

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Civil Action No., 08-cv-1932 (JBS)

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COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

v.

ROBERT J. SUCARATO d/b/a New York Financial Co.,

Defendant.

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**ORDER OF DEFAULT JUDGMENT WITH  
PERMANENT INJUNCTIVE RELIEF, RESTITUTION, CIVIL  
MONETARY PENALTY AND OTHER ANCILLARY EQUITABLE RELIEF AGAINST  
DEFENDANT ROBERT J. SUCARATO d/b/a NEW YORK FINANCIAL COMPANY**

On April 22, 2008, the Commodity Futures Trading Commission ("Commission" or "Plaintiff") filed a Complaint charging defendant Robert J. Sucarato d/b/a New York Financial Company ("Defendant" or "Sucarato") with violating Sections 4b(a)(2)(i)-(iii), 4c(b), 4m(1) and 4o(I) of the Commodity Exchange Act ("Act"), as amended, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6c(b), 6m(1) and 6o(1) (2006), and Commission Regulations ("Regulations") 4.20(a)(1) and (b), 4.21 and 33.10(a)-(c), 17 C.F.R. §§ 4.20(a)(1) and (b), 4.21 and 33.10 (a)-(c) (2008).

On April 22, 2008, Defendant was properly served with the Complaint pursuant to Rule 4(e)(2) of the Federal Rules of Civil Procedure ("Fed R. Civ. P.")

On April 22, 2008, the Court entered a Statutory Restraining Order against Defendant that, among other things, authorized the freezing of assets held in the name of or under the control or management of the Defendant.

On May 8, 2008, the Court entered a Consent Order of Preliminary Injunction and Other Equitable Relief enjoining Defendant from, among other things, further violations of the Act and Regulations, as charged in the Complaint.

Sucarato has failed to appear or answer the Complaint within the time permitted by Fed. R. Civ. P. 12(a)(1). Accordingly, on May 20, 2008, the Clerk of this Court entered a default against Sucarato.

The Court has carefully considered the Complaint, the allegations of which are well-pleaded and hereby taken as true, the Declaration of Commission Futures Investigator Kara L. Mucha and other written submissions of the Commission filed with the Court, and being fully advised, hereby enters findings of fact, conclusions of law, a permanent injunction, restitution, a civil monetary penalty and ancillary equitable relief pursuant to Sections 6c and 6d of the Act, 7 U.S.C. § 13a-1 (2006), as set forth herein.

## **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **A. FINDINGS OF FACT**

1. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et seq.* (2006), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2008).

2. Defendant **Robert J. Sucarato d/b/a New York Financial Company** resides in Cortland Manor, NY. He was engaged in the business of soliciting individuals to participate in commodity pools and other managed accounts to trade commodity futures and options. Sucarato accepted funds from prospective pool participants to trade on their behalf in the commodity futures and options markets. Sucarato has never been registered with the Commission in any

capacity.

3. Sucarato is the founder, owner and president of New York Financial Company (“NYFC”), and the person responsible for NYFC’s purported day-to-day operations. Beginning in approximately September 2004 and continuing through at least April 2008 (“relevant period”), Sucarato doing business as NYFC fraudulently solicited and accepted \$1,259,700.55 from four individuals for the purpose of investing in his hedge funds, the NYFC Strategic Fund and the NYFC Diversified Strategic Fund (the “NYFC Funds”), which traded in, among other things, commodity futures and options.

4. Through a website, [www.nyfc.net](http://www.nyfc.net), Sucarato claimed NYFC was a “capital management and financial consulting firm” located in New York City with an office also in Chicago, Illinois. Through the website and the Confidential Amended and Restated Offering Memorandum of the Funds (the “Offering Memorandum”) Sucarato provided prospective participants, Sucarato held himself out as founder, owner and president of NYFC, as well as the manager of and advisor to the NYFC Funds. Sucarato further identified himself as the primary person responsible for the day-to-day operations of NYFC.

5. According to the website, the NYFC Funds “each continually experience[d] strong performance annually,” and “the combined assets under management [were] in excess of \$7.2 billion.” The website further stated that “both funds invest in a number of investment vehicles including . . . commodities and currencies . . . and use(s) options for both hedging and speculation purposes.”

6. The NYFC website created the impression of financial stability, longevity and expertise. The website boasted that NYFC “base[ed] its premise on solid research and analysis with two goals in mind—invest carefully and be profitable;” that it employs “over twenty

experienced traders and additional support staff;” that “[a]ll NYFC’s traders have proven track records;” ...and that “[t]he majority of NYFC’s traders had previously traded for the major brokerage firms and/or other hedge funds before being ‘handpicked’ by management to join the NYFC team.” The website also touted Sucarato’s supposed trading experience and expertise, including claiming he is on the “advisory board of *BusinessWeek* magazine.”

7. Sucarato personally solicited individuals to invest in the NYFC Funds. As part of his solicitation, Sucarato provided the Offering Memorandum, a powerpoint slide presentation and an independent audit report purportedly from a nationally-known accounting firm.

8. Consistent with the website, the Offering Memorandum identified NYFC as the Manager, Investment Advisor and Trustee of the NYFC Funds with its principal address in New York City. The Offering Memorandum also specified that the NYFC Funds may invest in a variety of instruments, including commodity futures and options.

9. Contrary to the impression created by Sucarato through the website, Offering Memorandum and his solicitations, NYFC was not a well-established, successful New York investment firm staffed with experienced traders.

10. NYFC’s New York and Chicago offices were “virtual” offices providing Sucarato with a mailing address, telephone services and a conference room or merely a cubicle.

11. The Offering Memorandum stated that NYFC was a registered “investment advisor and portfolio manager.” Neither NYFC nor Sucarato was registered with the Securities and Exchange Commission, or anywhere as an investment advisor, investment adviser or portfolio manager. Neither NYFC nor Sucarato was registered with the CFTC in any capacity. To the contrary, in 1997, Sucarato was subject to a disciplinary hearing by the National Association Of Securities Dealers (“NASD”), fined \$20,000 and barred from associating with

any NASD (Financial Industry Regulatory Authority) member in any capacity. Sucarato did not disclose the NASD action, the fine and his disbarment in his solicitations of prospective pool participants.

12. The Offering Memorandum identified four individuals, including Sucarato, as the directors and officers of NYFC, and provided biographies detailing their education and investment experience.

13. Sucarato's biography claimed, amongst other things, that he "holds a B.S. in finance and economics, *magna cum laude*, from New York University." Sucarato did not attend New York University. Amongst other claims, Sucarato reiterated his website claim that he was on the advisory board of *BusinessWeek* magazine. That board is an on-line research panel made up of subscribers from the print and online versions of *BusinessWeek* and anyone can join.

14. Except for Sucarato, none of the individuals identified in the Offering Memorandum was affiliated with NYFC. Instead, Sucarato used their names and created embellished biographies that detailed their prior experience at established investment firms.

15. In his personal solicitations, Sucarato provided the purported track record of the NYFC Strategic Fund for the years 1996 through 2005. In a chart, Sucarato showed that the NYFC Strategic Fund's total net return percentage ranged from a low of 26.5% to a high of 48.2% over the years and outperformed the S&P 500 each year. For example, in 2001, Sucarato claimed a total net return of 29.6% for the Strategic Fund whereas the S&P 500 suffered a negative total return of 13%. He further claimed a 10-year compounded return of over 1,800% for the NYFC Strategic Fund versus a return of 102.7% for the S&P 500.

16. Sucarato also provided to potential participants a purported Report of Independent Auditors from a major accounting firm. The report, dated March 24, 2006, claimed to be a

legitimate audit of NYFC's financial position for the years 2004 and 2005, including a detailed assessment of NYFC's assets, liabilities and equity. According to this purported audit, NYFC had a net worth of approximately \$798 million as of December 31, 2005.

17. The audit report is fictitious. The accounting firm never performed an audit of NYFC.

18. Sucarato knowingly or recklessly made the material misrepresentations and omissions set forth above in soliciting prospective pool participants.

19. Individuals relied on Sucarato's false solicitations, including his oral solicitations, the NYFC website, the Offering Memorandum, the ten year track record of positive returns, and the audit report of NYFC's financial position, in making their decision to invest in the NYFC Funds.

20. At least four individuals invested approximately \$1.2 million with Sucarato. The pool participants wired funds into bank accounts held in the name of NYFC for the purpose of investing in the NYFC Funds.

21. Sucarato did not provide prospective pool participants with a Disclosure Document prepared in accordance with Regulations 4.24 and 4.25, 17 C.F.R. §§ 4.24 and 4.25. Further, Sucarato received funds from prospective pool participants without first receiving signed and dated acknowledgements from them that they had received a Disclosure Document for the NYFC Strategic Fund and/or the NYFC Diversified Strategic Fund.

22. Throughout the relevant period, Sucarato provided some pool participants with quarterly account statements that falsely reported that NYFC was profitably trading commodity futures and options in the name of the NYFC Funds. The false statements also reflected that the participants' investments were increasing in value.

23. In early 2007, Sucarato provided at least two pool participants with an electronic report entitled NYFC Strategic Fund Performance Report for the Period Ending December 31, 2006 (“Quarterly December 2006 Report”). In his “editorial” from the manager, Sucarato claimed that the NYFC Strategic Fund was up 13.1% in the last quarter of 2006, and that the fund outperformed the Dow Jones Industrial Average, the S&P 500 index, and the NASDAQ Composite Index. For the year, he represents that the NYFC Strategic Fund increased in value by 55.03%.

24. Sucarato included in his Quarterly December 2006 Report specific trades he purportedly executed on behalf of the NYFC Strategic Fund, including approximately 60 “futures, futures options, and spot trades.” He reported realized gains from his alleged futures, options, and spot trading that exceed \$134 million.

25. During the relevant period, Sucarato did not open or maintain any commodity futures or options accounts in the name of the NYFC Funds or NYFC at any of the Futures Commission Merchants (“FCM[s]”) registered with the Commission. Sucarato instead opened two accounts in his individual name at two FCMs, and represented to the FCMs in his account opening documents that he was trading with personal funds. Sucarato deposited approximately \$850,000 into those personal trading accounts.

26. During the relevant period, contrary to his claims to pool participants, Sucarato consistently experienced net losses trading commodity futures and options, which totaled approximately \$725,000.

27. Sucarato did not enter into the specific commodity futures or options trades he listed in his Quarterly December 2006 Report. Moreover, contrary to his claims of significant gains, his commodity futures and options trading from September 2006 to December 2006

amounted to a net loss of \$384,219.53.

28. Quarterly reports provided to pool participants also showed the pool participants' individual investments increasing in value. For example, two pool participants received a quarterly report showing that their initial \$450,000 investment, made in February 2006, was worth over \$676,000. Another pool participant's account statement showed his initial investment of \$600,000 in October 2006 being worth over \$673,000 as of December 31, 2006.

29. Commencing in April 2007 and continuing to the present, at least two pool participants have made demands for all of their funds invested with Sucarato. After several delays and excuses by Sucarato, the checks that were ultimately issued to the pool participants bounced, and no funds have actually been returned.

## **B. CONCLUSIONS OF LAW**

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such 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 thereunder.

2. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), in that Defendant transacts business in this District, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur, within this District, among other places.

3. Defendant violated Sections 4b(a)(2)(i) and (iii), and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), and 6o(1) (2006), by fraudulently soliciting prospective and existing pool participants to participate in commodity futures pools.

4. Defendant violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.10(a) and (c), 17 C.F.R. §§ 33.10(a) and (c) (2006), by fraudulently soliciting prospective and existing pool participants to participate in commodity options pools.

5. By willfully making or causing to be made to other persons false reports and statements concealing commodity futures trading losses, Defendant violated Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii) (2006).

6. By willfully making or causing to be made to other persons false reports and statements concealing commodity options trading losses, Defendant violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2006), and Regulation 33.10(b), 17 C.F.R. § 33.10(b) (2008).

7. Each act of fraudulent solicitation and false statements by Defendant constitutes a separate and distinct violation of the Act and Regulations.

8. In soliciting, accepting or receiving funds from individuals on behalf of the purported pool and engaging in a business that is of the nature of an investment trust, syndicate or similar form of enterprise for the purpose of trading commodity futures, Sucarato was acting as a commodity pool operator ("CPO", as defined by Section 1a(5) of the Act, 7 U.S.C. § 1a(5) (2006).

9. Defendant violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006), by using the mails or means or instrumentality of interstate commerce in connection with its business as a CPO without being registered as a CPO as required.

10. Defendant, as a CPO, violated Regulations 4.20(a)(1) and (b), and 4.21, 17 C.F.R. §§ 4.20(a)(1) and (b), and 4.21 (2008), by: failing to operate the commodity pools (the NYFC Funds) as separate legal entities; failing to accept funds from pool participants other than in the names of the respective commodity pool; failing to provide appropriate Disclosure Documents

and Account Statements to pool participants; and receiving funds from pool participants prior to receiving signed acknowledgements that the pool participants had received a Disclosure Document for the respective commodity pool.

11. Section 6c(d)(1) of the Act, 7 U.S.C. § 13a-1 (2006), and Regulation 143.8, 17 C.F.R. § 143.8 (2008), further provide, in relevant part, that the Commission may seek, and a district court of the United States shall have jurisdiction to impose, a civil monetary penalty in the amount of not more than the greater of i) triple the monetary gain to the person for each violation, or ii) \$110,000 for violations committed between November 27, 1996 and October 22, 2000, \$120,000 for violations committed between October 23, 2000 and October 22, 2004, or \$130,000 for violations committed on or after October 23, 2004.

## **II. ORDER FOR RELIEF**

### **A. PERMANENT INJUNCTION**

**IT IS HEREBY ORDERED** that:

1. The Defendant shall be 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 in interstate commerce or for future delivery, made, or to be made for or on behalf of any other person;
  - b. willfully making or causing to be made to such other person any false report or statement thereof or willfully entering or causing to be entered for others any false record thereof; or
  - c. willfully deceiving or attempting to deceive any other persons by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such persons

in violation of Sections 4b(a)(1)(A)-(C) and/or 4b(a)(2)(A)-(C) of the 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), §13102, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C).

2. The Defendant shall be permanently restrained, enjoined and prohibited from directly or indirectly:

- a. offering to enter into, entering into, or confirming the execution of any option contrary to any rule, regulation, or order by the Commission prohibiting any such transaction, in violation of Section 4c(b) of the Act and Regulations 33.10(a)-(c);
- b. while acting as a CPO, employing a device, scheme or artifice to defraud pool participants or prospective pool participants, in violation of Section 4o(1)(A) of the Act;
- c. while acting as a CPO, engaging in a transaction, practice or course of business that operates as a fraud or deceit upon any client or pool participant, or any prospective client or pool participant, in violation of Section 4o(1)(B) of the Act;
- d. using the mails or instrumentalities of interstate commerce in or in connection with the business of a CPO while failing to register as a CPO, in violation of Section 4m(1) of the Act;
- e. while registered or required to be registered as a CPO, (a) accepting from an existing or prospective pool participant pool funds other than in the name of the pool and/or (b) failing to treat the pool as a separate entity in violation of Regulations 4.20(a) and (b); and
- f. while registered or required to be registered as a CPO (a) failing to furnish to a prospective pool participant a Disclosure Document prepared in accordance with Regulations 4.24 and 4.25 for the pool by no later than the time he delivers to the prospective participant a subscription agreement for the pool, and/or (b) failing to receive from a pool participant, prior to accepting or receiving funds from such participant, an acknowledgement signed and dated by the participant stating that the prospective participant received a Disclosure Document for the pool, in violation of Regulation 4.21;

3. Defendant is permanently restrained, enjoined and prohibited from engaging, directly or indirectly, in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (“commodity interest”), including, but not limited to, the following:

- a. Soliciting, receiving, or accepting any funds from any person in connection with the purchase or sale of any commodity interest;
- b. Controlling or directing the trading of any commodity interest account for or on behalf of any person or entity, directly or indirectly, whether by power of attorney or otherwise;
- c. 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, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent, officer or employee of any person registered, exempted from registration or required to be registered with the Commission, unless such exemption is pursuant to Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9);
- d. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006);
- e. Entering into any commodity interest transactions for his own personal account, for any account in which he has a direct or indirect interest and/or having any commodity interests traded on his behalf; and
- f. Engaging in any business activities related to commodity interest trading.

4. The injunctive and other provisions of this Order shall be binding on Defendant, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Defendant, and upon any person who receives actual notice of this Order by personal service or otherwise insofar as such person is acting in active concert or participation with Defendant.

**B. RESTITUTION**

**IT IS FURTHER ORDERED** that:

1. Sucarato shall pay restitution in the amount of \$800,000, plus post-judgment interest (“Restitution Obligation”).

2. Post-judgment interest on the Restitution Obligation shall accrue commencing 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.

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

4. Sucarato shall make its required restitution payments under this Order in the name of “Sucarato Settlement Fund” and shall send such restitution 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 a cover letter that identifies Sucarato and the name and docket number of the proceeding. Sucarato 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 21<sup>st</sup> Street, NW, Washington, D.C. 20581, and (b) Chief, Office of Cooperative Enforcement, at the same address.

5. The Monitor shall oversee Sucarato’s Restitution Obligation, and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to participants or may defer distribution until such time as it 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 the making a restitution distribution to participants 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 as set forth in Section II.C, below.

6. Sucarato shall execute any documents necessary to release funds that it has in any repository, bank, investment or other financial institution wherever located, in order to make partial or total payment toward the Restitution Obligation.

7. 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 5 of this Section.

8. Pursuant to Fed. R. Civ. P. 71, pool participants are explicitly made intended third-party beneficiaries of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the restitution which has not been paid by Sucarato.

### **C. CIVIL MONETARY PENALTIES**

#### **IT IS FURTHER ORDERED that:**

1. Sucarato shall pay a civil monetary penalty in the amount of \$1,200,000, plus post judgment interest (the "CMP Obligation").

2. Post-judgment interest on the CMP 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.

3. Sucarato shall pay its 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 by other than electronic funds transfer, Sucarato shall make the payment payable to the Commodity Futures Trading Commission and send to the following address:

Commodity Futures Trading Commission  
Division of Enforcement  
Attention: Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169  
Telephone: 405-954-6569

4. If the payment is to be made by electronic funds transfer, Sucarato shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Sucarato shall accompany the payment of the penalty with a cover letter that identifies the paying Defendant and the name and docket number of this proceeding. Sucarato 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 21<sup>st</sup> Street, NW, Washington, D.C. 20581, and (b) the Chief, Office of Cooperative Enforcement, at the same address.

**D. PRIORITY OF MONETARY PENALTIES AND PARTIAL PAYMENTS**

1. All payments by Sucarato pursuant to this Order shall first be applied to satisfaction of the Restitution Obligation, consistent with the authority granted the Monitor above. After satisfaction of the Restitution Obligation, payments by Sucarato pursuant to this Order shall be applied to satisfy Sucarato's CMP Obligation.

2. Any acceptance by the Commission and/or Monitor of partial payment from Sucarato of its Restitution Obligation and/or CMP Obligation shall not be deemed a waiver of Sucarato's obligations 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 Sucarato of any remaining balance.

**E. MISCELLANEOUS PROVISIONS**

**IT IS FURTHER ORDERED THAT:**

1. Prohibition on Transfer of Funds: Sucarato shall not transfer or cause others to transfer funds or other property to the custody, possession or control of any other person for the purpose of concealing such funds or property from the Court, the Plaintiff or any officer that may be appointed by the Court.

2. Partial Lifting of Freeze: Notwithstanding any order entered in this proceeding freezing Sucarato's assets and/or prohibiting Sucarato's transfer of funds or other property, such assets, funds, or property may be used to satisfy Sucarato's Restitution Obligation and CMP Obligation as set forth above.

3. Lifting of Freeze: Upon full satisfaction by Sucarato of his Restitution Obligation and CMP Obligation as set forth above, any order entered in this proceeding freezing Sucarato's assets and/or prohibiting Sucarato's transfer of funds or other property shall be lifted.

4. 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: Katherine S. Driscoll  
Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581

All such notices to the Commission shall reference the name and docket number of this proceeding.

5. Invalidation: If any provision of this Order or the application of any provision or circumstance is held invalid, the remainder of this Order, and the application of the provision to any other person or circumstance, shall not be affected by the holding.

6. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this case to assure compliance with this Order and for all other purposes related to this action.

SO ORDERED, at Camden, New Jersey on this 23<sup>rd</sup> day of November, 2009.

  
United States District Judge