

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 9:18-cv-80759-WPD

COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
MARK OLSEN MINING COMPANY)
and BETTY LEA GRIMES,)
)
Defendants.)

**ORDER OF FINAL JUDGMENT BY DEFAULT, PERMANENT INJUNCTION, CIVIL
MONETARY PENALTIES, AND OTHER STATUTORY AND EQUITABLE RELIEF
AGAINST MARK OLSEN MINING COMPANY AND BETTY LEA GRIMES**

On June 18, 2018, the Commission filed a Complaint for Injunctive and Other Equitable Relief, Restitution, and Civil Monetary Penalties Under the Commodity Exchange Act and Commission Regulations (“Complaint”) against Defendants Mark Olsen Mining Company (“MOMC”) and Betty Lea Grimes (“Grimes”). The Complaint alleges that from at least April 2013 and continuing through at least February 2014 (the “Relevant Period”), MOMC, by and through its employees and agents, including Grimes, offered to enter into, and conducted an office or business in the United States for the purpose of soliciting or accepting orders for the purchase or sale of precious metals from retail customers on a leveraged or financed basis, as well as on a fully-paid basis in which customers provided 100% of the purchase price. (Complaint ¶¶ 1-3) As alleged in the Complaint, Defendants collected at least \$907,820 from customers in connection with the retail commodity transactions, in violation of 7 U.S.C. §§ 6(a), 6b(a), and 9(1) (2012). The Commission’s Complaint seeks to enjoin Defendants’ unlawful acts

and practices and to compel compliance with the Act and Regulations. In addition, the Commission's Complaint seeks disgorgement, a civil monetary penalty and other ancillary equitable relief.

After filing the Complaint, Plaintiff made numerous unsuccessful efforts to serve Defendants personally with the summons and complaint at multiple addresses associated with Grimes and/or MOMC. *See* Plaintiff's Motions to: (1) Authorize Alternate Service of Process by Publication; and (2) Extend Time for Service. (ECF No. 4) The Court issued an Order granting Plaintiff's Motion to Authorize Alternate Service of Process on September 10, 2018. (ECF Nos. 5, 6) On November 8, 2018, Plaintiff submitted a Notice to the Court confirming that service of process by publication was perfected in accordance with applicable Florida law. (ECF No. 7)

Defendants failed to appear or answer the Complaint within the time permitted by Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 12(a)(1)(A)(i). Accordingly, on December 4, 2018, the CFTC, pursuant to Fed. R. Civ. P. 55(a), filed its *Application for Entry of Default* against Defendants. On December 11, 2018, the Clerk of this Court entered default against Defendants. Pursuant to Fed. R. Civ. P. 55(b)(2), the Commission has now submitted its *Motion and Supporting Memorandum for an Order of Default Judgment, Permanent Injunction, Civil Monetary Penalties, and Other Statutory and Equitable Relief Against Defendants Mark Olsen Mining Company and Betty Lea Grimes* ("Motion and Memorandum"). The Court has considered the Complaint, the allegations of which are well-pleaded and hereby taken as true, the Commission's Motion and Memorandum, and declarations and exhibits filed with the Court, and, being fully advised in the premises, hereby:

GRANTS the Commission's Motion against Defendants MOMC and Grimes, enters the following Findings of Fact and Conclusions of Law relevant to the allegations in the Complaint,

and issues the following *Order of Final Judgment by Default, Permanent Injunction, Civil Monetary Penalty, and Other Statutory and Equitable Relief Against Defendants Mark Olsen Mining Company and Betty Lea Grimes* (hereinafter “Order”) pursuant to 7 U.S.C. § 13a-1, as set forth herein.

I. FINDINGS OF FACT

The Court incorporates by reference the well-pleaded facts alleged in the Complaint, which Defendants MOMC and Grimes have never contested by answer or other responsive pleading. These facts are taken as true.

A. The Parties

1. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1-26 (2012), and the Commission’s Regulations promulgated thereunder, 17 C.F.R. §§ 1.1-190 (2018).

2. Defendant **Betty Lea Grimes** is a resident of Florida. Grimes has used the following names, and combinations of these names, in various legal documents: Betty Grimes, Lea Grimes, Lea Lauren, Betty Nehme, and Lea Nehme. Grimes has never been registered with the Commission.

3. Defendant **Mark Olsen Mining Company** was a Florida corporation that was incorporated in 2013. Grimes was its sole officer and director. MOMC’s headquarters and mailing address was Grimes’ residential address in Boca Raton, Florida. MOMC was incorporated in April 2013, and administratively dissolved in September 2015. MOMC has never been registered with the Commission.

4. During the Relevant Period, Defendants obtained more than \$900,000 from three customers for the purported purpose of investing in precious metals. Defendants misappropriated all of the customer funds they received, and customers received no metals.

5. The fraudulent scheme began in 2013, when Grimes created MOMC after agreeing to do business with Mark Olsen (“Olsen”). At that time, Grimes was working as a salesperson for a firm that sold diamonds to retail customers, and Olsen purported to be working in the precious metals mining business in Africa. After the diamonds business closed and Grimes became unemployed, she agreed to work with Olsen in selling precious metals to her former diamonds customers.

6. Grimes created MOMC in April 2013, filing corporate documents with the Florida Secretary of State, and listing her Boca Raton residence as both the principal place of business and mailing address for the company. Grimes also opened two bank accounts in the name of MOMC. In all of these documents, Grimes listed herself as the sole officer and director of MOMC. Grimes used different names throughout these documents, including Lea Nehme and Betty Lea Grimes. (Complaint ¶ 22)

7. In their solicitations to actual and potential customers, Defendants used a web site, www.markolsenmining.com (the “MOMC web site”), as well as other marketing materials, that contained false representations to defraud customers who wished to purchase precious metals from MOMC. (Complaint ¶¶ 23-24) Defendants made additional misrepresentations in direct oral and written communications with customers. These misrepresentations included the following:

- MOMC had been in operation since 1991 and employed 6,000 people worldwide;

- MOMC owned eight precious metals mines and operated as a precious metals dealer;
- “In 2007, Olsen Mining became the first mining company selected to be part of the Dow Jones Sustainability World Index. Olsen Mining industry [sic] leading performance is reflected through high standards in environmental management, health and safety for its employees and by creating value and opportunity for host communities and Olsen Mining is the fastest-growing, lowest cost senior gold producer, with operations and development projects in politically stable jurisdictions throughout the Americas. Our strong project pipeline is positioned to drive long term, sustainable growth”;

8. In fact, none of these representations were true: MOMC had no employees, officers or directors other than Grimes, and had existed only since 2013; MOMC did not own or operate any mines, and did not produce or sell any precious metals.

9. In her capacity as an officer, director, and/or agent of MOMC, Grimes pursued numerous individuals to purchase precious metals from MOMC. Many of these individuals had been former customers of hers from the wholesale diamonds firms and/or other telemarketing firms where she had previously been employed. Grimes communicated with these customers via telephone, Skype, and facsimile. Grimes provided potential customers with the link to the MOMC web site as well as written MOMC marketing materials, even though she knew these documents contained false information. In these communications, customers were given the option to purchase precious metals by: (1) paying the full amount due, after which the metals would be delivered to the customer within two weeks of payment; or (2) paying only a portion of the metals' value, and arranging for a loan for the remaining amount, with repayment of the loan

due upon the customer's resale of the metals. With this second option, the precious metals would be delivered within two weeks of the initial payment.

10. Grimes ultimately persuaded three former diamonds customers to purchase precious metals, on both a leveraged and fully-paid basis, from MOMC ("MOMC Customers"). The MOMC customers paid MOMC more than \$900,000 for these precious metals. The payments took place as follows:

- In August and September 2013, Customer 1 purchased \$74,000 of bullion gold bars, paying in full via wire transfer. MOMC accepted the wire transfer but did not deliver the gold;
- In November 2013, Customer 2 entered into two contracts with MOMC for the purchase of American Eagle coins. In the first contract, Customer 2 agreed to pay the full amount due; in the second contract, Customer 2 agreed to pay a smaller amount upfront, obtain financing for the remainder, and pay the full amount due only after re-selling the coins. Customer 2 subsequently made seven payments to MOMC under both contracts, totaling more than \$600,000, but never received any of the coins he purchased; and
- In February 2014, Customer 3 purchased \$230,000 of gold bars from MOMC, making full payment via wire transfer. MOMC accepted the wire transfer but did not deliver the coins.

11. Rather than delivering precious metals, Defendants misappropriated the entire amount that the MOMC Customers paid to MOMC. Grimes transferred \$825,330 to Olsen, via wire transfer to multiple bank accounts located in South Africa. Grimes spent the remaining

amount, \$82,490, on personal living expenses, including the monthly rent on her apartment, an automobile loan, and meals at local restaurants.

12. Defendants never bought, sold, loaned, stored, or transferred any physical metals for the precious metals transactions at issue. Likewise, Defendants never delivered any precious metals to any customers in connection with the financed metals transactions at issue. (Complaint ¶¶ 39; Viehmeyer Decl. ¶¶ 14-15) At all times during the Relevant Period, the financed metals transactions that MOMC entered into with its customers were not made or conducted on, or subject to, the rules of any board of trade, exchange or contract market.

13. At all times during the Relevant Period, Grimes was the President and sole controlling person of MOMC. Grimes exercised control over the day-to-day operations of MOMC. Grimes was the sole signatory on Grimes' bank accounts.

II. CONCLUSIONS OF LAW

A. Defendants' Failure to Answer Warrants Entry of Default Judgment

14. This Court has jurisdiction over the conduct and transactions at issue in this case pursuant to 7 U.S.C. §§ 2(c)(2) and 13a-1(2012). 7 U.S.C. § 13a-1(a) authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such 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.

15. Venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e), because Defendants resided in this District, Defendants transacted business in this district, and the acts and practices in violation of the Act occurred within this District.

16. Rule 55(b) of the Federal Rules of Civil Procedure gives this Court authority to “enter a final judgment of default against a party who has failed to plead in response to a complaint.” *United States v. Swartout*, 293 F. Supp. 3d 1377, 1378 (S.D. Fla. 2018) (Middlebrooks, J.); *Abercrombie & Fitch Trading Co. v. Abercrombieclassic.com*, No. 15-62579-CIV, 2016 WL 3369529, at *3 (S.D. Fla. April 12, 2016) (Altonaga, J.). “The entry of default constitutes an admission to the well-pleaded allegations in the Complaint.” *Id.* (citing *Cancienne v. Drain Masters of South Florida, Inc.*, No. 08-61123-CIV, 2008 WL 5111264, at *1 (S.D. Fla. Dec. 3, 2008) (Zloch, J.)). In light of the well-pleaded facts set forth in the Complaint and in the Commission’s submissions in support of its Motion, entry of final judgment by default, permanent injunction, civil monetary penalty and other statutory and equitable relief against Defendants MOMC and Grimes is warranted.

17. Where the well-pleaded facts of the complaint establish liability, the Court must determine the appropriate amount of damages. *See Swartout*, 293 F. Supp. 3d at 1378; *Petmed Express, Inc. v. Medpets.com, Inc.*, 336 F. Supp. 2d 1213, 1217 (S.D. Fla. 2004) (Cohn, J.). Where all essential evidence of damages is on record, no evidentiary hearing is required. *See SEC v. Smyth*, 420 F.3d 1225, 1232 n. 13 (11th Cir. 2005); *Petmed Express*, 336 F. Supp. 2d at 1217. *See also CFTC v. Oakmont Financial, Inc.*, No. 16-80055-CIV, 2017 WL 9963325, *2 (S.D. Fla. January 19, 2017) (Dimitrouleas, J.).

B. Defendant Violated 7 U.S.C. §§ 6(a), 6b(a), and 9(1)

18. 7 U.S.C. § 2(c)(2)(D) broadly applies to any agreement, contract, or transaction in any commodity that is entered into with, or offered to, a person who is not an eligible contract participant (“ECP”)¹ on a leveraged or margined basis, or financed by the offeror, the

¹ 7 U.S.C. § 1a(18)(xi) (2012), defines an ECP as an individual who has amounts invested on a discretionary basis, the aggregate of which exceeds \$10 million, or \$5 million if the individual enters into the transaction to manage the

counterparty, or a person acting in concert with the offeror or counterparty on a similar basis (“retail commodity transactions”).

19. 7 U.S.C. § 2(c)(2)(D) provides that, subject to certain exceptions that are not applicable here, retail commodity transactions shall be subject to 7 U.S.C. § 6(a), “as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery.”

20. 7 U.S.C. § 6(a), in relevant part, makes it unlawful for any person to offer to enter into, execute, confirm the execution of, or conduct any office or business anywhere in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery unless the transaction is conducted on or subject to the rules of a board of trade that has been designated or registered by the Commission as a contract market.

21. By the conduct described in paragraphs 1 through 13 above, Defendants violated 7 U.S.C. § 6(a), by offering to enter into, and entering into, retail commodity transactions that were not conducted on a Commission-designated contract market. Further, the precious metals transactions were offered and entered into by Defendants (a) on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis and (b) with persons who were not ECPs. Moreover, the retail commodity transactions did not result in actual, physical delivery of precious metals within 28 days and thus fall outside of 7 U.S.C. § 2(c)(2)(D)’s “actual delivery” exception.

22. 7 U.S.C. § 9(1) makes it unlawful for any person to use or employ, in connection with a contract of sale of any commodity in interstate commerce, any manipulative or deceptive device or contrivance, in contravention of Commission rules and regulations. 7 U.S.C. § 9(1).

risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.

23. 17.C.F.R. § 180.1, in relevant part, makes it unlawful for any person, in connection with a contract of sale of any commodity interstate commerce, to intentionally or recklessly: (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud; (2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; or (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person.

24. By the conduct described in paragraphs 1 through 13 above, Defendants violated 7 U.S.C. § 9(1), and 17.C.F.R. § 180.1.

25. 7 U.S.C. § 6b(a)(2) makes it unlawful “for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery that is made, or to be made, for, on behalf of, or with any other person, other than on or subject to the rules of a designated contract market – (A) to cheat or defraud or attempt to cheat or defraud the other person; . . . (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed with respect to any order or contract for, on behalf of, or with the other person.”

26. By the conduct described in paragraphs 1 through 13 above, Defendants violated 7 U.S.C. § 6b(a)(2).

C. MOMC is Liable for its Agent’s Violations Pursuant to 7 U.S.C. § 2(a)(1)(B), and 17 C.F.R. § 1.2

27. Grimes committed the acts, omissions and failures described herein within the course and scope of her employment, agency, or office with MOMC. Therefore, MOMC is liable

under 7 U.S.C. § 2(a)(1)(B) (2012), and 17 C.F.R. § 1.2 (2018), for Grimes' acts, omissions and failures in violation of 7 U.S.C. §§ 6(a), 6b(a), and 9(1) (2012), and 17 C.F.R. § 180.1 (2018).

D. Grimes is Liable for MOMC's Violations as a Controlling Person Pursuant to 7 U.S.C. § 13c(b)

28. Grimes directly or indirectly controlled MOMC and did not act in good faith. Further, Grimes knowingly induced, directly or indirectly, the acts constituting MOMC's violations of the CEA. Pursuant to 7 U.S.C. § 13c(b) (2012), Grimes is liable for each of MOMC's violations of the CEA.

III. ORDER FOR RELIEF

IT IS HEREBY ORDERED THAT:

29. The Commission's Motion and Supporting Memorandum for Entry of Default Judgment, Permanent Injunction, Civil Monetary Penalties, and Other Statutory and Equitable Relief Against Defendants Mark Olsen Mining Company and Betty Lea Grimes is GRANTED.

A. Permanent injunction

30. MOMC and Grimes are permanently enjoined from violating sections 7 U.S.C. §§ 6(a), 6b(A), and 9(1) (2012), and 17 C.F.R. § 180.1 (2018).

31. Based upon and in connection with the foregoing conduct, pursuant to 7 U.S.C. § 13a-1, MOMC and Grimes are also permanently enjoined from directly or indirectly:

- a. offering to enter into, executing, confirming the execution of, or conducting any office or business anywhere in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery unless the transaction is conducted on or subject to the rules of

a board of trade that has been designated or registered by the Commission as a contract market in violation of 7 U.S.C. § 6(a);

- b. cheating or defrauding or attempting to cheat or defraud, or willfully deceiving or attempting to deceive any person by any means whatsoever regarding (i) any futures order or contract made for, on behalf of, or with, any other person, other than on or subject to the rules of a designated contract; (ii) the disposition or execution of any futures order or contract, or (iii) any act of agency performed with respect to any futures order or contract made for, on behalf of, or with, another person, in violation of 7 U.S.C. § 6b(a)(2)(A), (C).
- c. directly or indirectly, in connection with any contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, intentionally or recklessly: (1) using or employing, or attempting to use or employ, a manipulative device, scheme, or artifice to defraud; (2) making, or attempting to make, untrue or misleading statements of a material fact or omit to state material facts necessary in order to make the statements made not untrue or misleading; or (3) engaging, or attempting to engage, in acts, practices, or courses of business, which operate or would operate as a fraud or deceit upon customers or prospective customers, in violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1.
- d. Trading on or subject to the rules of any registered entity (as that term is defined in 7 U.S.C. § 1a(40) (2012));

- e. entering into any transactions involving “commodity interests” (as that term is defined in 17 C.F.R. § 1.3(yy) (2018) for its own account or for any account in which it has a direct or indirect interest;
- f. having any commodity interests traded on its behalf;
- g. 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;
- h. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- i. 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 17 C.F.R. § 4.14(a)(9); and/or
- j. acting as a principal (as that term is defined in 17 C.F.R. § 3.1(a)), agent, or any other officer or employee of any person (as that term is defined in 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. DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Disgorgement

32. Defendants MOMC and Grimes shall jointly pay disgorgement in the amount of \$907,820 within ten (10) days of entry of this Order (“Disgorgement Obligation”), and post-judgment interest in the Disgorgement Obligation shall accrue commencing on the date of the entry

of this Order and shall be determined using the Treasury Bill rate prevailing on the date of the entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

33. Defendants shall make payments of the Disgorgement Obligation to the National Futures Association (“NFA”) (“Monitor”) and the Monitor shall collect disgorgement payments from Defendants and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the Monitor shall not be liable for any action or inaction arising from the Monitor’s appointment, other than actions involving fraud.

34. Defendants shall make Disgorgement Obligation payments under this Order to the Monitor in the name “Mark Olsen Mining Company Fund” and shall send such Disgorgement 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 a cover letter that identifies MOMC and Grimes and the name and docket number of this proceeding. Defendants 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, N.W., Washington, D.C. 20581.

35. 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 MOMC’s customers or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of 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 customers 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 below.

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

37. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to MOMC customers 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, N.W., Washington, D.C. 20581.

38. The amounts payable to each customer shall not limit the ability of that customer from proving 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 or abridge the rights of any customer that exist under state or common law.

39. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each customer of MOMC who suffered a loss is explicitly made an intended third-party beneficiary of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the Disgorgement Obligation that has not been paid by Defendants, to ensure continued compliance with any provision of this Order, and to hold Defendants in contempt for any violations of any provision of this Order.

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

B. Civil Monetary Penalty

41. Defendants shall jointly pay a civil monetary penalty of Two Million and Seven Hundred and Twenty-Three Thousand and Four Hundred and Sixty dollars (\$2, 723,460) within ten (10) days of the date of entry of this Order ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

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

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables
DOT/FAA/MMAC/AMZ-341
CFTC/CPSC/SEC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-7262
Fax: (405) 954-1620
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, Defendant shall contact Nikki Gibson or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendant shall accompany payment of its 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 Relating to Monetary Sanctions

43. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment of Defendants' Disgorgement or CMP Obligation shall not be deemed a waiver of Defendants' obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

44. Any payments received from Defendants pursuant to this Order shall be applied first to satisfy its Disgorgement Obligation.

D. Miscellaneous Provisions

45. Notice: All notices required to be given by any provision in this Order shall be sent by certified mail, return receipt requested as follows:

Notice to Commission:

James McDonald, Director
Division of Enforcement
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, D.C. 20581

Notice to Monitor:

Office of Administration
National Futures Association
300 South Riverside Plaza, Suite 1800
Chicago, Illinois 60606-3447

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

46. Change of Address/Phone: Until such time as Defendants satisfy in full their Disgorgement and CMP Obligations as set forth in this Order, Defendants shall provide the

Commission and the Monitor with written notice by certified mail of any change to its telephone number(s) and/or mailing address(es) within ten (10) calendar days of the change.

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

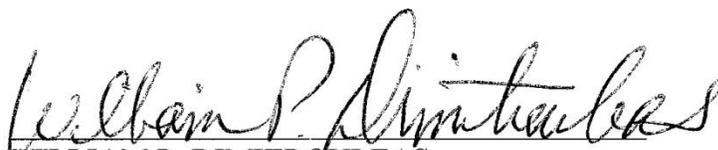
48. Injunctive or Equitable Relief Provisions: The injunctive and equitable relief provisions of this Order shall be binding upon Defendants, upon any person under their authority or control, and upon any person who receives actual notice of this Order by personal service, e-mail, facsimile, or otherwise,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

49. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action, including any motion by Defendants to modify or for relief from the terms of this Order. This Order shall be interpreted and enforced according to the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Southern District of Florida, and all provisions of the Act and Commission Regulations relating or referring to the obligations hereunder.

50. Copies of this Order may be served by any means, including U.S. Mail, facsimile transmission, e-mail, United Parcel Service, and Federal Express, upon Defendant and any other entity or person that may be subject to any provision of this Order.

51. There being no just cause for delay, the Clerk of the Court is hereby directed to enter this Order.

DONE AND ORDERED in Chambers in Fort Lauderdale, Florida this 22nd day of
February, 2019.


WILLIAM P. DIMITROULEAS
United States District Judge