

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DISVISION**

Commodity Futures Trading Commission,	)	
	)	
Plaintiff,	)	Case No. 18 cv 242
	)	
v.	)	Hon. Manish Shah
	)	
RICHARD D. CARTER; MARK R.	)	
SLOBODNIK; and BLUE GURU TRADING,	)	
LLC,	)	
	)	
Defendants.	)	
	)	

**CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTY  
AND OTHER EQUITABLE RELIEF AGAINST RICHARD D. CARTER**

**I. INTRODUCTION**

On January 12, 2018, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendants Richard D. Carter (“Carter”), Mark R. Slobodnik (“Slobodnik”) and Blue Guru Trading, LLC (“Blue Guru”) (collectively “Defendants”) (ECF No. 1), seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1-26 (2012), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. pts. 1-190 (2019). The Court entered a Statutory Restraining Order against Defendants on January 12, 2018 (ECF No. 13), Consent Orders for Preliminary Injunction Against Richard D. Carter and Mark R. Slobodnik on January 25, 2018 (ECF Nos. 24 and 25), and an Order for Preliminary Injunction Against Blue Guru Trading, LLC on January 26, 2018 (ECF No. 27). The Court subsequently entered a default Order for Injunction, Civil Monetary Penalties, And Other Statutory and Equitable Relief Against Defendant Blue Guru Trading, LLC

(“Blue Guru Order”) on May 1, 2018 (ECF No. 51), and a Consent Order for Permanent Injunction, Civil Monetary Penalty And Other Equitable Relief Against Mark R. Slobodnik on November 13, 2018 (ECF No. 62). Entry of this Consent Order concludes the case.

## **II. CONSENTS AND AGREEMENTS**

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendant Richard D. Carter (“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 Act, 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 Act, 7 U.S.C. §§ 1-26 (2012);

6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 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. pt. 148 (2019), 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 Carter now or in the future resides outside the jurisdiction of this Court;

9. Agrees that he will not oppose enforcement of this Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and hereby 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 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. Carter shall comply with this agreement,

and 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. In his related criminal case, pleaded guilty to violating Title 18, United States Code, Section 1343 (wire fraud). Plea Agreement, *United States v. Carter*, No. 1:18-cr-00154 (N.D. Ill. Aug. 27, 2019), ECF No. 45. In connection with that plea, Carter also admitted the facts set out in the transcript of his plea allocution, a copy of which is attached as Exhibit A to this Order, and those same facts are admitted as if set forth in this Order;

12. Agrees to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 59 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;

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 Carter in any other proceeding.

### **III. FINDINGS AND CONCLUSIONS**

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that 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 Act, 7 U.S.C. § 13a-1 (2012), as set forth herein. The findings and conclusions in this Consent Order are not binding on any other party to this action.

**THE PARTIES AGREE AND THE COURT HEREBY FINDS:**

**A. Findings of Fact**

**The Parties To This Consent Order**

14. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act and the Regulations.

15. Defendant **Richard D. Carter** (“Carter”) is a resident of Mundelein, Illinois, and was a senior trader and a principal of Blue Guru. He has never been registered with the Commission in any capacity. However, Carter was a registered representative with the Securities Exchange Commission (“SEC”) from 1992 until 2005, when he was barred from acting as a broker or otherwise associating with any National Association of Securities Dealer (“NASD”) member for, among other things, circumventing a heightened supervision plan by hiding the fact that he was the representative effecting trades on certain customer accounts. *In re Carter*, NASD No. E8A2004064504 (Dec. 28, 2005) (consent letter). Carter’s registration as a securities salesperson in Illinois also was revoked by the Illinois Secretary of State Securities Department in 2006 based on this conduct. *In re Carter*, Ill. Sec’y of State Sec. Dept. No. 0600133 (July 28, 2006). Carter was also the subject of an SEC fraud action in 2010 for his role in perpetrating a microcap fraud. In that matter, Carter was ordered to pay a \$100,000 fine and was permanently barred from serving as an officer or director of any entity registered or required to file reports with the SEC and was further barred from participating in any offer of penny stock. *SEC v. Carter*, No. 1:10-cv-06145 (N.D. Ill. Apr. 12, 2012 and Oct. 1, 2012), ECF Nos. 47, 60.

### **Solicitation of Participants**

17. Carter and Slobodnik established Blue Guru in April 2014, and began soliciting and accepting funds for Blue Guru shortly thereafter.

18. Blue Guru was structured as a commodity pool (“Pool”). Prospective and actual participants were advised that Blue Guru would use their money to trade Dow Jones E-mini futures and S&P 500 E-mini futures on the CME and distributed a “Confidential Private Placement Memorandum” (“PPM”), which stated that “we intend to use the proceeds of the Offering for buying and selling futures contracts on the Chicago Mercantile Exchange.”

19. As described in the PPM, participation interests in the Pool were structured in the form of 12-month “Notes,” with “the principal amount will be paid at maturity, unless earlier redeemed, and interest will be accrued and paid annually . . . at the rate of 8.0% (eight percent) per annum, with a payout of 50% (fifty-percent) of the gross net profit from trading profits.”

20. The “Risk Factors” section of the PPM states “We currently collaborate with various trading firms and have developed a proprietary model for trading the financial markets.” It also states “we are subject to Commodity Trading regulations” and that “we will be substantially dependent upon our officers, specifically, Mr. Mark Slobodnik and Mr. Richard Carter, who have significant experience in our business, to carry out our business plan.”

The “Business” section of the PPM states that “Trades will be made in an Omnibus account and profits and losses are placed into member accounts on a percentage basis.”

21. Carter solicited relatives, friends, business associates, and others to invest in Blue Guru by various means, including in-person communication, word-of-mouth, and chat rooms. Carter did not inform some or all participants or prospective participants that he had been sanctioned by the SEC, the State of Illinois, and the NASD, and as part of his NASD sanction, he

was barred from ever associating with an NASD member or serving as an officer or director of a securities firm.

22. During solicitations of participants, Carter willfully or recklessly made material misrepresentations about Blue Guru. Carter falsely told participants and prospective participants that the funds that they invested would be used to trade commodity futures contracts in a pool account at a registered FCM located in Chicago (“FCM A”). Carter also told participants and prospective participants that Blue Guru’s strategy was to be flat at the end of each trading day meaning that there would be little or no risk carried overnight. He also represented that participants’ returns were allocated from the Blue Guru pool account at FCM A to separate participant sub-accounts also carried at FCM A at the end of each trading day.

23. However, FCM A did not carry any Blue Guru account identified as holding pooled interests or any sub-accounts for Blue Guru participants.

24. During the Relevant Time, Carter and Slobodnik solicited and received \$1,763,848 from thirty-four participants to invest in accordance with a Subscription Agreement with Blue Guru. Less than two thirds of those funds were used for trading. Some participants’ funds were used to pay for the redemptions of others.

25. Blue Guru maintained four proprietary accounts at FCM A; none was opened as a pool account, and none was profitable. In aggregate, the four accounts received deposits totaling \$1,100,000, sustained \$501,000 in trading losses, paid \$62,000 in exchange and clearing fees, and processed \$526,000 in withdrawals, leaving an ending balance of \$8,308.09 as of December 31, 2017.

### **Failure to Trade and Misappropriation of Funds**

26. Contrary to the terms of the PPM and Subscription Agreements for Blue Guru, Carter and Slobodnik did not trade all of the funds that participants invested in Blue Guru, a portion of which were misappropriated by Carter.

27. Specifically, Carter misappropriated \$586,674.25 of participants' funds and used these funds to pay personal expenses, including a down payment on his home, retail purchases, gym memberships, and restaurant meals.

28. Losses in the four proprietary accounts at FCM A totaled \$500,669.92. Carter's trading in the four accounts or trades done at Carter's direction resulted in losses of \$251,968.09. Thus, Carter was responsible for \$251,968.09 of the trading losses incurred in the four accounts. However, Carter advised Blue Guru participants that their funds were earning consistent trading profits.

29. During the Relevant Time, Carter willfully or recklessly issued or instructed others to issue false quarterly account statements via email to at least twenty participants in the Pool that falsely reported the value of participants' interests, and falsely reported that the Pool was increasing in value every quarter when in fact it was not.

30. When participants attempted to withdraw their initial capital or reported profits from Blue Guru, Carter ignored their demands, engaged in delay tactics, and lied about conditions that purportedly prevented him from making disbursements. For example, when certain participants sought to withdraw their funds, Carter told them they would make more money if they maintained their funds with Blue Guru for even greater returns in the future. Carter assured one participant that his funds "were up 10% for the quarter" when the participant expressed concern that Carter was not returning his funds upon his request. Carter made this

deliberately false statement at a time that he knew that neither he nor Slobodnik were trading participants' funds and therefore were producing no returns.

**B. Conclusions of Law**

**Jurisdiction and Venue**

31. This Court possesses jurisdiction over this action pursuant 28 U.S.C. § 1331 (2012) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (providing that U.S. district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), provides that the Commission may bring actions for injunctive relief or to enforce compliance with the Act or any rule, regulation, or order thereunder in the proper district court of the United States 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 Act or any rule, regulation, or order thereunder.

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

**Fraud by Misappropriation and Misrepresentations**

33. By the conduct described above, Carter cheated and defrauded, or attempted to cheat and defraud, and willfully deceived, or attempted to deceive, participants by, among other things, willfully or recklessly:

- (a) misappropriating participants' funds; and
- (b) making material misrepresentations and omitting material facts to prospective and actual participants, including that:

- (i) participant funds would be used to trade commodity futures contracts in a pool account(s) at FCM A;
- (ii) participants were earning consistent profits on their investments;
- (iii) participants were guaranteed to earn profits of at least 8%, annual returns and receive 50% of gross net trading profits, when Carter did not use some or all of participants' investments to trade and had no basis for making these statements; and
- (iv) refusing to allow participants to withdraw their funds,

in violation of Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A), (C) (2012).

**Fraud by False Statements**

34. By the conduct described above, Carter willfully or recklessly issued or caused to be issued false quarterly account statements via email to participants in Blue Guru that disguised his, Slobodnik's and Blue Guru's misappropriation of funds and misrepresented the profitability and value of participants' respective interests in Blue Guru in violation of Section 4b(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B).

**Fraud by a Commodity Pool Operator and Associated Person of a Commodity Pool Operator**

35. By the conduct described above, Blue Guru acted as a commodity pool operator ("CPO") as defined in part by Section 1a(11)(A)(i)(I) of the Act, 7 U.S.C. § 1a(11)(A)(i)(I) (2012), in that it engaged in a business that is of the nature of an investment trust, syndicate or similar form of enterprise operated for the purpose of trading in commodity interests, including commodity futures, and in connection therewith, solicited, accepted and received funds from others for the purpose of trading in commodity interests.

36. By the conduct described above, Carter acted as an associated person (“AP”) of Blue Guru, as defined in part by Regulation 1.3, 17 C.F.R. § 1.3 (2019), by soliciting funds for the Pool and handling participant monies while being associated with Blue Guru as a partner, officer, employee, consultant, or agent (or person occupying a similar status or performing similar functions).

37. As set forth above, Carter, while acting as an AP of a CPO, and Blue Guru, while acting as a CPO, defrauded and deceived participants of Blue Guru by using the mails or any other means of interstate commerce in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1)(2012) by among other things:

- (a) misappropriating participants’ funds; and
- (b) making material misrepresentations and omitting material facts to prospective and actual participants.

**Failure to Register as a CPO**

38. By the conduct described above, Blue Guru engaged in activities as a CPO without the benefit of registration as a CPO, and in connection therewith used the mails or other means or instrumentalities of interstate commerce, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1)(2012).

**Failure to Register as an AP and Allowing Unregistered APs to Remain Associated with a CPO**

39. By the conduct described above, Carter violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012), in that he acted as an AP of Blue Guru without the benefit of registration as an AP of a CPO. By the conduct described above, Blue Guru violated 7 U.S.C. § 6k(2) of the Act in that, acting as a CPO, it allowed Carter to act as an AP when it knew or should have known that Carter was not registered as an AP.

### **Derivative Liability**

40. Carter controlled Blue Guru, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Blue Guru's act or acts in violation of the Act; therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), Carter is liable for Blue Guru's violations of 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6(b)(a)(1)(B), 6o(1), 6m(1), and 6(k)(2).

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

### **IV. PERMANENT INJUNCTION**

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

42. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Carter is permanently restrained, enjoined and prohibited from directly or indirectly:

- (a) 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 that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, (A) cheating or defrauding or attempting to cheat or defraud such other person; (B) willfully making or causing to be made to such other person any false report or statement, or willfully entering or causing to be entered for such other person any false record; or (C) willfully deceiving or attempting to deceive such other person, in violation of Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C) (2012);
- (b) using the mails or any means or instrumentality of interstate commerce, directly or indirectly, as a CPO or an AP of a CPO, to (A) employ any device, scheme, or artifice to defraud any participant; or (B) engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any participant, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012);
- (c) failing to register as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012); and

- (d) failing to register as an AP or permitting an AP to remain unregistered, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2)(2012).

43. Defendant Carter is also permanently restrained, enjoined, and prohibited from directly or indirectly:

- (a) Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));
- (b) Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2019), for his own personal account or for any account in which he has a direct or indirect interest;
- (c) Having any commodity interests traded on his behalf;
- (d) 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 interests;
- (e) Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- (f) 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 Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2019); and/or
- (g) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2019)), agent or any other officer or employee of any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)), registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2019).

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

### **A. Restitution**

44. Defendant Carter shall pay restitution in the amount of eight hundred thirty eight thousand, six hundred forty two dollars and thirty four cents (\$838,642.34) (“Restitution Obligation”), representing the customer losses that he caused through trading and

misappropriation of participant funds in connection with such violations, plus post-judgment interest. Post-judgment interest shall accrue on the Restitution 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).

45. Defendant Carter is currently the defendant in a criminal action charging him, in part, for the misconduct that is at issue in this matter. *See United States v. Carter*, Case No. 1:18-cr-00154 (N.D. Ill. filed May 10, 2018) (“Criminal Action”). For amounts disbursed to participants by Carter as a result of satisfaction of any restitution ordered in the Criminal Action, Defendant Carter shall receive a dollar-for-dollar credit against the Restitution Obligation. Within ten days of disbursement in the Criminal Action to participants paid by Carter, Carter shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, copies of the form of payment to those participants.

46. To effect payment of the Restitution Obligation and the distribution of any restitution payments to participants by Defendant Carter, the Court appoints the National Futures Association (“NFA”) as Monitor (“Monitor”). The Monitor shall receive restitution payments from Carter and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the NFA shall not be liable for any action or inaction arising from NFA’s appointment as Monitor, other than actions involving fraud.

47. Carter shall make Restitution Obligation payments under this Consent Order to the Monitor in the name “Richard D. Carter Restitution Fund” and shall send such Restitution

Obligation payments by 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 cover letter that identifies the paying Defendant and the name and docket number of this proceeding. Defendant Carter 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.

48. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to participants identified by the Commission or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Restitution Obligation payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a distribution to eligible 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 set forth in paragraph 55 below.

49. Carter shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify the participants to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Carter shall execute any documents necessary to release funds that he has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.

50. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Blue Guru's participants during the previous year. The Monitor shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

51. The amounts payable to each participant shall not limit the ability of any participant from proving that a greater amount is owed from Carter or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any participant that exist under state or common law.

52. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each participant of Blue Guru who suffered a loss is explicitly made an intended third-party beneficiary of this Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by Defendant Carter to ensure continued compliance with any provision of this Consent Order and to hold Carter in contempt for any violations of any provision of this Consent Order.

53. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Carter's Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

**B. Civil Monetary Penalty**

54. Carter shall pay a civil monetary penalty in the amount of one million, seven hundred and sixty thousand, twenty two dollars and seventy five cents (\$1,760,022.75) ("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).

55. Carter 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:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
6500 S. MacArthur Blvd.  
HQ Room 181  
Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

If payment by electronic funds transfer is chosen, Carter shall contact Marie Thorne or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Carter shall accompany payment of the CMP Obligation with a cover letter that identifies Carter and the name and docket number of this proceeding. Carter 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**

56. Partial Satisfaction: Acceptance by the Commission or the Monitor of any partial payment of Carter's Restitution Obligation or 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.

57. Asset Freeze: On January 25, 2018, as part of the Consent Order for Preliminary Injunction Against Richard D. Carter (ECF No. 24), the Court entered an asset freeze order prohibiting the transfer, removal, dissipation and disposal of Carter assets (“Asset Freeze Order”). The court hereby lifts the Asset Freeze Order.

**D. Cooperation**

58. Carter shall cooperate fully and expeditiously with the Commission, including the Commission’s Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Carter shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.

**VI. MISCELLANEOUS PROVISIONS**

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

Notice to Commission:

Scott Williamson  
Acting Deputy Director  
Commodity Futures Trading Commission  
525 West Monroe Street, Suite 1100  
Chicago, IL 60661

Notice to Defendant Richard D. Carter:

Richard D. Carter  
c/o Mark Belongia  
Johnson & Bell, Ltd.  
33 West Monroe Street, Suite 2700  
Chicago, IL 60603-5404  
312-984-0271

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

60. Change of Address/Phone: Until such time as Carter satisfies in full his Restitution Obligation and CMP Obligation as set forth in this Consent Order, Carter shall

provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten calendar days of the change.

61. **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.

62. **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.

63. **Waiver:** The failure of any party to this Consent Order or of any 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 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.

64. **Continuing Jurisdiction of this Court:** This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by Carter to modify or for relief from the terms of this Consent Order.

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

66. 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.

67. Contempt: Carter 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.

68. Agreements and Undertakings: Carter shall comply with all of the undertakings and agreements set forth in this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this Consent Order for Permanent Injunction and other Ancillary Relief Against Richard D. Carter forthwith and without further notice.

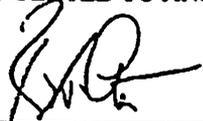
**IT IS SO ORDERED** on January 8, 2020.



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Manish S. Shah, U.S. District Judge

CONSENTED TO AND APPROVED BY:

  
\_\_\_\_\_  
Richard D. Carter  
Date: 11/13/19

Approved as to form:  
  
\_\_\_\_\_  
Mark Belongia  
Johnson & Bell, Ltd.  
33 West Monroe Street, Suite 2700  
Chicago, IL 60603-5404  
312-984-0271  
Date: 11/13/19

  
\_\_\_\_\_  
Susan Gradman  
Chief Trial Attorney  
Commodity Futures Trading Commission  
525 West Monroe, Suite 1100  
Chicago, IL 60661  
312-596-0523  
[Sgradman@cftc.gov](mailto:Sgradman@cftc.gov)  
Date 11/13/19