

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

**UNITED STATES COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**WESLEY A. BROWN,
EDWARD RUBIN,
and
MAVERICK INTERNATIONAL, INC.,**

Defendants.

Civil Action No. 3:15-cv-00354-BJD-MCR

**SUPPLEMENTAL CONSENT ORDER OF RESITUTION AND CIVIL MONETARY
PENALTIES AGAINST DEFENDANTS EDWARD RUBIN AND MAVERICK
INTERNATIONAL, INC.**

I.

INTRODUCTION

On March 30, 2015, Plaintiff United States Commodity Futures Trading Commission ("Plaintiff" or "Commission"), filed a Complaint for Injunctive Relief, Civil Monetary Penalty, and Other Equitable Relief against Defendants Wesley A. Brown ("Brown"), Edward Rubin ("Rubin"), and Maverick International, Inc. ("Maverick") (collectively, the "Defendants"), for violations of the Commodity Exchange Act ("CEA" or "Act"), 7 U.S.C. §§ 1 *et seq.* (2012) and the Regulations promulgated thereunder. Complaint, Docket Entry ("D.E.") No. 3.

On March 30, 2015, the Court entered an order granting Plaintiff's Motion for a Statutory Restraining Order, which froze Defendants' assets and prohibited Defendants from destroying, or denying the Commission access to: Defendants' books and records, among other relief. Statutory Restraining Order, D.E. No. 7. The Statutory Restraining Order, by its terms, expired April 8, 2015, unless extended or sooner dissolved. *Id.* Plaintiff also filed a Motion for

Preliminary Injunction, seeking to continue the Statutory Restraining Order. Motion for Preliminary Injunction, D.E. No. 5.

On April 8, 2015, the Court entered an Order of Preliminary Injunction and Other Relief against Defendants (“PI Order”), D.E. No. 21. The PI Order froze assets under Defendants’ control, prohibited Defendants from further violations of the Act and the Regulations, ordered an accounting of assets, permitted CFTC access to all of Defendants’ books and records, and prohibited the destruction of documents.

On April 19, 2016, the Court entered a Consent Order of Permanent Injunction and Other Statutory and Equitable Relief (“Consent Order”). D.E. No. 59. The Consent Order, among other things: enjoined the Defendants from trading any commodity interests for themselves or third parties; enjoined the Defendants from acting in any capacity that requires registration, or an exemption from registration, with the Commission; and, ordered the Defendants to pay restitution and a civil monetary penalty, in amounts to be determined at a later date either through agreement or court order.

II.
CONSENTS AND AGREEMENTS

To effect final settlement of the matters alleged in the Complaint against Defendants Rubin and Maverick without a trial on the merits or any further judicial proceedings, Defendants Rubin and Maverick:

1. Consent to the entry of this *Supplemental Consent Order of Civil Monetary Penalty and other Equitable Relief* (“Supplemental Order”);
2. Affirm that they have read and agreed to this Supplemental 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 Supplemental Order;

3. Acknowledge service of the summons and Complaint;

4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);

5. Admit the jurisdiction of the Commission over the conduct and the transactions at issue in this action pursuant to the Act, 7 U.S.C. § 2(c)(2)(C) (2012);

6. Admit that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012);

7. Waive:

(a) Any and all claims that they 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. §§ 148.1-148.30 (2016), relating to, or arising from, this action;

(b) Any and all claims that they 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 Supplemental Order; and

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

8. Consent to the continued jurisdiction of this Court over them for the purpose of implementing and carrying out the terms and conditions of all orders and decrees, including orders setting the appropriate amounts of restitution, disgorgement and civil monetary penalty, that may be entered herein, to entertain any suitable application or motion for additional relief within the jurisdiction of the Court, to assure compliance with this Supplemental Order and for any other purpose relevant to this action, even if Rubin and Maverick now or in the future reside and/or conduct business outside the jurisdiction of this Court;

9. Agree that they will not oppose enforcement of this Supplemental Order by alleging that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and waive any objection based thereon;

10. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Supplemental Order, or creating or tending to create the impression that the Complaint, Consent Order and/or this Supplemental Order are without a factual basis; provided, however, that nothing in this provision shall affect their: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Rubin and Maverick shall undertake all steps necessary to ensure that their agents or employees under their authority or control understand and comply with this agreement; and

11. By consenting to the entry of this Supplemental Order, Rubin and Maverick neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law in this Supplemental Order, except as to jurisdiction and venue, which they admit. Further, Rubin and Maverick agree and intend that the allegations contained in the Complaint

and all of the Findings of Fact and Conclusions of Law contained in the Consent Order and/or this Supplemental Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (a) any current or subsequent bankruptcy proceeding filed by, on behalf of, or against Rubin and/or Maverick; (b) any proceeding pursuant to Section 8a of the Act, 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 – 3.75 (2016); and/or (c) any proceeding to enforce the terms of this Supplemental Order, including but not limited to proceedings to set the amount of restitution, disgorgement, and civil monetary penalty to be paid by Defendants in the above captioned matter. Defendants do not consent to the use of this Supplemental Order, or the Findings of Fact and Conclusions of Law in the Consent Order and/or this Supplemental Order, as the sole basis for any other proceeding brought by the Commission or any other party.

12. Agree to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 35 of Part V of this Supplemental Order, of any bankruptcy proceeding filed by, on behalf of, or against them, whether inside or outside the United States.

13. Agree that no provision of this Supplemental Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against Rubin and Maverick in any other proceeding.

III.

FINDINGS AND CONCLUSIONS

14. The Court, being fully advised in the premises, finds that there is good cause for the entry of this Supplemental Order and that there is no just reason for delay. The Findings of Fact and Conclusions of Law contained in the Consent Order are incorporated herein and given preclusive effect as provided in the Consent Order.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

The Parties

15. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, 7 U.S.C. §§ 1-26 (2012), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 – 190.10 (2016).

16. Defendant Wesley Alan Brown (Brown") was a resident of North Myrtle Beach, South Carolina; during the relevant period Brown resided in Palm Coast, Florida. Brown is currently incarcerated in the Florida Department of Corrections, serving a seven and one-half year sentence for securities fraud arising from this matter. Brown held himself out as a "financial advisor" associated with Maverick. Brown has never been registered with the Commission in any capacity. Brown was registered as a securities broker/dealer agent from August 1991 through May 1996. Brown is not a party to this Supplemental Order.

17. Defendant Edward Rubin resides in Winnabow, North Carolina. Rubin opened the commodity trading account carried in the name of Maverick at PFGBest, and was solely responsible for all futures trading in the account. Rubin was the sole officer of Maverick throughout the relevant period. Rubin has never been registered with the Commission in any capacity.

18. Defendant Maverick International, Inc. is a corporate entity organized by Rubin pursuant to the laws of the State of Delaware on or about November 17, 2006, and purportedly maintains offices at 2711 Centerville Road, Suite 120, PMB# 6113, Wilmington, Delaware, 19808; however, this address is actually the address of a mail forwarding service.

IV.

RESTITUTION AND CIVIL MONETARY PENALTY

IT IS FURTHER ORDERED THAT:

A. Restitution

19. Maverick shall pay restitution in the amount of two million sixty-five thousand, one hundred seventy eight dollars (\$2,065,178), plus post-judgment interest; Rubin shall pay restitution jointly and severally with Maverick, capped at five hundred thousand dollars (\$500,000), plus post-judgment interest (collectively, the "Restitution Obligation"). Post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Supplemental Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Order pursuant to 28 U.S.C. § 1961 (2012).

20. Brown is currently incarcerated as a result of a criminal conviction from charges that, in part, involved the misconduct that is at issue in this matter. *See State of Florida v. Wesley Allen Brown*, Case Nos.: 2014 CF 207, *et seq.*, Seventh Judicial Circuit, Flagler County, Florida. ("Criminal Action"). For amounts disbursed to Brown's victims as a result of satisfaction of any restitution ordered in the Criminal Action, Rubin and Maverick shall receive a dollar-for-dollar credit against the Restitution Obligation. Within ten (10) days of disbursement in the Criminal Action to Brown's pool participants, Rubin and Maverick 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.

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

22. Rubin and Maverick shall make their respective Restitution Obligation payments under this Supplemental Order to the Monitor in the name "Maverick International, Inc. 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, 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's and the name and docket number of this proceeding. Rubin and Maverick 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.

23. 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 Rubin and Maverick's pool 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 pool 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 Part B below.

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

25. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Rubin and Maverick's pool 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.

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

27. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each pool participant of Rubin and Maverick who suffered a loss is explicitly made an intended third-party beneficiary of this Supplemental Order and may seek to enforce obedience of this Supplemental Order to

obtain satisfaction of any portion of the restitution that has not been paid by Rubin and Maverick to ensure continued compliance with any provision of this Supplemental Order and to hold Rubin and Maverick in contempt for any violations of any provision of this Supplemental Order.

28. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Rubin and Maverick'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

29. Maverick shall pay a civil monetary penalty, including post-judgment interest, in the amount of six million eight hundred six thousand, five hundred thirty four dollars (\$6,806,534); Rubin shall pay a civil monetary penalty, jointly and severally with Maverick, capped at one hundred forty thousand dollars (\$140,000), plus post-judgment interest (collectively the "CMP Obligation"). Post-judgment interest shall accrue on the CMP Obligation commencing on the date of entry of this Supplemental Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Order pursuant to 28 U.S.C. § 1961 (2012).

30. Rubin and Maverick shall pay their respective 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:

**Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables
DOT/FAA/MMAC/AMZ-341CFTC/CPSC/SEC
500 S. MacArthur Blvd. Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov**

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

31. **Partial Satisfaction:** Any acceptance by the Commission or the Monitor of any partial payment of Rubin's and/or Maverick's Restitution Obligation or CMP Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Supplemental Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

32. **Satisfaction:** Upon full satisfaction of Rubin and Maverick's Restitution Obligation and CMP Obligation, satisfaction of monetary sanctions will be entered as to Rubin and Maverick.

33. **Asset Freeze:** On March 30, 2015 the court entered an asset freeze order prohibiting the transfer, removal, dissipation and disposal of Rubin and Maverick's assets. PI

Order, D.E. No. 21. The court hereby lifts the PI Order as to Rubin and Maverick only. The PI Order as to Brown remains in full force and effect.

D. Cooperation

34. Rubin and Maverick 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. Rubin and Maverick shall cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.

V. MISCELLANEOUS PROVISIONS

35. 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:

Deputy Director Paul Hayeck
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20851
(202) 418-5000

Notice to Defendants Rubin and Maverick:

Charles J. Brown, III, Esq.
Gellert Scali Busenkell & Brown, LLC
1201 N. Orange Street, Suite 300
Wilmington, Delaware 19801
cbrown@gsbblaw.com

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

36. Change of Address/Phone: Until such time as Rubin and Maverick satisfies in full their Restitution Obligation and CMP Obligation as set forth in this Supplemental Order, Rubin and Maverick shall provide written notice to the Commission by certified mail of any

change to their telephone number and mailing address within ten (10) calendar days of the change.

37. **Entire Agreement and Amendments:** This Supplemental 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 Supplemental Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

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

39. **Waiver:** The failure of any party to this Supplemental Order or of any Participant at any time to require performance of any provision of this Supplemental 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 Supplemental Order. No waiver in one or more instances of the breach of any provision contained in this Supplemental 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 Supplemental Order.

40. **Waiver of Service, and Acknowledgement:** Rubin and Maverick waive service of this Supplemental Order and agree that entry of this Supplemental Order by the Court and filing with the Clerk of the Court will constitute notice to Rubin and Maverick of its terms and conditions. Rubin and Maverick further agree to provide counsel for the Commission, within thirty (30) days after this Supplemental Order is filed with the Clerk of Court, with an affidavit

or declaration stating that Rubin and Maverick have received and read a copy of this Supplemental Order.

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

42. **Injunctive and Equitable Relief Provisions:** The injunctive and equitable relief provisions of this Supplemental Order shall be binding upon Rubin and Maverick, upon any person under their authority or control, and upon any person who receives actual notice of this Supplemental Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Rubin and Maverick.

43. **Authority:** Rubin hereby warrants that he is an officer of Maverick, and that this Supplemental Order has been duly authorized by Maverick and he has been duly empowered to sign and submit this Supplemental Order on behalf of Maverick.

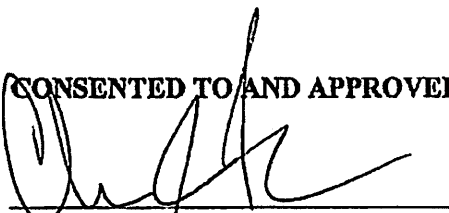
44. **Counterparts and Facsimile Execution:** This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, 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.


45. Contempt: Rubin and Maverick understand that the terms of the Supplemental Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Supplemental Order.

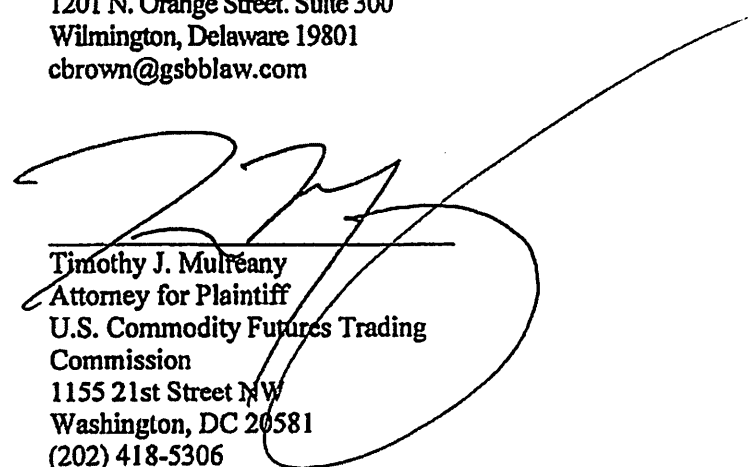
46. Agreements and Undertakings: Rubin and Maverick shall comply with all of the undertakings and agreements set forth in this Supplemental Order.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Supplemental Consent Order Of Permanent Injunction And Other Statutory And Equitable Relief Against Edward Rubin and Maverick International, Inc.*

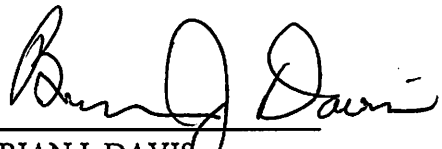
CONSENTED TO AND APPROVED BY:


Charles Brown
Attorney for Rubin and Maverick
Gellert Scali Busenkell & Brown, LLC
1201 N. Orange Street, Suite 300
Wilmington, Delaware 19801
cbrown@gsbblaw.com


Edward Rubin, individually and on behalf of
Maverick International, Inc.


Timothy J. Mulreany
Attorney for Plaintiff
U.S. Commodity Futures Trading
Commission
1155 21st Street NW
Washington, DC 20581
(202) 418-5306

DONE and ORDERED in Jacksonville, Florida this 9th day of March, 2018.


BRIAN J. DAVIS
United States District Judge

va

Copies furnished to:

Counsel of Record
Unrepresented Parties