

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

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

**[PROPOSED] CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL
MONETARY PENALTY
AND OTHER EQUITABLE RELIEF AGAINST MARK R. SLOBODNIK**

I. INTRODUCTION

On January 12, 2018, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendants Richard D. Carter (“Carter”), Mark R. Slobodnik (“Slobodnik”) and Blue Guru Trading, LLC (“Blue Guru”) (collectively “Defendants”) seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1-26 (2012), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. pts. 1-190 (2018). The Court entered a a Statutory Restraining Order against Defendants on January 12, 2018 (Dkt. # 13), a Consent Order for Preliminary Injuncion Against Mark R. Slobodnik, a Consent Order for Preliminary Injunction Against Richard D. Carter on January 25, 2018 (Dkt #s 24 and 25), and an Order for Preliminary Injunction Against Blue Guru Trading, LLC on January 26, 2018 (Dkt. # 27). The Court entered an Order for Injunction, Civil Monetary Penalties and

other Statutory and Equitable Relief Against Defendant Blue Guru Trading, LLC (the “Blue Guru Order”) on May 1, 2018, (Dkt # 51).

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendant Mark R. Slobodnik (“Consent Order”);
2. Affirms that he has read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order;
3. Acknowledges service of the summons and Complaint;
4. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);
5. Admits the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act;
6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e);

7. Waives:

- (a) Any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (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, tit. II, §§ 201–53, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), 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 Slobodnik now or in the future resides outside the jurisdiction of this Court;

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

10. Agrees that neither he nor any of his agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect his: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Slobodnik 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. Consents to the entry of this Consent Order without admitting or denying the allegations of the Complaint or any findings or conclusions in this Consent Order, except as to jurisdiction and venue, which he admits;

12. 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. Does not consent, however, to the use of this Consent Order, or the findings and conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party, other than a: statutory disqualification proceeding; proceeding in bankruptcy, or receivership; or proceeding to enforce the terms of this Order;

14. Agrees to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 66 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; and

15. 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 Slobodnik in any other proceeding.

III. FINDINGS AND CONCLUSIONS

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the

entry of the following Findings of Fact, Conclusions of Law, permanent injunction and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), as set forth herein. The findings and conclusions in this Consent Order are not binding on any other party to this action.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

A. Findings of Fact

The Parties To This Consent Order

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

17. Defendant **Mark R. Slobodnik** (“Slobodnik”) is a resident of Libertyville, Illinois and was the president, head trader and a principal of Blue Guru. He was a Chicago Mercantile Exchange (“CME”) member for approximately fifteen years until 2011, when he sold his seat on the exchange. Slobodnik was registered with the CFTC as a floor broker From January 2001 to August 2013, when his floor broker registration was withdrawn. He was a principal from May 2008 to October 2010 and associated person (“AP”) from May 2008 to August 2008 of MSLO Asset Management, LLC, a former registered commodity trading advisor (“CTA”) and a principal from September 2016 to October 2017 of MSLO Trading Group, another former registered CTA.

Solicitation of Pool Participants

18. Slobodnik and a partner established Blue Guru in approximately April 2014 and began soliciting and accepting funds for Blue Guru shortly thereafter.

19. Blue Guru was essentially structured as a commodity pool. Prospective and actual participants were advised that Blue Guru would use their money to trade Dow Jones E-mini futures and S&P 500 E-mini futures on the CME, and distributed a “Confidential Private

Placement Memorandum” (“PPM”) which stated that “we intend to use the proceeds of the Offering for buying and selling futures contracts on the Chicago Mercantile Exchange.”

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

21. Moreover, the “Risk Factors” section of the PPM states, “We currently collaborate with various trading firms and have developed a proprietary model for trading the financial markets.” It also states “we are subject to Commodity Trading regulations” and that “we will be substantially dependent upon our officers, specifically, Mr. Mark Slobodnik and Mr. Richard Carter, who have significant experience in our business, to carry out our business plan.” The “Business” section of the PPM states that “Trades will be made in an Omnibus account and profits and losses are placed into member accounts on a percentage basis.”

22. Slobodnik and his partner solicited respective relatives, friends, business associates, and others to invest in Blue Guru by various means, including in-person communication, word-of-mouth and chat rooms. Slobodnik was responsible for bringing in a minority of participants.

23. During solicitations made by Slobodnik or during which Slobodnik was present, participants or prospective participants were not informed that Slobodnik had been suspended by the CME for three months and ordered to pay a \$50,000 fine for prearranged trading as part of a money pass from Slobodnik to another member. *See* CME BCC 13-9259-BC posted November 20, 2014 Participants and prospective participants also were not informed of Slobodnik’s partner’s disciplinary history.

24. Slobodnik and his partner ultimately solicited and received \$1,763,848 from 34 participants who signed Blue Guru subscription agreements. Less than two-thirds of those funds were used for trading. Some participant funds were used to pay for the redemptions of others.

25. Blue Guru maintained four proprietary accounts at a registered futures commission merchant (“FCM”); none was opened as a pool account, and none was profitable. In aggregate, the four accounts received deposits totaling \$1.1 million, sustained \$501,000 in trading losses, paid \$62,000 in exchange and clearing fees, and processed \$526,000 in withdrawals, leaving an ending balance of \$8,308.09 as of December 31, 2017.

Failure to Trade and Missappropriation of Funds

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

27. Among other things, Slobodnik deposited \$455,000 into the trading accounts, but withdrew a total of \$500,342.44, with the result that Slobodnik received \$45,342.44 to which he was not entitled.

28. Slobodnik traded one of the four proprietary futures accounts at the FCM, losing \$132,000, and indirectly controlled trading in two other futures accounts that resulted in another \$117,000 in trading losses; thus, Slobodnik was responsible for approximately \$249,000 of the \$501,000 trading losses incurred in the four accounts. During at least some communications or in which Slobodnik directly or indirectly participated, or was present or aware of, Blue Guru participants were advised that their funds were earning consistent trading profits.

29. When participants requested to withdraw their funds from Blue Guru, Slobodnik and/or his partner ignored their demands, engaged in delay tactics, and lied about conditions that

purportedly prevented them from making disbursements. For example, in response to a December 29, 2017, redemption request from Blue Guru's largest investor, Slobodnik wrote: "can we all just sit down for a few moments when you have a chance so we can all just understand where we are at? Your money will be returned, but we need to go through our process. Can we just be decent to each other and not have all this angst. I was in process of getting my life and ex wife {sic} taken care of and all of sudden all this craziness has happened. It will be taken care of."

B. Conclusions of Law

Jurisdiction and Venue

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

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

Fraud by Misappropriation and Misrepresentations

32. By the conduct described above, Slobodnik cheated and defrauded, or attempted to cheat and defraud, and willfully deceived, or attempted to deceive, prospective and actual participants by, among other things, knowingly or recklessly:

- a. misappropriating participants' funds; and
- b. making material misrepresentations and omitting material facts to prospective and actual participants, including that:
 - i. participant funds would be used to trade commodity futures contracts in a pooled account(s) at a FCM;
 - ii. participants were earning consistent profits on their investments;
 - iii. pool participants were guaranteed to earn profits of at least 8%, annual returns and receive 50% of gross net trading profits, when Slobidnik and others did not use some or all of participants' investments to trade and had no basis for making these statements; and
 - iv. refusing to allow participants to withdraw their funds.

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

Fraud by a CPO and AP of a CPO

33. By the conduct described above and in paragraphs 3-19 of the Blue Guru Order, Blue Guru acted as a CPO in that it engaged in a business that is of the nature of an investment trust, syndicate or similar form of enterprise operated for the purpose of trading in commodity interests or commodity futures, and in connection therewith, solicited, accepted and received funds from others for the purpose of trading in commodity interests and commodity futures.

34. By the conduct described above, Slobodnik acted as an AP of Blue Guru by soliciting funds for the pool and handling participant monies while being associated with Blue Guru as a partner, officer, employee, consultant, or agent (or person occupying a similar status or performing similar functions).

35. As set forth above and in paragraphs 3-19 of the Blue Guru Order, Slobodnik, while acting as an AP of a CPO, and Blue Guru, while acting as a CPO, defrauded and deceived participants of Blue Guru by using the mails or any other means of interstate commerce in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), by among other things:

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

36. As set forth above and in paragraphs 3-19 of the Blue Guru Order, Slobodnik, while acting as an AP of a CPO, and Blue Guru, while acting as a CPO, defrauded and deceived participants of Blue Guru by using the mails or any other means of interstate commerce in violation of 7 U.S.C. § 6o(1).

Failure to Register as a CPO

37. By the conduct described in paragraphs 3-19 of the Blue Guru Order, Blue Guru engaged in activities as a CPO without the benefit of registration as a CPO, and in connection therewith used the mails or other means or instrumentalities of interstate commerce, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

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

38. By the conduct described above, Slobodnik violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012), in that he acted as an AP of Blue Guru without the benefit of

registration as an AP of a CPO. By the conduct described in paragraphs 3-19 of the Blue Guru Order, Blue Guru violated 7 U.S.C. § 6k(2) in that, acting as a CPO, it allowed Slobodnik to act as an AP when it knew or should have known that Slobodnik was not registered as an AP.

Derivative Liability

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

40. Unless restrained and enjoined by this Court, there is a reasonable likelihood that Slobodnik 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:

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

- a. in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, (A) cheating or defrauding or attempting to cheat or defraud such other person; or (C) willfully deceiving or attempting to deceive such other person, in violation of Section 4b(a)(1)(A),(C) of the Act, 7 U.S.C. § 6b(a)(1)(A),(C) (2012);
- b. using the mails or any means or instrumentality of interstate commerce, directly or indirectly, as a commodity pool operator ("CPO") or associated person ("AP") of a CPO to (A) employ any device, scheme, or artifice to defraud any participant; or (B) engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any participant, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012);

- c. failing to register as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012); and
- d. failing to register as an AP or permitting an AP to remain unregistered, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012).

42. For five years from the date of entry of this Order, Defendant Slobodnik is also 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 17 C.F.R. § 4.14(a)(9).

V. RESTITUTION, DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Restitution

43. Slobodnik shall pay restitution in the amount of two hundred and eighty thousand dollars (\$280,000) (“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).

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

45. Slobodnik shall make Restitution Obligation payments, and any post-judgment interest payments, under this Consent Order to the Monitor in the name "Mark R. Slobodnik 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 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 Slobodnik 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.

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

distribution to eligible participants is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part C below.

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

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

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

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

compliance with any provision of this Consent Order and to hold Slobodnik in contempt for any violations of any provision of this Consent Order.

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

B. Disgorgement

52. Slobodnik shall pay disgorgement in the amount of forty five thousand three hundred forty two dollars and forty four cents (\$45,342.44) ("Disgorgement Obligation"), representing the gains received in connection with such violation(s), plus post-judgment interest. Post-judgment interest shall accrue on the Disgorgement 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).

53. The Court authorizes the Monitor to effect payment of the Disgorgement Obligation and the distribution of any disgorgement payments to Defendant Blue Guru's pool participants. The Monitor shall receive disgorgement payments from Slobodnik and make distributions as set forth below.

54. Slobodnik shall make Disgorgement Obligation payments, and any post-judgment interest payments, under this Consent Order to the Monitor in the name "Mark R. Slobodnik Disgorgement 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 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 Slobodnik 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.

55. 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 participants identified by the Commission or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of the Disgorgement Obligation payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a distribution to eligible participants is impractical, the Monitor may, in its discretion, treat such disgorgement 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 C below.

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

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

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

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

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

C. Civil Monetary Penalty

61. Slobodnik shall pay a civil monetary penalty in the amount of forty five thousand three hundred forty two dollars and forty four cents (\$45,342.44) ("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).

62. Slobodnik shall pay his CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

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

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

D. Provisions Related to Monetary Sanctions

63. Partial Satisfaction: Acceptance by the Commission or the Monitor of any partial payment of Slobodnik's Restitution Obligation, Disgorgement Obligation, or CMP Obligation shall not be deemed a waiver of his obligation to make further payments pursuant to this Consent Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

64. Asset Freeze: On January 25, 2018, the court entered a Consent Order for Preliminary Injunction Against Mark R. Slobodnik prohibiting the transfer, removal, dissipation and disposal of Slobodnik's assets ("Asset Freeze Order"). The court hereby lifts this Asset Freeze Order.

E. Cooperation

65. Slobodnik 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. Slobodnik shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action. Slobodnik must also comply with the terms of the Cooperation Agreement entered into in September 2018 with the Commission.

VI. MISCELLANEOUS PROVISIONS

66. 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:

Rosemary Hollinger
Deputy Director
Commodity Futures Trading Commission
525 West Monroe Street, Suite 1100
Chicago, IL 60661

Notice to Defendant Mark R. Slobodnik:

James L. Kopecky
Kopecky Schumacher Rosenberg PC
120 North LaSalle Street, Suite 200
Chicago, IL 60602

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

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

68. 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.

69. 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.

70. Waiver: The failure of any party to this Consent Order or of any participant at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or participant at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

71. 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 Slobodnik to modify or for relief from the terms of this Consent Order.

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

73. 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.

74. Contempt: Slobodnik 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.

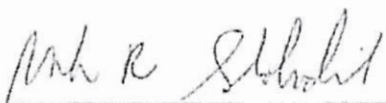
75. Agreements and Undertakings: Slobodnik shall comply with all of the undertakings and agreements set forth in this Consent Order.


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

IT IS SO ORDERED on this 15th day of November, 2018.


UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:



Mark R. Slobodnik


Susan Gradman
Chief Trial Attorney
Commodity Futures
Trading Commission
525 West Monroe, Suite
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312-596-0523
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Date: 10-15-18

Date: 11-1-18

Approved as to form:


James Kopecky
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312-380-6552
Counsel for Mark R. Slobodnik

Date 10/15/18