

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

_____)	
U.S. Commodity Futures Trading)	
Commission,)	
	Plaintiff,)	Case No. 16-CV-09334
)	
	v.)	
)	
Thomas C. Lindstrom,)	
	Defendant.)	
)	
_____)	

**CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTY
AND OTHER EQUITABLE RELIEF AGAINST THOMAS C. LINDSTROM**

I. INTRODUCTION

On September 29, 2016, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendant Thomas C. Lindstrom (“Lindstrom” or “Defendant”) 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. pt. 1-190 (2018).

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendant Thomas C. Lindstrom (“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 CFTC 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 under 28 U.S.C. § 1331 (2012) (federal question jurisdiction), 28 U.S.C. § 1345 (2012) (original jurisdiction of district court over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress), and Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);

5. Admits the jurisdiction of the CFTC 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, 28 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 (2018), 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, §§ 201-53, 110 Stat. 847, 857-68 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-05 (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 Defendant 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 the Findings of Fact or Conclusions of Law in this Consent Order, 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 CFTC is not a party. Defendant 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 *United States of America v. Thomas Lindstrom*, Case No. 16-cr-631, United States District Court for the Northern District of Illinois, filed September 28, 2016, Lindstrom pleaded guilty to wire fraud, in violation of Title 18, United States Code, Section 1343. In

connection with that plea, Lindstrom admitted the facts set out in his signed plea agreement, 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. Defendant consents to the use of the findings and conclusions in this Consent Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof.

13. Agrees to provide immediate notice to this Court and the CFTC by certified mail, in the manner required by paragraph 20 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;

14. 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 Defendant 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 PARTIES AGREE AND THE COURT HEREBY FINDS:

A. Findings of Fact

The Parties To This Consent Order

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. pt. 1-190 (2018).

16. Defendant Thomas C. Lindstrom, resides in Winnetka, Illinois. He is registered with the Commission as a floor broker. He has been a member of the Chicago Board of Trade (“CBOT”) since 1993.

Defendant’s Options Fraud

17. Between at least January 1, 2014 and January 27, 2015, Defendant Lindstrom, a long-time trader of options on 10-year U.S. Treasury note futures (“T-Note Options”) offered on the CBOT, engaged in trading activity which had the effect of falsely inflating the value and profitability of his options position, and misrepresented the quantity of options and the risk associated with his position. As a result, his employer, proprietary trading firm Rock Capital Markets, LLC, (“Rock Capital”) paid Lindstrom \$285,000 in draws to which he was not entitled. Rock Capital lost \$13,981,478 as a result of Lindstrom’s trading activity and ceased operating after twenty-three years in business.

18. Lindstrom exploited a pricing convention set by exchange rule in effect during the relevant period, pursuant to which deep out-of-the-money T-Note Options settled each day at the standard minimum tick value, \$15.625, and were only marked to market when they expired. Through spread transactions, Lindstrom purchased hundreds of thousands of deep out-of-the money options, paying effectively less than a tick for each, over the course of several contract months. Most of these options were so far out-of-the-money that they were virtually worthless and likely to expire with no value. While these options had little or no value, each was booked at a minimum of \$15.625 prior to expiration due to the exchange’s pricing convention, thereby creating the appearance of millions of dollars of profits in Lindstrom’s trading account. From

one contract expiration to the next, as the options expired worthless and his account's phony profits were wiped out, Lindstrom purchased more and more out-of-the-money options to cover the realized losses his account had incurred and create the appearance of profits in his account. Ultimately, Lindstrom accumulated a position of more than 950,000 deep out-of-the-money T-Note Options.

19. Lindstrom sent Rock Capital's manager and principal owner ("Rock Capital's Principal") screenshots purporting to show Lindstrom's options position, but which, in fact, omitted the thousands of deep out-of-the-money options that he actually held. Lindstrom exceeded the \$500,000 margin limit that Rock Capital assigned to him by millions of dollars, and evaded risk limits on his account by placing orders through an executing broker.

20. Lindstrom's agreement with Rock Capital entitled him to 80 percent of the annual net profits of his trading. Although Lindstrom's trading generated millions in losses for Rock Capital, Lindstrom used the false appearance of profits he generated in his account to request and receive \$285,000 in draws from the firm during the relevant period. Lindstrom's wrongful conduct was uncovered just days before he was to receive an additional payment of more than \$500,000.

21. When Lindstrom's true position and losses were uncovered on January 27, 2015, Lindstrom's account had a net liquidation value ("NLV") that was inflated by more than \$15 million. In fact, Lindstrom's wrongful conduct resulted in losses of \$13,981,478 and caused the collapse of Rock Capital.

B. Conclusions of Law

Jurisdiction and Venue

22. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (2012) (federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (original jurisdiction of district courts

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), further authorizes that whenever it shall appear to the CFTC 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 promulgated thereunder, the CFTC may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

23. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because the Defendant resides in this jurisdiction and the acts and practices in violation of the Act occurred within this District.

Fraud In Connection with Commodity Options Transactions

24. By the conduct described in paragraphs 1 through 21 above, Defendant willfully or recklessly, in connection with commodity options transactions: (a) cheated or defrauded, or attempted to defraud other persons including, Rock Capital and/or Rock Capital's Principal; (b) made or caused to be made false reports or statements to other persons, including to Rock Capital and/or Rock Capital's Principal, or caused to be entered for other persons false records thereof; and (c) deceived or attempted to deceive other persons, including Rock Capital and/or Rock Capital's Principal, by perpetrating a scheme to falsely inflate the value and profitability of his options position, making false and misleading statements and omissions concerning his options positions, and requesting and accepting draw payments to which he was not entitled, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), and Regulation 33.10, 17 C.F.R. § 33.10 (2018).

25. Unless restrained and enjoined by this Court, there is a reasonable likelihood that the Defendant(s) 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:

26. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendant is permanently restrained, enjoined and prohibited from, directly or indirectly, willfully or recklessly: (a) cheating or defrauding, or attempting to cheat or defraud any other person; (b) making or causing to be made to any other person any false report or statement thereof or cause to be entered for any person any false records thereof; and/or (c) deceiving or attempting to deceive other persons by any means whatsoever, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), or Regulation 33.10, 17 C.F.R. § 33.10 (2018), including, but not limited to, by perpetrating a scheme to falsely inflate the value and profitability of his options position, making false and misleading statements and omissions concerning his options positions, and requesting and accepting draw payments to which he was not entitled.

27. Defendant 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 (2018), 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) (2018); and/or
- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2018)), 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).

V. RESTITUTION AND CIVIL MONETARY PENALTY

A. Restitution

28. Defendant shall pay restitution in the amount of thirteen million, nine hundred eighty one thousand, four hundred, seventy-eight dollars (\$13,981,478) (“Restitution Obligation”), 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).

29. Defendant 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 of America v. Thomas Lindstrom,*

Case No. 16-cr-631, United States District Court for the Northern District of Illinois, filed September 28, 2016 (“Criminal Action”). For amounts disbursed to Defendant’s victims as a result of satisfaction of any restitution ordered in the Criminal Action, the Defendant shall receive a dollar-for-dollar credit against the Restitution Obligation. Within ten (10) days of disbursement in the Criminal Action to Defendant’s victims, Defendant 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 victims.

30. To effect payment of the Restitution Obligation and the distribution of any restitution payments to Defendant’s victims, the Court appoints the National Futures Association (“NFA”) as Monitor (“Monitor”). The Monitor shall receive restitution payments from Defendant 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.

31. Defendant shall make Restitution Obligation payments under this Consent Order to the Monitor in the name “Lindstrom 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 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.

32. 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 Defendant's victims identified by the CFTC 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 victims is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the CFTC following the instructions for civil monetary penalty payments set forth in Part V.B., paragraph 39 below.

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

34. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Defendant's victims 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.

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

36. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each victim of Defendant 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 to ensure continued compliance with any provision of this Consent Order and to hold Defendant in contempt for any violations of any provision of this Consent Order.

37. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Defendant'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

38. Defendant shall pay a civil monetary penalty in the amount of eight hundred fifty-five thousand dollars \$855,000 ("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).

39. Defendant 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.
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, Defendant shall contact Marie Thorne or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendant shall accompany payment of the CMP Obligation with a cover letter that identifies Defendant and the name and docket number of this proceeding. Defendant 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

40. Partial Satisfaction: Acceptance by the Commission/CFTC or the Monitor of any partial payment of Defendant'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/CFTC's right to seek to compel payment of any remaining balance.

VI. MISCELLANEOUS PROVISIONS

41. 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 CFTC:

Rosemary Hollinger
Division of Enforcement
Commodity Futures Trading Commission
525 W. Monroe St., Suite 1100
Chicago, IL 60614

Notice to Defendant:

Thomas Lindstrom
1503 Asbury Avenue
Winnetka, IL 60093

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

42. Change of Address/Phone: Until such time as Defendant satisfies in full his Restitution Obligation and CMP Obligation as set forth in this Consent Order, Defendant shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten (10) calendar days of the change.

43. 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.

44. 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.

45. Waiver: The failure of any party to this Consent Order or of any victim at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or victim 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.

46. 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 Defendant to modify or for relief from the terms of this Consent Order.

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

48. 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.

49. Contempt: Defendant 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.

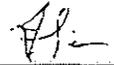
50. Agreements and Undertakings: Defendant shall comply with all of the undertakings and agreements set forth in this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this
Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief
Against Thomas C. Lindstrom forthwith and without further notice.

IT IS SO ORDERED on this 4th day of October, 2018.

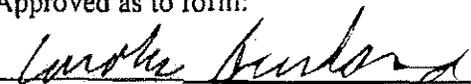

UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:

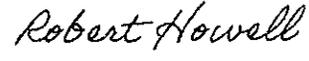


Thomas C. Lindstrom

Date: 6/5/18

Approved as to form:


Carolyn Gurland, Esq.



Robert T. Howell
Chief Trial Attorney
Commodity Futures Trading Commission
525 W. Monroe
Suite 1100
Chicago, IL 60661
(312) 596-0590
(312) 596-0714 (facsimile)
rhowell@cftc.gov

Dated 6/6/18

Exhibit A

JK

FILED

JAN 23 2018

JUDGE HARRY D. LEINENWEBER
U.S. DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

THOMAS LINDSTROM

No. 16 CR 631

Judge Harry D. Leinenweber

PLEA AGREEMENT

1. This Plea Agreement between United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, Jr., and defendant THOMAS LINDSTROM, and his attorney, JEFFREY STEINBECK, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with commodities fraud, in violation of Title 18, United States Code, Section 1348(1) and (2) (Counts 1-4) and wire fraud, in violation of Title 18, United States Code, Section 1343 (Counts 5-8).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count Five, which charges defendant with wire fraud, in violation of Title 18, United States Code, Section 1343.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count Five of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

Beginning from in or about January 2014, and continuing until in or about January 2015, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant THOMAS LINDSTROM devised, intended to devise, and participated in a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

LINDSTROM was a trader at Rock Capital, a proprietary trading firm located in Chicago, Illinois, that traded futures contracts and options on futures contracts on the Chicago Board of Trade. At Rock Capital, LINDSTROM traded options on 10-year Treasury Note futures contracts. LINDSTROM received as his compensation approximately 80% of any net profits earned from his trading at Rock Capital.

LINDSTROM used deep out of the money options on 10-year Treasury Note futures to make it fraudulently appear that his trading at Rock Capital was profitable, and thereby obtain greater compensation as a result. Specifically,

LINDSTROM purchased deep out of the money options for substantially less than one tick, knowing that the options had a minimum settlement value of one tick. LINDSTROM used this pricing convention to make it appear to Rock Capital's owner that the options LINDSTROM held were profitable, when LINDSTROM knew that his trading was actually causing substantial losses. LINDSTROM both fraudulently inflated the value and profitability of his trading, and falsely represented the quantity of options and the risk associated with his position, in order to carry out his scheme.

In order to carry out the scheme, LINDSTROM first acquired hundreds of thousands of deep out of the money options on 10-year Treasury Note futures, and on certain occasions, paid effectively less than 1 tick for each, through the use of spread transactions. LINDSTROM knew that trading records provided to Rock Capital's owner valued these options at one tick, which made his options positions appear profitable. When LINDSTROM acquired the hundreds of thousands of deep out of the money options, he also knew that these options would likely expire worthless and result in losses, but would temporarily appear to have substantial value in his trading account because they had a minimum settlement value of one tick.

LINDSTROM continuously acquired larger positions in deep out of the money options during 2014 and early 2015, in order to conceal and offset the increasing losses that accumulated when his previous options positions expired. For example, on or about December 26, 2014, approximately 82,000 of LINDSTROM's option

contracts expired worthless. In order to offset the losses associated with that expiration, LINDSTROM acquired approximately 275,000 deep out of the money options (which all settled for one tick) in the four trading days prior to and including their expiration on or about December 26, 2014. As a result, LINDSTROM concealed substantial losses from expiring options positions from Rock Capital's owner by purchasing new, deep out of the money options.

When Rock Capital's owner asked LINDSTROM about his trading, LINDSTROM falsely stated that his trading was profitable and concealed that he was accumulating substantial trading losses as a result of his scheme. In order to further conceal his trading scheme, LINDSTROM sent Rock Capital's owner position reports that were false and did not fully reflect his true options position.

Moreover, on or about November 22, 2014, LINDSTROM falsely told Rock Capital's owner that an approximately \$475,000 loss was attributable to a trading error, when LINDSTROM knew the loss was a result of his trading scheme using deep out of the money options. LINDSTROM falsely told Rock Capital's owner that he would eliminate the \$475,000 loss by fixing the alleged trading error, when defendant LINDSTROM knew that there was no trading error. LINDSTROM concealed the \$475,000 trading loss by accumulating an even larger position in deep out of the money options to offset the loss.

By in or about January 2015, LINDSTROM had accumulated more than 950,000 deep out of the money options and which reflected a minimum settlement

value of 1 tick each, and represented over \$13 million in inflated value on Rock Capital's books. LINDSTROM also held approximately 100% of the open interest in at least ten options on 10-year Treasury Note futures.

LINDSTROM obtained compensation from Rock Capital based on the fraudulently inflated value and profitability of his positions through interstate wire transfers from Rock Capital's bank account totaling approximately \$285,000, including \$35,000 on or about August 27, 2014, \$25,000 on or about September 24, 2014, \$40,000 on December 26, 2014, and \$100,000 on January 15, 2015.

As a result of his scheme, LINDSTROM caused a loss to Rock Capital of \$13,776,518, which resulted in its collapse.

On or about August 27, 2014, at Chicago, in the Northern District of Illinois, Eastern Division, LINDSTROM, for the purpose of executing the above-described scheme, did knowingly cause to be transmitted by means of wire communication in interstate commerce, certain writings, signs, and signals, namely, an interstate wire transfer in the amount of approximately \$35,000 from Rock Capital's Burling Bank account, through the Federal Reserve System, to defendant's Citibank account.

Maximum Statutory Penalties

7. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 20 years' imprisonment. This offense also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities

among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2016 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level is 7, pursuant to Guideline § 2B1.1.

ii. It is the government's position that the offense level is increased by 20 levels, pursuant to Guideline § 2B1.1(b)(1)(K), because the loss is \$13,776,518, which is more than \$9,500,000 but less than \$25,000,000. Defendant reserves the right to argue that this enhancement should be lower.

iii. The offense level is increased by 2 levels, pursuant to Guideline §2B1.1(b)(2)(A)(iii), because the offense resulted in substantial hardship to the victim.

iv. It is the government's position that the offense level is increased by 2 levels, pursuant to Guideline § 2B1.1(b)(10)(C), because the offense

involved sophisticated means. Defendant reserves the right to argue that this enhancement does not apply.

v. The offense level is increased by 2 levels, pursuant to Guideline § 3B1.3, because defendant abused a position of private trust in the commission of an offense.

vi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, it is the government's position that the anticipated offense level is 30, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 97 to 121 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall

not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

10. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

11. Each party is free to recommend whatever sentence it deems appropriate.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

13. Regarding restitution, defendant acknowledges that the total amount of restitution owed to the victim is \$13,776,518, minus any credit for funds repaid prior to sentencing, and that pursuant to Title 18, United States Code, Section 3663A, the

Court must order defendant to make full restitution in the amount outstanding at the time of sentencing.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

16. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

17. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

18. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 16 CR 631.

19. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

20. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge

sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant.

Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

21. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

22. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

23. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

24. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's

individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

25. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

26. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

Conclusion

27. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

28. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its

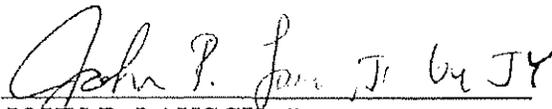
option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

29. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

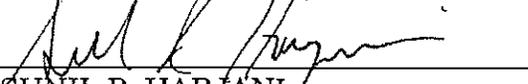
30. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

31. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

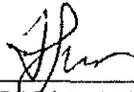
AGREED THIS DATE: 1/23/18



JOHN R. LAUSCH, Jr.
United States Attorney



SUNIL R. HARJANI
Assistant U.S. Attorney



THOMAS LINDSTROM
Defendant



~~JEFFREY STEINBECK~~ Carolyn
Attorney for Defendant Gurland