

1 SUSAN B. PADOVE (ILBN 3127019)
2 ELIZABETH M. STREIT (ILBN 6188119)
3 Commodity Futures Trading Commission
4 77 W. Jackson Blvd., Suite 800
5 Chicago, Illinois 60604
6 Tel. 312-596-0700; Fax 312-596-0714
7 spadove@cftc.gov
8 estreit@cftc.gov

9 Attorneys for Plaintiff, Commodity Futures Trading Commission in
10 *COMMODITY FUTURES TRADING COMMISSION v. WILLIAM KOO*
11 *ICHIOKA*, Case No. 3:23-cv-03095

12 GARY S. LINCENBERG (123058)
13 SOPHIE M. KOSMACHER (350325)
14 Bird, Marella, Rhow, Lincenberg, Drooks & Nessim, LLP
15 1875 Century Park East, 23rd Floor
16 Los Angeles, California 90067-2561
17 (310) 201-2100 (Office)
18 (310) 201-2110 (fax)
19 glincenberg@birdmarella.com
20 skosmacher@birdmarella.com

21 Attorney for Defendant, William Koo Ichioka in *COMMODITY FUTURES*
22 *TRADING COMMISSION v. WILLIAM KOO ICHIOKA*, Case No. 3:23-cv-
23 0309

24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT CALIFORNIA**

26 COMMODITY FUTURES TRADING
27 COMMISSION,
28 Plaintiff,
vs.
WILLIAM KOO ICHIOKA,
Defendant.

**SUPPLEMENTAL CONSENT
ORDER ASSESSING
RESTITUTION AND A CIVIL
MONETARY PENALTY AGAINST
DEFENDANT WILLIAM KOO
ICHIOKA**

Hon. Vince Chhabria
Case No. 3:23-cv-03095-VC

I. BACKGROUND

1
2 On June 22, 2023, Plaintiff Commodity Futures Trading Commission (the
3 “Commission” or “CFTC”) filed a complaint against Defendant William Koo
4 Ichioka (“Ichioka” or “Defendant”) seeking injunctive and other equitable relief, as
5 well as the imposition of monetary penalties, for violations of the Commodity
6 Exchange Act (“Act”), 7 U.S.C. §§ 1-26, namely, Sections 2(c)(2)(C)(iii)(I)(cc),
7 4b(a)(2)(A) and (C), 4m(1), 4o(a)(A) and (B), and 6(c)(1) of the Act, 7 U.S.C.
8 §§ 2(c)(2)(C)(iii)(I)(cc), 6b(a)(2)(A), (C), 6m(1), 6o(a)(A), (B), 9(1), and CFTC
9 Regulations (“Regulations”) 4.20(c), 5.2(b), and 5.3(a)(2)(i) and 180.1(a)(1)-(3),
10 17 C.F.R. §§ 4.20(c), 5.2(b), 5.3(a)(2)(i), 180.1(a)(1)-(3) (2023). The Court
11 approved the entry of a Consent Order for Permanent Injunction and Other
12 Equitable Relief Against Defendant William Koo Ichioka on August 14, 2023
13 (“Consent Order”), ECF No. 21.

II. CONSENTS AND AGREEMENTS

14
15 To resolve the remaining issues of the amount of restitution (as provided in
16 the Consent Order), without any further judicial proceedings, Defendant Ichioka:

- 17 1. Consents to the entry of this Supplemental Consent Order Assessing
18 Restitution Against Defendant Ichioka (“Supplemental Consent Order”);
- 19 2. Affirms that he has read and agreed to this Supplemental Consent
20 Order voluntarily, and that no promise, other than as specifically contained herein,
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1 or threat, has been made by the CFTC or any member, officer, agent or
2 representative thereof, or by any other person, to induce consent to this
3 Supplemental Consent Order;

4
5 3. Acknowledges service of the summons and Complaint;

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

8
9 5. Admits the jurisdiction of the CFTC over the conduct and transactions
10 at issue in this action pursuant to 7 U.S.C. § 13a-1;

11 6. Admits that venue properly lies with this Court pursuant to 7 U.S.C.
12 § 13a-1(e);

13 7. Waives:

14
15 (a) Any and all claims that he may possess under the Equal Access
16 to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the
17 rules promulgated by the Commission in conformity therewith,
18 Part 148 of the Regulations, 17 C.F.R. pt. 148 (2023), relating to,
19 or arising from, this action;

20 (b) Any and all claims that he may possess under the Small Business
21 Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-
22 121, tit. II, §§ 201-53, 110 Stat. 847, 857-74, (codified as
23 amended at 28 U.S.C. § 2412 and in scattered sections of
24 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this action;

25 (c) Any claim of Double Jeopardy based upon the institution of this
26 action or the entry in this action of any order imposing a civil
27 monetary penalty or any other relief, including this Supplemental
28 Consent Order; and

(d) Any and all rights of appeal from this action;

1 8. Acknowledges that the Commission is the prevailing party in this
2 action for purposes of the waiver of any and all rights under the Equal Access to
3 Justice Act specified in subpart (a) of paragraph 7 above.
4

5 9. Consents to the continued jurisdiction of this Court over him for the
6 purpose of implementing and enforcing the terms and conditions of the Consent
7 Order and this Supplemental Consent Order and for any other purpose relevant to
8 this action, even if the Defendant now or in the future resides outside the jurisdiction
9 of this Court;
10

11 10. Agrees that he will not oppose enforcement of this Supplemental
12 Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of
13 the Federal Rules of Civil Procedure and hereby waives any objection based
14 thereon;
15

16 11. Admits to all the findings made in this Supplemental Consent Order
17 and all of the allegations in the Complaint; and
18

19 12. Agrees that no provision of this Supplemental Consent Order shall in
20 any way limit or impair the ability of any other person or entity to seek any legal or
21 equitable remedy against Defendant in any other proceeding. The Court, being fully
22 advised in the premises, finds there is good cause for entry of this Supplemental
23 Consent Order and that there is no just reason for delay. The Court therefore directs
24 the entry of ancillary equitable relief pursuant to 7 U.S.C. § 13a-1, as set forth
25 herein.
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III. FINDINGS AND CONCLUSIONS

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2 13. The Findings of Fact and Conclusions of Law contained in the Consent
3
4 Order are incorporated herein by reference and given preclusive effect as provided
5 in this Supplemental Consent Order.

6
7 **IV. RESTITUTION**

8 IT IS HEREBY ORDERED that Defendant Ichioka shall comply fully with
9 the following terms, conditions, and obligations relating to the payment of
10 restitution:
11

12 14. Defendant Ichioka shall pay restitution in the total amount of
13 \$31,330,715.86 (Thirty-one million three-hundred and thirty seven-hundred and
14 fifteen dollars and eighty-six cents) (“Restitution Obligation”), which includes pre-
15 judgment interest of \$336,306.89 (Three-hundred and thirty-six thousand three
16 hundred and six dollars and eighty-nine cents), to persons identified in the
17 Restitution Spreadsheet in the criminal case *United States v. William Koo Ichioka*,
18 No. 3:23-cr-00190-VC (N.D. Cal., July 1, 2024), ECF No. 118-1. (“Criminal
19 Action”), provided that, for amounts disbursed to Defendant’s participants as a
20 result of satisfaction of the restitution ordered in the Criminal Action, the Defendant
21 shall receive a dollar-for-dollar credit against the Restitution Obligation. If the
22 Restitution Obligation is not paid immediately in full, post-judgment interest shall
23 accrue on the unpaid portion of the Restitution Obligation beginning on the date of
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1 entry of this Consent Order and shall be determined by using the Treasury Bill rate
2 prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.
3 Within ten days of restitution disbursement in the Criminal Action to the Clerk of
4 the U.S. District Court, Attention: Finance Unit in the Criminal Action, Defendant
5 shall, under a cover letter that identifies the name and docket number of this
6 proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading
7 Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C.
8 20581, copies of the form of payment to the Clerk of the U.S. District Court,
9 Attention: Finance Unit in the Criminal Action.
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13 15. The amounts payable to each participant shall not limit the ability of
14 any participant from proving that a greater amount is owed from Defendant Ichioka
15 or any other person or entity, and nothing herein shall be construed in any way to
16 limit or abridge the rights of any participant that exist under state or common law.
17

18 16. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each
19 participant of Defendant Ichioka who suffered a loss is explicitly made an intended
20 third-party beneficiary of the Consent Order and Supplemental Consent Order and
21 may seek to enforce obedience of the Consent Order and Supplemental Consent
22 Order to obtain satisfaction of any portion of the restitution that has not been paid by
23 Defendant Ichioka to ensure continued compliance with any provision of the
24 Consent Order and Supplemental Consent Order and to hold Ichioka in contempt for
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1 any violations of any provision of this Consent Order and Supplemental Consent
2 Order.

3 17. Partial Satisfaction: Any acceptance by the CFTC of any partial
4 payment of Ichioka's Restitution Obligation shall not be deemed a waiver of his
5 obligation to make further payments pursuant to this Consent Order, or a waiver of
6 the CFTC's right to seek to compel payment of any remaining balance.
7

8
9 **V. CIVIL MONETARY PENALTY**

10 18. Ichioka shall pay a civil monetary penalty in the amount of Five
11 Million Dollars (\$5,000,000) ("CMP Obligation"). If the CMP obligation is not
12 paid in full immediately, post-judgment interest shall accrue on the unpaid portion
13 of the CMP Obligation beginning on the date of entry of this Consent Order and
14 shall be determined by using the Treasury Bill rate prevailing on the date of entry of
15 this Consent Order pursuant to 28 U.S.C. § 1961. For amounts paid by Ichioka for
16 the Criminal Monetary Penalty of \$5,000,000 ordered in the Criminal Action, the
17 Defendant shall receive a dollar-for-dollar credit against the CMP Obligation.
18

19
20 19. Ichioka shall pay his CMP Obligation and any post-judgment interest
21 by electronic funds transfer, U.S. postal money order, certified check, bank cashier's
22 check, or bank money order. If payment is to be made other than by electronic
23 funds transfer, then the payment shall be made payable to the Commodity Futures
24 Trading Commission and sent to the address below:
25
26

27 MMAC/ESC/AMK326
28

1 Commodity Futures Trading Commission
2 6500 S. MacArthur Blvd.
3 HQ Room 266
4 Oklahoma City, OK 73169
5 9-amz-ar-cftc@faa.gov

6 If payment by electronic funds transfer is chosen, Ichioka shall contact the Federal
7 Aviation Administration at the above email address to receive payment instructions
8 and shall fully comply with those instructions. Ichioka shall accompany payment of
9 the CMP Obligation to the Commodity Futures Trading Commission or payments of
10 his Criminal Monetary Penalty with a cover letter that identifies Ichioka and the
11 name and docket number of this proceeding. Ichioka shall simultaneously transmit
12 copies of the cover letter and the form of payment to the Chief Financial Officer,
13 Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street,
14 NW, Washington, D.C. 20581.

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17 **VI. MISCELLANEOUS PROVISIONS**

18 20. Until such time as Ichioka satisfies in full his Restitution and CMP
19 Obligations under this Supplemental Consent Order, upon the commencement by or
20 against Ichioka of insolvency, receivership or bankruptcy proceedings or any other
21 proceedings for the settlement of Ichioka's debts, all notices to creditors required to
22 be furnished to the Commission under Title 11 of the United States Code or other
23 applicable law with respect to such insolvency, receivership bankruptcy or other
24 proceedings, shall be sent to the address below:
25
26

27 Secretary of the Commission
28

1 Office of the General Counsel
2 Commodity Futures Trading Commission
3 Three Lafayette Centre
4 1155 21st Street N.W.
5 Washington, DC 20581

6 21. Notice: All notices required to be given by any provision in this
7 Supplemental Consent Order shall be sent certified mail, return receipt requested, as
8 follows:

9 Notice to CFTC:

10 Robert T. Howell
11 Deputy Director
12 Commodity Futures Trading Commission
13 Division of Enforcement
14 77 W. Jackson Blvd., Suite 800
15 Chicago, IL 60604

16 Notice to Ichioka:

17 William Koo Ichioka
18 c/o Sophie M. Kosmacher
19 and Gary Lincenberg
20 Bird, Marella, Rhow, Lincenberg, Drooks & Nessim, LLP
21 1875 Century Park East, 23rd Floor
22 Los Angeles, California 90067-2561

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

25 22. Change of Address/Phone: Until such time as Defendant satisfies in
26 full his Restitution Obligation as set forth in this Supplemental Consent Order,
27 Defendant shall provide written notice to the Commission by certified mail of any
28 change to his telephone number and mailing address within ten calendar days of the
change.

1 23. Entire Agreement and Amendments: This Supplemental Consent
2 Order incorporates all of the terms and conditions of the settlement among the
3 parties hereto to date. Nothing shall serve to amend or modify this Supplemental
4 Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed
5 by all parties hereto; and (c) approved by order of this Court.
6

7 24. Invalidation: If any provision of this Supplemental Consent Order or if
8 the application of any provision or circumstance is held invalid, then the remainder
9 of this Supplemental Consent Order and the application of the provision to any other
10 person or circumstance shall not be affected by the holding.
11

12 25. Waiver: The failure of any party to this Supplemental Consent Order
13 or of any participant at any time to require performance of any provision of this
14 Supplemental Consent Order shall in no manner affect the right of the party or
15 participant at a later time to enforce the same or any other provision of this
16 Supplemental Consent Order. No waiver in one or more instances of the breach of
17 any provision contained in this Supplemental Consent Order shall be deemed to be
18 or construed as a further or continuing waiver of such breach or waiver of the breach
19 of any other provision of this Supplemental Consent Order.
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22 26. Continuing Jurisdiction of this Court: This Court shall retain
23 jurisdiction of this action to ensure compliance with this Supplemental Consent
24 Order and for all other purposes related to this action, including any motion by
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1 Defendant to modify or for relief from the terms of this Supplemental Consent
2 Order.

3 27. Injunctive and Equitable Relief Provisions: The injunctive and
4 equitable relief provisions of this Consent Order shall be binding upon the following
5 persons who receive actual notice of this Supplemental Consent Order, by personal
6 service or otherwise: (1) Defendant; (2) any officer, agent, servant, employee, or
7 attorney of the Defendant; and (3) any other persons who are in active concert or
8 participation with any persons described in subsections (1) and (2) above.
9

10 28. Counterparts and Facsimile Execution: This Supplemental Consent
11 Order may be executed in two or more counterparts, all of which shall be considered
12 one and the same agreement and shall become effective when one or more
13 counterparts have been signed by each of the parties hereto and delivered (by
14 facsimile, e-mail, or otherwise) to the other party, it being understood that all parties
15 need not sign the same counterpart. Any counterpart or other signature to this
16 Supplemental Consent Order that is delivered by any means shall be deemed for all
17 purposes as constituting good and valid execution and delivery by such party of this
18 Supplemental Consent Order.
19

20 29. Defendant understands that the terms of the Supplemental Consent
21 Order are enforceable through contempt proceedings to the fullest extent of
22 applicable law, and that, in any such proceedings, he may not challenge the validity
23 of the Consent Order or the Supplemental Consent Order.
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1 30. Agreements and Undertakings: Defendant shall comply with all of the
2 undertakings and agreements set forth in this Supplemental Consent Order.

3
4 There being no just reason for delay, the Clerk of the Court is hereby ordered
5 to enter this *Supplemental Consent Order Assessing Restitution Against Defendant*
6 *William Koo Ichioka* forthwith and without further notice.

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8 **IT IS SO ORDERED** on this 19 day of September, 2024.

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11 **Hon. Vince Chhabria**

12 **UNITED STATES DISTRICT JUDGE**

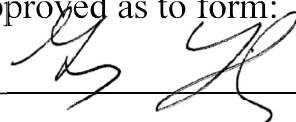
13
14 **CONSENTED TO AND APPROVED**

15 **BY:**

16 
17 _____
18 William Koo Ichioka

19 **Date:** August 26, 2024

20 **Approved as to form:**

21 
22 _____
23 Attorneys for Ichioka

24 Gary S. Lincenberg
25 Sophie M. Kosmacher
26 Bird, Marella, Rhow, Lincenberg,
27 Dooks & Nessim, LLP
28 1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
(310) 201-2100 (Office)
(310) 201-2110 (fax)
glincenberg@birdmarella.com

Susan B. Padove
Senior Trial Attorney
**Commodity Futures Trading
Commission**
77 W. Jackson Blvd., Suite 800
Chicago, IL 60604
(312) 596-0544 (office)
(202) 390-6885 (cell)
spadove@cftc.gov

Date: _____

1 skosmacher@birdmarella.com

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3 Date: August 26, 2024

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5 to enter this *Supplemental Consent Order Assessing Restitution Against Defendant*
6 *William Koo Ichioka* forthwith and without further notice.

7
8 **IT IS SO ORDERED** on this _____ day of _____, 2024.

9
10 _____
11 **Hon. Vince Chhabria**

12 **UNITED STATES DISTRICT JUDGE**

13
14 CONSENTED TO AND APPROVED
15 BY:

16 _____
17 William Koo Ichioka

18 Date: _____

19 Approved as to form:
20 _____

21 Attorneys for Ichioka

22 Gary S. Lincenberg
23 Sophie M. Kosmacher
24 Bird, Marella, Rhow, Lincenberg,
25 Dooks & Nessim, LLP
26 1875 Century Park East, 23rd Floor
27 Los Angeles, California 90067-2561
28 (310) 201-2100 (Office)
(310) 201-2110 (fax)
glincenberg@birdmarella.com

**ELIZABETH
H STREIT**

Digitally signed by
ELIZABETH STREIT
Date: 2024.09.17
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Elizabeth M. Streit
Chief Trial Attorney
**Commodity Futures Trading
Commission**
77 W. Jackson Blvd., Suite 800
Chicago, IL 60604
(312) 596-0537
estreit@cftc.gov

Date: _____

1 skosmacher@birdmarella.com

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