

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
COMMODITY FUTURES TRADING)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 12-1902 (RCL)
)	
TRADE EXCHANGE NETWORK)	
LIMITED, an Irish company, and INTRADE)	
THE PREDICTION MARKET)	
LIMITED, an Irish company,)	
)	
Defendants.)	
_____)	

~~PROPOSED~~ ⁹ CONSENT ORDER REGARDING DISTRIBUTION OF
DISGORGEMENT AMOUNT, APPOINTING THE NFA AS MONITOR FOR THE
DISTRIBUTION, AND DIRECTING THAT THOSE U.S. CUSTOMER FUNDS HELD IN
SANTANDER BANK BE TRANSFERRED TO THE NFA FOR DISTRIBUTION

Having reviewed Plaintiff United States Commodity Futures Trading Commission's ("Plaintiff;" "Commission" or "CFTC") and Defendants Trade Exchange Network Limited's ("TEN") and/or Intrade the Prediction Market Limited's ("Intrade") (collectively, "Defendants"), *Joint Motion for Entry of Proposed Consent Order Regarding Distribution of Disgorgement Amount, Appointing NFA as Monitor for the Distribution, and Directing that Those U.S. Customer Funds Held in Santander Bank be Transferred to the NFA for Distribution* (Dkt. No. 87 ("Motion")), as well as the entire record in this matter, and, since Defendants appointed Irish liquidator, Padraic Bermingham of the firm Bermingham & Company ("Liquidator"), by his signature to the Motion and this *Consent Order Regarding Distribution Of Disgorgement Amount, Appointing The NFA As Monitor For The Distribution. And Directing That Those U.S.*

Customer Funds Held In Santander Bank Be Transferred To The NFA (“Consent Order”), agrees to the relief sought by the parties in the Motion and this Consent Order, it is hereby:

ORDERED that the parties’ Motion is **GRANTED**; and

IT IS FURTHER ORDERED that:

1. The Court appoints the National Futures Association (“NFA”) as Monitor to effect payment and distribution of the \$248,344.74 that the Court previously ordered (Dkt. No. 85) Defendants to disgorge (“Disgorgement Obligation”) to those U.S. customers who traded prohibited commodity option contracts during the relevant period of the Complaint and who are identified on Exhibit A attached hereto (“U.S. Customers”). The NFA is a futures association registered with the Commission pursuant to Section 17 of the Commodity Exchange Act, 7 U.S.C. § 21, and serves as the industry-wide, independent, self-regulatory organization for the U.S. futures industry.

2. 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.

3. Santander Bank, N.A. (“Santander”) shall send by electronic funds transfer within 15 days of the date of this Consent Order the amount of \$248,344.74, which is currently held and frozen in a bank account at Santander, 330 Madison Avenue, Manhattan, NY 10017 with the Account No. [XXXX]7142 (“Santander U.S. Bank Account”) in the name of Tradesports.com, Inc. (“Tradesports”), an affiliate company of Defendants TEN and/or Intrade, to a bank account designated by the Monitor in the name of “Trade Exchange Network and Intrade – Disgorgement Fund” (“Disgorgement Fund”) and shall simultaneously inform the parties’ counsel as well as the Liquidator that the transfer has occurred. The CEO of Tradesports, Ronald Bernstein, has

stipulated and consented to the jurisdiction of this Court to enter an order that would transfer \$248,344.74 that is currently held and frozen in the Santander U.S. Bank Account to a bank account designated by the Monitor. (See Exhibit 1 to Motion). Defendants and Mr. Bernstein shall make appropriate, reasonable efforts to ensure that Santander is able to transfer the funds from the Santander U.S. Bank Account to the Monitor for distribution to the Defendants U.S. customers in accordance with this Consent Order.

4. The Monitor shall oversee the Disgorgement Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Defendants' U.S. customers or may defer distribution until such time as the Monitor deems appropriate.

5. The Monitor will make all reasonable efforts to distribute the entire Disgorgement Fund to Defendants' U.S. customers.

6. The Monitor shall provide the Commission no later than six months from the entry of the Consent Order a report detailing the disbursement of funds to Defendants' U.S. customers and shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer and Director of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581 with copies to Jeffrey R. Hamlin, Ifrah PLLC, 1717 Pennsylvania Ave. NW, Ste. 650 Washington, DC 20006, jhamlin@ifrahlaw.com, and Padraic Bermingham, Bermingham & Company, Damastown Way, Damastown Business Park, Dublin 15, Republic of Ireland, Padraic.bermingham@berminghamandcompany.ie. The parties and the Liquidator agree to meet and confer with the Monitor no later than fourteen days (14) thereafter.

7. If the Monitor is unable to distribute all funds contained in the Disgorgement Fund to Defendants' U.S. customers within six months of the entry of the Consent Order, and the parties and the Liquidator agree during the meet and confer with the Monitor that reasonable efforts have been made to distribute the funds back to Defendants' U.S. customers, any remaining funds shall be transferred to an account designated by the Liquidator for the sole purpose of the Liquidator distributing those funds to Defendants' secured and unsecured creditors in accordance with their priority of claims under Irish law as prescribed in Companies Act 2014, Part 11, Chapter 7.

8. If the Monitor is unable to distribute all funds contained in the Disgorgement Fund to Defendants' U.S. customers within six months of the entry of the Consent Order, and the parties and Liquidator do not agree as to whether reasonable efforts have been made to distribute the funds back to Defendants' U.S. customers, then, within fourteen days of the meet and confer required under Paragraph 6 above, the parties and Liquidator shall seek further direction from the Court to determine what if any additional reasonable steps should be taken by the Monitor to distribute any remaining funds before those funds are transferred back to the Liquidator for the sole purpose of the Liquidator distributing those funds to Defendants' secured and unsecured creditors in accordance with their priority of claims under Irish law as prescribed in Companies Act 2014, Part 11, Chapter 7. .

9. Six months following the date the parties and the Liquidator seek any direction from the Court in accordance with Paragraph 8 above, any remaining funds not returned by the Monitor to Defendants' U.S. customers shall be transferred to an account designated by the Liquidator for the sole purpose of the Liquidator distributing those funds to Defendants' secured

and unsecured creditors in accordance with their priority of claims under Irish law as prescribed in Companies Act 2014, Part 11, Chapter 7.

10. The parties and the Liquidator agree, however, that in no event will any of these funds be distributed back to current or former shareholders of either of Defendants, their affiliates, or successors before any civil monetary penalty ordered by the Court in this litigation, and thus due and owing to the United States Treasury, is fully first satisfied. The parties and Liquidator further agree that the foregoing shall not preclude current or former shareholders from receiving distributions based solely on their independent status as secured and/or unsecured creditors, which status shall not be premised in whole or in part on the shareholder's capital contributions to TEN and/or Intrade. The parties and Liquidator agree that any such shareholder-creditors will not be precluded from receiving distributions, provided that each such shareholder-creditor timely establishes his or her rights as a secured or unsecured creditor of Defendants in accordance with sections 618–620 of Companies Act 2014, Part 11, Chapter 7.

11. After the Monitor transfers any remaining funds to an account designated by the Liquidator for the sole purpose of the Liquidator distributing those funds to the secured and unsecured creditors of Defendants in accordance with their priority of claims under Irish law, the obligations imposed by the *Consent Order on Amount of Disgorgement and to Modify Freeze Order on Those U.S. Customer Funds Held in Santander Bank* entered on February 22, 2016 (Dkt. No. 85), shall be deemed to be discharged but without prejudice to the rights of Defendants' U.S. customers to seek payment of the applicable disgorgement amount as shown on Exhibit A and/or payment of any greater amount, provided that any such payments must be made to U.S. customers as creditors in accordance with the priority of their claims under Irish law.

12. Defendants and the Liquidator shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to ensure the accuracy of the information contained in Exhibit A and provide contact information to locate Defendants' U.S. customers.

13. The amounts payable to each of Defendants' U.S. customers shall not limit the ability of any customer from proving in a separate action that a greater amount is owed from Defendants or any other person or entity, and nothing herein shall be construed in any way to limit, abridge, or expand the rights of any customer that exist under state or common law.

14. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each of Defendants' U.S. customers 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 Obligation that has not been paid by Defendants to ensure continued compliance with any provision of this Consent Order and to hold Defendants in

contempt for any violations of any provision of this Consent Order. *This case is Terminated, subject to reopening to ensure compliance with this final Order.*

Dated: March 8, 2016


UNITED STATES DISTRICT COURT JUDGE

SEEN, REVIEWED AND AGREED BY:

**ONE OF THE ATTORNEYS FOR
PLAINTIFF U.S. COMMODITY FUTURES
TRADING COMMISSION**

/s/ Kathleen Banar

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SEEN, REVIEWED AND AGREED BY:

**ONE OF THE ATTORNEYS FOR
DEFENDANTS TRADE EXCHANGE
NETWORK LTD. and INTRADE THE
PREDICTION MARKET LTD.**

/s/ Jeffrey R. Hamlin

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SEEN, REVIEWED AND AGREED BY:

**LIQUIDATOR FOR DEFENDANTS TRADE
EXCHANGE NETWORK AND INTRADE
THE PREDICTION MARKET LIMITED**



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Identity of U.S. Customers Subject to Disgorgement Fund and Balances of Funds Due

User Id	Net Balance Due
XXXX2174	\$222,369.03
XXXX3699	\$3,170.18
XXXX2509	\$3,071.76
XXXX2824	\$2,236.07
XXXX3643	\$2,213.82
XXXX6426	\$2,112.79
XXXX3201	\$1,669.75
XXXX4174	\$1,592.42
XXXX3465	\$1,313.92
XXXX9827	\$1,104.65
XXXX5565	\$980.01
XXXX4163	\$853.47
XXXX4127	\$648.56
XXXX6043	\$635.20
XXXX3937	\$561.10
XXXX4988	\$527.71
XXXX1229	\$438.08
XXXX7695	\$422.40
XXXX1243	\$385.76
XXXX8883	\$360.09
XXXX1859	\$312.75
XXXX3440	\$297.38
XXXX3670	\$287.83
XXXX9941	\$259.65
XXXX7572	\$208.51
XXXX0884	\$124.86
XXXX2871	\$79.32
XXXX4397	\$78.97
XXXX2704	\$28.70

Exhibit A to Order of March 8, 2016

Civ. No. 12-1902