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Office of Proceedings

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In the Matter of:	*	CFTC Docket No. SD 12-01
RALEIGH CAPITAL MANAGEMENT, INCORPORATED,	*	
Registrant.	*	

INITIAL DECISION ON DEFAULT

Before: Philip V. McGuire,
Judgment Officer

Appearance: Joseph A. Konizeski, Esq.,
CFTC Division of Enforcement
Chicago, Illinois

Background

By motion filed December 28, 2011, the Commission's Division of Enforcement has moved for entry of a default judgment against respondent Raleigh Capital Management, Incorporated ("RCM"), pursuant to Sections 3.60(g) and 10.93 of the Commission's Regulations, 17 C.F.R. §§ 3.60(g) and 10.93 (2011), for RCM's failure to answer or otherwise appear or respond to the *Notice of Intent to Suspend, Revoke, or Restrict the Registration of Raleigh Capital Management, Inc.,* issued by the Commission and filed by the Division on October 25, 2011. Soon after the Division filed the Notice, the Commission's Office of Proceedings

properly served the Notice on the Receiver for RCM[1] and on RCM at its Morocco address.[2] RCM failed to respond to the Notice and thus is in default. RCM also failed to respond to the Division's motion.

As a result of RCM's default, RCM has waived a hearing on all of the issues and is precluded from introducing evidence of mitigation and rehabilitation necessary to overcome the presumption of unfitness for registration. In addition, the allegations in the Notice, as supplemented by the proposed findings and conclusions in the Division's motion, are deemed true and conclusive for purposes of finding that RCM is statutorily disqualified from registration under Sections 8a(2)(C) and (E) of the Commodity Exchange Act ("Act"). Thus, the Division's motion has been granted, RCM has been found to be statutorily disqualified from registration, and RCM's registration has been revoked.

Findings of Fact

1. Raleigh Capital Management, Inc. ("RCM") is an Illinois corporation with its principal place of business in Chicago, Illinois. RCM has been registered with the Commission as a Commodity Pool Operator since July 24, 1986, pursuant to Section 4m of the Commodity Exchange Act, as amended by the Food, Conservation, and Energy Act

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[1] The Receiver is Deborah Thorne, of Barnes & Thornberg.

[2] Pursuant to CFTC rule 3.30(a), 17 C.F.R. § 3.30(a) (2011), the address of each registrant as submitted on its application for registration or as submitted on the biographical supplement shall be deemed to be the address for delivery to the registrant for any communications from the Commission, including any summons, complaint, notice and other written documents or correspondence, unless the registrant specifies another address for this purpose. In this connection, CFTC rule 3.30(b), 17 C.F.R. § 3.30(b) (2011), provides that each registrant, while registered and for two years after the termination of registration, must notify the NFA of any change of address, and that failure to do so may result in an order of default in any Commission or NFA proceedings. Moreover, pursuant to CFTC rule 3.50, 17 C.F.R. § 3.50 (2011), for purposes of an action for the denial, suspension or revocation of registration, service upon a registrant will be sufficient if mailed by registered mail or certified mail return receipt requested properly addressed to the registrant at the address shown on his application or any amendment thereto, and will be complete upon mailing. The Division has attached to its motion an affidavit by Sandra Jung, Deputy Record Custodian for the National Futures Association attesting that RCM's Morocco address remains its current address for purpose of delivery of communications from the Commission or the NFA. *See* Declaration of Sandra Jung, Deputy Record Custodian National Futures Association, Exhibit 1, Division's motion.

of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 131021-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 6m.

2. RCM filed an amendment of its registration as a CPO on August 29, 2008 stating its place of business as 8 Rue Descartes, Rabat -- Les Oranges 10000, Morocco. This address was the address of record shown on RCM's annual renewal filings dated October 15, 2008, and October 8, 2009. This address, which is also the residential address of RCM's owner, Richard H. Hamilton, remains RCM's current address to date.

3. On October 28, 2009, the Commission filed an injunctive action in the U.S. District Court for the Northern District of Illinois against RCM and other individual defendants ("complaint"). *See CFTC v. RCM Investments, Inc.*, Case No. 09-CV-06780 (N.D. Ill. Oct. 28, 2009). The Commission's complaint alleged that RCM, and others, fraudulently misappropriated pool participants' funds and made material false statements to pool participants.

4. On May 12, 2011, the Court entered an *Order of Permanent Injunction and Other Equitable Relief* ("Order") against RCM and other individual defendants. The Order contains findings of fact and conclusions of law that, among other violations, RCM fraudulently misappropriated pool participants funds and made materially false statements to pool participants in violation of Section 4b(a)(2)(i), (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i), (iii) (2006), for conduct before June 18, 2008, and Section 4b(a)(l)(A), (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(l)(A), (C), for conduct on or after June 18, 2009.

5. Based on these fraud findings, the Order permanently enjoins RCM from directly or indirectly engaging in conduct that violates Section 4b(a)(l)(A), (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(l)(A), (C).

Conclusions

Pursuant to Section 8a(2)(C) of the Act, as amended by the CRA and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"), 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), to be codified at 7 U.S.C. § 12a(2)(C), the Commission may suspend, restrict or revoke the registration of any person "if such person is permanently ... enjoined by order ... of any court of competent jurisdiction ... from ... engaging in or continuing any activity where such activity involves ... fraud ... or any transaction in or advice concerning contracts of sale of a commodity for future delivery, [or] concerning matters subject to Commission regulation under section 4c [of the Act] ...."

Furthermore, under Section 8a(2)(E) of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C, § 12a(2)(E), the Commission may revoke the registration of any person "if such person ... has been found in a proceeding brought by the Commission ... to have violated any provision of [the] Act... or ... regulation [thereunder]... where such violation involves ... fraud ...."

The United States District Court for the Northern District of Illinois is a court of competent jurisdiction and has enjoined Raleigh Capital Management, Incorporated from engaging in or continuing any activity where such activity involves fraud.

The *Order of Permanent Injunction and Other Equitable Relief* entered by the United States District Court for the Northern District of Illinois finds that Raleigh Capital Management, Incorporated engaged in fraud in violation of Section 4b(a)(2)(i), (iii) of the Act, 7 U.S.C. §6b(a)(2)(i), (iii) (2006), for conduct before June 18, 2008, and Section 4b(a)(l)(A), (C) of the

Act, as amended by the CRA, to be codified at 7 U.S.C, § 6b(a)(l)(A), (C), for conduct on or after June 18, 2009.

The *Order of Permanent Injunction and Other Equitable Relief* entered by the United States District Court for the Northern District of Illinois constitutes a valid basis for finding that Raleigh Capital Management, Incorporated is statutorily disqualified from registration under Sections 8a(2)(C) and (E) of the Act.

Because Raleigh Capital Management, Incorporated is statutorily disqualified from registration under Sections 8a(2)(C) and (E) of the Act, Raleigh Capital Management, Incorporated is unfit for registration. Accordingly, the Division's motion for entry of a default judgment is hereby GRANTED, and the registration of Raleigh Capital Management, Incorporated is hereby REVOKED.

Dated February 14, 2012.

Philip V. McGuire,
Judgment Officer