

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

**UNITED STATES COMMODITY
FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

Case No: 3:15-cv-354-J-39MCR

**WESLEY ALLEN BROWN,
EDWARD RUBIN, and MAVERICK
INTERNATIONAL, INC,**

Defendants.

JUDGMENT IN A CIVIL CASE

Decision by Court. This action came before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that pursuant to this Court's Order entered on March 12, 2018, judgment is hereby entered as follows:

a. Restitution

Defendant Wesley Allen Brown is ORDERED to pay restitution in the amount of two million, one hundred fifty-one thousand, three hundred eighteen dollars, and seventy-three cents (\$2,151,318.73), plus post-judgment interest ("Restitution Obligation"). Of the \$2,151,318.73, Defendant Maverick shall be jointly and severally liable for \$2,065,178.00; further of the \$2,065,178.00, Defendant Rubin shall be

jointly and severally liable for \$500,000.00.¹ Post-judgment interest shall accrue on Defendant Brown's Restitution Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961.

For amounts repaid by Defendant Rubin and Defendant Maverick, Defendant Brown shall receive a dollar-for-dollar credit against Defendant Brown's Restitution Obligation. For amounts repaid by Defendant Brown, Defendant Rubin and Defendant Maverick shall receive a dollar-for-dollar credit against the judgment entered against them. Within ten (10) days of disbursement to Defendant Rubin's and Defendant Maverick's pool participants, Brown 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 pool participants.

To effect payment of the Restitution Obligation, and the distribution of any restitution payments to Defendant Brown's pool participants, the Court appoints that National Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall receive restitution payments from

¹ The amount for which Defendants Brown, Maverick, and Rubin are jointly and severally liable are not meant to create new liability apart from the Supplemental Consent Order (Doc. 87), but rather to clarify that portion for which Defendants are jointly and severally liable.

Defendant Brown 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.

Defendant Brown shall make the Restitution Obligation payments in the name "Maverick International, Inc. Restitution Fund" and shall send such payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order to Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, with a cover letter that identifies the paying defendant and the name and docket number of this proceeding. Defendant Brown shall simultaneously transmit copies of the cover letter and the form of payment to: Chief Financial Officer, Commodity Futures Trading Commission Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

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 Brown's pool participants identified by the Commission or may defer distribution until such time as the Monitor seems 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 pool participants is impractical, the Monitor may, in its discretion, treat such restitution payment as civil monetary penalty

payments, which the Monitor shall forward to the Commission following the instruction for civil monetary penalty payments set forth below.

Defendant Brown shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Defendant Brown's customers to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any of Brown's Restitution Obligation payments. Defendant Brown 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 towards the Restitution Obligation.

b. Civil Monetary Penalty

Defendant Brown is ORDERED to pay a civil monetary penalty, including post-judgment interest, in the amount of six million, four hundred fifty- three thousand, nine hundred fifty-six dollars, and nineteen cents (\$6,453,956.19) ("CMP"). Of the \$6,453,956.19, Defendant Maverick shall be jointly and severally liable for the entire amount; further, Defendant Rubin shall be jointly and severally liable for \$140,000.00.² Post-judgment interest shall accrue on Defendant Brown's CMP beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961.

² As with the amounts entered for restitution, the amount for which Defendants Brown, Maverick, and Rubin are jointly and severally liable are not meant to create new liability apart from the Supplemental Consent Order (Doc. 87), but rather to clarify that portion for which Defendants are jointly and severally liable.

For amounts repaid by Defendant Rubin and Defendant Maverick, Defendant Brown shall receive a dollar-for-dollar credit against Defendant Brown's CMP. For amounts repaid by Defendant Brown, Defendant Rubin and Defendant Maverick shall receive a dollar-for-dollar credit against the judgment entered against them.

Defendant Brown shall pay the CMP 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, than it should be made payable to the CFTC and sent to this address: Commodity Futures Trading Commission Division of Enforcement, ATTN: Accounts Receivable-AMZ 340, Email Box: 9-AMC-AMZ-AR-CFTC, DOT/FAA/MMAC, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169, Telephone (405) 954-5644, Email nikki.gibson@faa.gov. If payment is made by electronic funds transfer, Defendant Brown shall contact Nikki Gibson or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Defendant Brown shall submit the CMP with a cover letter identifying the paying defendant and the name and docket number of this proceeding. Defendant Brown shall simultaneously transmit copies of the cover letter and the form of payment to: Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

Date: March 13, 2018

ELIZABETH M. WARREN,
CLERK

s/ Patricia Morawski, Deputy Clerk

Copy to:

Counsel of Record
Unrepresented Parties

CIVIL APPEALS JURISDICTION CHECKLIST

1. **Appealable Orders:** Courts of Appeals have jurisdiction conferred and strictly limited by statute:
 - (a) **Appeals from final orders pursuant to 28 U.S.C. Section 1291:** Only final orders and judgments of district courts, or final orders of bankruptcy courts which have been appealed to and fully resolved by a district court under 28 U.S.C. Section 158, generally are appealable. A final decision is one that “ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” Pitney Bowes, Inc. V. Mestre, 701 F.2d 1365, 1368 (11th Cir. 1983). A magistrate judge’s report and recommendation is not final and appealable until judgment thereon is entered by a district court judge. 28 U.S.C. Section 636(c).
 - (b) **In cases involving multiple parties or multiple claims,** a judgment as to fewer than all parties or all claims is not a final, appealable decision unless the district court has certified the judgment for immediate review under Fed.R.Civ.P. 54(b), Williams v. Bishop, 732 F.2d 885, 885-86 (11th Cir. 1984). A judgment which resolves all issues except matters, such as attorneys’ fees and costs, that are collateral to the merits, is immediately appealable. Budinich v. Becton Dickinson & Co., 486 U.S. 196, 201, 108 S. Ct. 1717, 1721-22, 100 L.Ed.2d 178 (1988); LaChance v. Duffy’s Draft House, Inc., 146 F.3d 832, 837 (11th Cir. 1998).
 - (c) **Appeals pursuant to 28 U.S.C. Section 1292(a):** Appeals are permitted from orders “granting, continuing, modifying, refusing or dissolving injunctions or refusing to dissolve or modify injunctions...” and from “[i]nterlocutory decrees...determining the rights and liabilities of parties to admiralty cases in which appeals from final decrees are allowed.” Interlocutory appeals from orders denying temporary restraining orders are not permitted.
 - (d) **Appeals pursuant to 28 U.S.C. Section 1292(b) and Fed.R.App.P.5:** The certification specified in 28 U.S.C. Section 1292(b) must be obtained before a petition for permission to appeal is filed in the Court of Appeals. The district court’s denial of a motion for certification is not itself appealable.
 - (e) **Appeals pursuant to judicially created exceptions to the finality rule:** Limited exceptions are discussed in cases including, but not limited to: Cohen V. Beneficial Indus. Loan Corp., 337 U.S. 541,546,69 S.Ct. 1221, 1225-26, 93 L.Ed. 1528 (1949); Atlantic Fed. Sav. & Loan Ass’n v. Blythe Eastman Paine Webber, Inc., 890 F. 2d 371, 376 (11th Cir. 1989); Gillespie v. United States Steel Corp., 379 U.S. 148, 157, 85 S. Ct. 308, 312, 13 L.Ed.2d 199 (1964).
2. **Time for Filing:** The timely filing of a notice of appeal is mandatory and jurisdictional. Rinaldo v. Corbett, 256 F.3d 1276, 1278 (11th Cir. 2001). In civil cases, Fed.R.App.P.4(a) and (c) set the following time limits:
 - (a) **Fed.R.App.P. 4(a)(1):** A notice of appeal in compliance with the requirements set forth in Fed.R.App.P. 3 must be filed in the district court within 30 days after the entry of the order or judgment appealed from. However, if the United States or an officer or agency thereof is a party, the notice of appeal must be filed in the district court within 60 days after such entry. **THE NOTICE MUST BE RECEIVED AND FILED IN THE DISTRICT COURT NO LATER THAN THE LAST DAY OF THE APPEAL PERIOD - no additional days are provided for mailing.** Special filing provisions for inmates are discussed below.
 - (b) **Fed.R.App.P. 4(a)(3):** “If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this Rule 4(a), whichever period ends later.”
 - (c) **Fed.R.App.P.4(a)(4):** If any party makes a timely motion in the district court under the Federal Rules of Civil Procedure of a type specified in this rule, the time for appeal for all parties runs from the date of entry of the order disposing of the last such timely filed motion.
 - (d) **Fed.R.App.P.4(a)(5) and 4(a)(6):** Under certain limited circumstances, the district court may extend the time to file a notice of appeal. Under Rule 4(a)(5), the time may be extended if a motion for an extension is filed within 30 days after expiration of the time otherwise provided to file a notice of appeal, upon a showing of excusable neglect or good cause. Under Rule 4(a)(6), the time may be extended if the district court finds upon motion that a party did not timely receive notice of the entry of the judgment or order, and that no party would be prejudiced by an extension.
 - (e) **Fed.R.App.P.4(c):** If an inmate confined to an institution files a notice of appeal in either a civil case or a criminal case, the notice of appeal is timely if it is deposited in the institution’s internal mail system on or before the last day for filing. Timely filing may be shown by a declaration in compliance with 28 U.S.C. Section 1746 or a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.
3. **Format of the notice of appeal:** Form 1, Appendix of Forms to the Federal Rules of Appellate Procedure, is a suitable format. See also Fed.R.App.P. 3(c). A pro se notice of appeal must be signed by the appellant.
4. **Effect of a notice of appeal:** A district court loses jurisdiction (authority) to act after the filing of a timely notice of appeal, except for actions in aid of appellate jurisdiction or to rule on a timely motion of the type specified in Fed.R.App.P. 4(a)(4).