendants also operated an office or business in the United States for the purpose of soliciting, or accepting orders for retail commodity transactions. Defendants' retail commodity transactions were not made on a CFTC designated exchange. Defendants' therefore violated Section 4(a) of the Act.

Defendants Defrauded Customers, Violation Section 4b of the Commodity Exchange Act

16. Section 2(c)(2)(D) makes Section 4b of the Act applicable to retail commodity transactions. Section 4b of the Act, in pertinent part and as made applicable to retail commodity transactions, prohibits any person from cheating, defrauding or deceiving any other person in or in connection with the offering or entering into retail commodity transactions.

17. Defendants violated Section 4b(a)(2)(A) and (C) of the Act, 7 USC § 6b(a)(2)(A) and (C) by misappropriating customer funds and misrepresenting and omitting material facts in

connection with their retail commodity transactions. To establish misrepresentation and omission liability under Section 4b(a)(2)(A) and (C) of the Act, the Commission must prove that: (1) a misrepresentation, misleading statement, or omission was made; (2) with scienter; and (3) that the misrepresentation, statement or omission was material. *CFTC v. R.J. Fitzgerald & Co., Inc.*, 310 F.3d 1321, 1328 (11th Cir. 2002), *cert. denied*, 125 S.Ct. 808 (2004) (citations omitted). Misappropriating customer funds also violates Section 4b(a)(2)(A) and (C). *See, e.g., CFTC v. Noble Wealth Data Info. Servs., Inc.*, 90 F. Supp. 2d 676, 687 (D. Md. 2000) (defendants violated Section 4b(a)(2)(i) and (iii) (the predecessor to 4b(a)(2)(A) and (C)) by diverting investor funds for operating expenses and personal use), *aff'd*, *CFTC v. Baragosh*, 278 F.3d 319 (4th Cir.), *cert. denied*, 537 U.S. 950 (2002).

18. The Defendants misappropriated customer funds by diverting those funds from purchasing precious metals and using the funds for personal and other unauthorized expenses and a speculative margin trading in an account at a London brokerage.

19. Defendants knowingly or with reckless disregard for the truth or falsity of their statements misrepresented the nature of the product they sold by representing to customers that they were purchasing precious metals for the customers, customers were being extended loans to purchase the precious metals, and that the precious metals were being stored for them in secured depositories. Additionally, Defendants failed to disclose information about Ghaemi's regulatory history. These misrepresentations and omissions were material as any reasonable investor would consider the information important in making a decision to invest.

Defendants' Fraud Also Violated Section 6(c)(1) of the Act and Regulation 180.1(a)

20. Section 6(c)(1) of the Act, 7 U.S.C. §§ 9, 15, is an anti-fraud provision that provides, among other things, that it is unlawful for any person "to employ . . . in connection

with any contract of sale of any commodity in interstate commerce or for futures delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of [Commission rules and regulations].” Regulation 180.1(a), which is the Commission regulation that implements Section 6(c)(1), in relevant part makes it unlawful for any person:

in connection with any . . . contract of sale of any commodity in interstate commerce . . . to intentionally or recklessly: (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud; (2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person

21. Defendants’ misappropriation, misrepresentations and omissions to customers in this case involved the offering or entering into of financed precious metals commodity transactions, which are commodities in interstate commerce regulated by the Commission.

22. Defendants’ material misrepresentations and omissions made knowingly or with reckless disregard to their truth or falsity to customers also violates Section 6(c)(1) of the Act and Regulation 180.1(a)

V. RELIEF

A. Permanent Injunction

23. Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. IV. 2011), authorizes and directs the Commission to enforce the Act and Regulations and allows United States District Courts, upon a proper showing, to grant a permanent injunction. *See CFTC v. Wilshire Inv. Mgmt. Corp.*, 531 F.3d 1339, 1346 (11th Cir. 2008). In an action for permanent injunctive relief, the Commission is not required to make a specific showing of irreparable injury

or inadequacy of other remedies. See *Fleury*, 2010 WL 5146283, at *18 (citing *CFTC v. Muller*, 570 F.2d 1296, 1300 (5th Cir. 1978); *United States v. Quadro Corp.*, 928 F. Supp. 688, 697 (E.D. Tex. 1996) (citations omitted), *aff'd*, *United States v. Quadro Corp.*, 127 F.3d 34 (5th Cir. 1997); *CFTC v. British Am. Commodity Options Corp.*, 560 F.2d 135, 141-42 (2d Cir. 1977), *cert. denied*, 438 U.S. 905 (1978)). Rather, “the Commission makes the requisite showing for issuance of injunctive relief when it presents a *prima facie* case that the defendant has engaged, or is engaging, in illegal conduct, and that there is a likelihood of future violations.” *Fleury*, 2010 WL 5146283, at *18 (citing *CFTC v. Am. Bd. of Trade, Inc.*, 803 F.2d 1242, 1250-51 (2d Cir. 1986); *CFTC v. Hunt*, 591 F.2d 1211, 1220 (7th Cir. 1979), *cert. denied*, 442 U.S. 921 (1979)). “Whether such a likelihood of future violations exists depends on the ‘totality of the circumstances.’” *Id.* (quoting *SEC v. Mgmt. Dynamics, Inc.*, 515 F.2d 801, 807 (2d Cir. 1975)). Foremost among these circumstances, “is the past illegal conduct of Defendants, from which courts may infer likelihood of future violations.” *Id.* (citing *British Am. Commodity Options Corp.*, 560 F.2d at 142; *Mgmt. Dynamics, Inc.*, 515 F.2d at 807; *SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1322 (11th Cir. 1982)). Under these standards, the Court finds that permanent injunctive relief is warranted against the Defendant.

24. **IT IS THEREFORE ORDERED** that Defendants GPMT and Ghaemi are permanently restrained, enjoined and prohibited from directly or indirectly:

- a. Engaging in conduct in violation of Sections 4(a), 4b(a)(1)(A) and (C), 6(c)(1), and 6c(a) of the Act, as amended, 7 U.S.C. §§ 6(a), 6b(a)(1)(A) and (C), 9, 15, and 13a-1(a) (2006 & Supp. IV 2011), and Commission Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2012);
- b. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(40) of the Act, as amended, 7 U.S.C. § 1a(40) (2006 & Supp. IV. 2011);
- c. Entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Commission Regulation

- 1.3(hh), 17 C.F.R. § 1.3(hh) (2012)) (“commodity options”), swaps (as that term is defined in Section 1a(47) of the Act, 7 U.S.C. § 1a(47) (Supp. IV 2011), and as further defined by Commission Regulation 1.3(xxx), 17 C.F.R. § 1.3(xxx) (2012)) (“swaps”), 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)) (2006 & Supp. IV. 2011)) (“forex contracts”), for their own personal or proprietary accounts or for any account in which he has a direct or indirect interest;
- d. Having any commodity futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts traded on their behalf;
 - e. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts;
 - f. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts;
 - g. 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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012); and
 - h. Acting as a principal (as that term is defined in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent, or any other officer or employee of any person registered, exempted from registration, or required to be registered with the Commission, except as provided for in Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012).

B. Restitution

25. Pursuant to Section 6c(d)(3) of the Act, as amended, 7 U.S.C. § 13a-1(d)(3) (2006 & Supp. IV 2011), enacted as part of the Dodd-Frank Act, “the court may impose, on a proper showing . . . (A) restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses)” In the instant case, Defendants’ customers lost a total of \$736,979. Accordingly, this Court orders Defendants to pay restitution in the amount of \$736,979, plus post-judgment interest (“Restitution Obligation”). Post-judgment interest on the Defendant’s Restitution Obligation shall accrue beginning on the date of entry of this Order and

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

26. To effect payment by Defendants and the distribution of restitution, the Court hereby appoints the National Futures Association as Monitor. The Monitor shall collect restitution payments from Defendants and shall make distributions as set forth below. Because the Monitor would not be specially compensated for these services, and these services are outside the normal duties of the Monitor, the Monitor shall not be liable for any action or inaction arising from its appointment as Monitor, other than actions involving fraud. Defendants shall make their required restitution payments payable in the name of "GPMT – Restitution Fund" and shall send such restitution payments by either 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 a cover letter that identifies the paying Defendant and the name and docket number of this proceeding. The paying Defendant shall simultaneously transmit copies of the cover letter and the form of payment to (a) Director, Division of Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and (b) Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

27. The Monitor shall oversee Defendants' Restitution Obligation and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to the Defendants' customers. 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 to eligible customers 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 below. To the

extent that any funds accrue to the U.S. Treasury as a result of Defendants' Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in the preceding paragraphs.

28. Any amount paid to any customer pursuant to this judgment shall not limit the ability of that customer to independently prove in a separate action that a greater amount is owed from any person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any customer that exist under federal, state, or common law to assert a claim for recovery against Defendants, subject to any offset or credit that Defendants may be entitled to claim under the law governing that customer's claim. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each customer is hereby explicitly made an intended third-party beneficiary of this judgment and may seek to enforce compliance with this judgment to obtain satisfaction of any portion of the restitution amount that has not been paid, to ensure compliance with any provision of this judgment, and to hold Defendants in contempt for any violations of any provision of this judgment.

C. Disgorgement

29. Disgorgement is designed not to compensate investors, but to deprive wrongdoers of the fruit of their illegal conduct. Thus, an order of disgorgement of ill-gotten gains is appropriate where a defendant has profited through wrongdoing. In the instant case, Defendants are ordered to disgorge \$186,860 ("Disgorgement Obligation").

30. Defendants' Disgorgement Obligation payments shall be made in the same manner described in the Civil Monetary Section contained herein.

D. Civil Monetary Penalty

31. Pursuant to Section 6c(d)(1) of the Act, as amended, 7 U.S.C. § 13a-1(d)(1) (2006 & Supp. IV. 2011) and federal regulations adjusting for inflation, a court may impose a

civil penalty against any person, upon a proper showing, found to have violated the Act in the amount of not more than the greater of \$140,000 or triple the monetary gain to the person for each violation.

32. The Commission has set forth several factors to consider in assessing a civil monetary penalty. These factors include: the relationship of the violation at issue to the regulatory purposes of the Act and whether or not the violations involved core provisions of the Act; whether or not scienter was involved; the consequences flowing from the violative conduct; financial benefits to a defendant; and harm to customers or the market. *See Fleury*, 2010 WL 5146283, at *19 (citing *In re Grossfeld*, [1996–1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,921 at 44,467–8 (CFTC Dec. 10, 1996), *aff'd*, 137 F.3d 1300 (11th Cir. 1998)). The civil penalty should be proportional to the gravity of the offenses committed. *See id.*

33. This case warrants the imposition of a substantial civil monetary penalty against Defendants because they knowingly engaged in off-exchange activity and fraud, which are core violations of the Act. *See Grossfeld*, ¶ 26,921 at 44,467 and n.28 (citation omitted). Defendants' conduct was egregious. Defendants deprived customers of exchange protections, knowingly made material misrepresentations to them and misappropriated their funds.

34. Accordingly, this Court orders Defendants to pay a civil monetary penalty in the amount of \$1,260,000, plus post-judgment interest ("CMP Obligation"). Post-judgment interest on this civil monetary penalty shall accrue beginning on the date of entry of this Order and shall be calculated using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961 (2006).

35. Defendants shall pay their CMP Obligation by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order made payable to the U.S. Commodity Futures Trading Commission and sent to the address below:

U.S. Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables—AMZ340
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 transfer is chosen, contact Linda Zurhorst or her successor for instructions. Defendants shall accompany payment of the penalty with a cover letter that identifies Defendants and the name and docket number of this proceeding. Defendants shall simultaneously transmit a copy of the cover letter and the form of payment to the Chief Financial Officer, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

E. Miscellaneous Provisions

36. **Partial Payments:** Any acceptance by the Commission or the Monitor of partial payment of Defendants' Restitution Obligation, Disgorgement Obligation, or CMP Obligation shall not be deemed a waiver of his obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.


37. **Equitable Relief:** The equitable relief provisions of this Order shall be binding upon Defendants and any person who is acting in the capacity of agent, employee, servant, or attorney of Defendants, and any person acting in active concert or participation with Defendants, who receives actual notice of this Order by personal service or otherwise.

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

Notice to Commission: Director
Division of Enforcement
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

39. **Retention of Jurisdiction:** This Court shall retain jurisdiction over this case to assure compliance with this Order and for all other purposes related to this action.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County,
Florida, this 12 day of Aug, 2013.



Honorable Ursula Ungaro
UNITED STATES DISTRICT JUDGE