



**U.S. COMMODITY FUTURES TRADING COMMISSION**

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Office of Proceedings

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Proceedings Clerk

**10:25 am, Sep 04, 2014**

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In the Matter of:

ARISTA LLC, and  
ABDUL SULTAN WALJI  
a/k/a ABDUL SULTAN VALJI,  
Registrants.

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CFTC Docket No. SD 14-01

**INITIAL DECISION ON DEFAULT**

Before: Philip V. McGuire,  
Office of Proceedings  
Commodity Futures Trading Commission  
Washington, D.C.

Appearances: Michael P. Geiser, Esq., Trial Attorney  
Douglas K. Yatter, Esq., Trial Attorney  
Manal Sultan, Esq., Deputy Director  
Division of Enforcement,  
Commodity Futures Trading Commission  
New York, NY

**Introduction**

This is a proceeding to revoke the registrations of Arista LLC ("Arista") and Abdul Sultan Walji a/k/a Abdul Sultan Valji ("Walji"), pursuant to Section 8a(2) of the Commodity Exchange Act ("Act"), 7 U.S.C. §8a(2) (2012), and Commission rules 3.60(g) and 10.93, 17 C.F.R. §§ 3.60(g) and 10.93 (2014). Arista is registered as a commodity pool operator, and Walji is registered as an associated person of Arista.

By motion dated April 30, 2014, the Commission's Division of Enforcement ("Division") has moved for entry of a default judgment against registrants Arista and Walji, based on their failures to answer, or otherwise to appear or respond to, the Commission's "Notice of Intent to Revoke the Registration of Arista LLC and Abdul Sultan Walji a/k/a Abdul Sultan Valji" ("Notice"). In this connection, on February 20, 2014, the Commission's Proceedings Clerk had served the Notice on Arista and Walji at their last registered addresses.<sup>1</sup> Thus, Arista and Walji were properly served pursuant to CFTC rule 3.50.<sup>2</sup>

The Commission's Notice alleges that Arista and Walji are subject to statutory disqualification from Commission registration based on: one, the "Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Arista LLC, Abdul Sultan Walji a/k/a Abdul Sultan Valji and Reniero Francisco," entered on December 3, 2013 by the Honorable Judge Paul A. Engelmayer of the U.S. District Court for the Southern District of New York in *CFTC v. Arista, Abdul Sultan Walji a/k/a Abdul Sultan Valji, and Reniero Francisco*, Case No. 12 CV 9043 (PAE) ("Consent

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<sup>1</sup> The CFTC Proceedings Clerk served the Commission's Notice by certified mail: (1) on Arista at Arista's Newport Coast, California address listed with the National Futures Association; and (2) on Walji at Arista's Newport Coast address and at Walji's San Juan Capistrano, California address, both of which were shown on his application for registration with the Commission. The U.S. Post Office reported both copies of the Notice addressed to the Newport Coast, California address had been successfully "Delivered." However, the copy of the Notice addressed to Walji's San Juan Capistrano, California address was returned as undeliverable by the USPS on March 13, 2014.

<sup>2</sup> Pursuant to CFTC rule 3.30(a), 17 C.F.R. § 3.30(a) (2014), the address of each registrant as submitted on its application for registration or as submitted on the biographical supplement shall be deemed to be the address for delivery to the registrant for any communications from the Commission, including any summons, complaint, notice and other written documents or correspondence, unless the registrant specifies another address for this purpose. CFTC rule 3.30(b), 17 C.F.R. § 3.30(b) (2014), provides that each registrant, while registered and for two years after the termination of registration, must notify the National Futures Association ("NFA") of any change of address, and that failure to do so may result in an order of default in any Commission or NFA proceedings. Moreover, pursuant to CFTC rule 3.50, 17 C.F.R. § 3.50 (2014), for purposes of an action for the denial, suspension or revocation of registration, service upon a registrant will be sufficient if mailed by registered mail or certified mail return receipt requested properly addressed to the registrant at the address shown on his application or any amendment thereto, and will be complete upon mailing.

“Consent Order”); and two, the judgment in a parallel criminal case reflecting that Walji pled guilty and was adjudicated guilty, entered on November 20, 2013, by the Honorable Judge Denise L. Cote of the U.S. District Court for the Southern District of New York in *U.S. v. Walji*, Case No. 13 CR 00217-01 (DLC) (“Judgment”).

Arista and Walji did not respond to the Commission’s Notice. Therefore, on April 2, 2014, I issued a Default Notice finding that Arista and Walji were in default, and setting deadlines for the Division to file a motion for entry of a default judgment and for Arista and Walji to file any opposition to the Division’s motion.<sup>3</sup> Arista and Walji have not responded to the Default Notice or to the Division’s for entry of a default judgment motion. Thus, this matter is ripe for entry of a default judgment.

As a result of their defaults, Arista and Walji have waived a hearing on all of the issues and are precluded from introducing evidence of mitigation and rehabilitation which is necessary to rebut the strong presumption of unfitness for registration created by the findings of fact, conclusions of law, and sanctions in the Consent Order in *CFTC v. Arista* and the Judgment in *U.S. v. Walji*. Thus, the well-plead allegations in the Commission’s Notice -- as augmented by the evidence and proposed findings and conclusions in the Division’s Motion -- are deemed true and conclusive for purposes of finding: one, that Arista is statutorily disqualified from registration under Sections 8a(2)(C) and (E) of the Act, 7 U.S.C. §§ 12a(2)(C) and (E) (2012); and two, that Walji is statutorily disqualified under Sections 8a(2)(C), (D) and (E) of the Act, 7 U.S.C. §§

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<sup>3</sup> The CFTC Proceedings Clerk served the Default Notice by certified mail: (1) on Walji’s latest known address at FCI La Tuna, TX, and (2) on Arista at its Newport Coast address listed with the National Futures Association. The U.S. Post Office reported both copies of the Notice were successfully “Delivered”. See link:

<https://tools.usps.com/go/TrackConfirmAction.action?tRef=fullpage&tLc=2&text28777=&tLabels=7196+9008+9111+5552+8908%2C+7196+9008+9111+5552+8939>

§§ 12a(2)(C), (D) and (E) (2012). Accordingly, as explained below, the Division's motion has been granted, Arista and Walji have been found to be unfit for registration and statutorily disqualified from registration, and the registrations of Arista and Walji have been revoked.

### **Findings of Fact**

1. Arista a California limited liability company, located in Newport Beach, California, has been registered with the Commission, since April 20, 2011, as a commodity pool operator ("CPO") pursuant to Section 4m of the Act, 7 U.S.C. § 6m.

2. Abdul Sultan Walji a/k/a Abdul Sultan Valji ("Walji") has been registered as an associated person of Arista since April 20, 2011. Walji listed himself as a principal, chief executive officer, treasurer, secretary and manager of Arista and as the registration contact for Arista.

Walji is currently incarcerated in FCI La Tuna, Texas. He previously resided in San Juan Capistrano, California.

3. On December 12, 2012, the Commission filed a two-count complaint in the United States District Court for the Southern District of New York against Arista and Walji -- as well as an additional defendant, Reniero Francisco, who is not a subject of this statutory disqualification -- seeking injunctive and other equitable relief, and the imposition of civil penalties, for violations of the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.* (the "Act"), and the regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* *See CFTC v. Arista LLC, Abdul Sultan Walji a/k/a Abdul Sultan Valji, and Reniero Francisco*, No. 12-CV-9043 (PAE) (S.D.N.Y. Consent Order filed Dec. 12, 2012) ("*CFTC v. Arista*").

On May 28, 2013, the Commission filed an amended complaint adding an additional count to the complaint. The amended complaint alleged, *inter alia*, that Arista and Walji carried out a fraudulent scheme to misappropriate millions of dollars from investors in commodity futures and options, collecting more than \$9.5 million from 39 investors, of which over \$4.8 million was lost in trading, primarily in E-mini S&P 500 futures contracts on the Chicago Mercantile Exchange and U.S. Treasury Bond options contracts on the Chicago Board of Trade, and that \$4.125 million was misappropriated to Walji and another principal of Arista as purported fees, leaving less than \$1 million remaining of the investors' funds. The complaint, as amended, charged that Arista and Walji had violated Sections 4b(a)(1), 4c(b), and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(1), 6c(b), 6o(1), and Commission Rule 33.10, 17 C.F.R. § 33.10.

The amended complaint also charged Arista and Walji with making false statements to the National Futures Association (NFA) in violation of Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4), making false statements to the Commission in violation of Section 6(c)(2) of the Act, 7 U.S.C. § 9(2), and failing to register as a CPO while engaging in the business of a CPO for more than one year prior to registering with the NFA in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

4. On December 3, 2013, the Honorable Judge Paul A. Engelmayer of the U.S. District Court for the Southern District of New York, in *CFTC v. Arista, Abdul Sultan Walji a/k/a Abdul Sultan Valji, and Reniero Francisco et al.*, Case No. 12 CV 9043 (PAE), entered the "Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Arista LLC, Abdul Sultan Walji a/k/a Abdul Sultan Valji and Reniero Francisco." The Consent Order contained findings of fact and conclusions of law, to which Arista and Walji admitted. In this connection, the Court

*alia*: one, that Walji and Arista cheated or defrauded, or attempted to cheat or defraud, and willfully deceived, or attempted to deceive, Arista investors by (i) misappropriating their investors' funds and (ii) providing investors with false and misleading quarterly account statements that misrepresented the value of the investors' accounts and Arista's performance and concealed Walji's fees, in violation of various anti-fraud provisions of the Act; and two, that the conduct was in connection with the making of contracts of sale of any commodity for future delivery made on or subject to the rules of a designated contract market, for or on behalf of any other person, and/or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction. The Court concluded that by engaging in this conduct, Arista and Walji violated Sections 4b(a)(1), 4c(b) and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(1), 6c(b) and 6o(1), and Regulation 33.10, 17 C.F.R. § 33.10.<sup>4</sup>

The Court permanently restrained Arista and Walji from among other things: one, directly or indirectly committing fraud in violation of Sections 4b(a)(1), 4c(b), and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(1), 6c(b), 6o(1), and Commission Regulation 33.10, 17 C.F.R. § 33.10; two, registering with the commission, claiming an exemption from registration, or acting in any capacity requiring registration or an exemption from registration; and three, trading subject to the rules of any registered entity, entering into transactions involving Commission-regulated products or having such products traded on their behalf, controlling or directing the trading of such products on behalf of any other person or entity, soliciting or receiving or accepting funds for the purpose of purchasing or selling such products, applying for registration or claiming exemption

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<sup>4</sup> The Court also found that Arista and Walji violated Sections 4m(1), 6(c)(2), and 9(a)(4) of the Act, 7 U.S.C. §§ 6m(1), 9(2), and 13(a)(4).

from registration with the Commission, and/or acting as a principal, agent, or any other officer or employee of any person registered, exempted from registration, or required to be registered with the Commission. The Court also ordered Arista and Walji to pay restitution and a civil monetary penalty.

5. In the parallel criminal matter, Walji pled guilty to and was convicted of multiple felonies -- specifically, conspiracy to commit securities fraud and wire fraud, commodities fraud, and securities fraud -- on charges brought by the U.S. Attorney's Office for the Southern District of New York, which arose out of the same scheme alleged in *CFTC v. Arista, et al.* On November 15, 2013, the Honorable Judge Denise L. Cote of the U.S. District Court for the Southern District of New York sentenced Walji to a prison term of 151 months. Walji was remanded into custody of the US Marshal, and is currently incarcerated at FCI La Tuna, Texas. *USA v. Walji*, No. 13-CR-00217-01 (DLC) (S.D.N.Y. entered Nov. 20, 2013).

## **Discussion and Conclusions of Law**

### *Section 8a(2) presumption of unfitness*

Section 8a(2) of the Act, 7 U.S.C. § 12a(2) (2012), sets out eight grounds for denial, suspension or revocation of registration, known customarily as “statutory disqualifications.” According to the relevant House Agriculture Committee Report, each Section 8a(2) disqualification involves a previous formal determination by a court, or the Commission or other government agency, that a person or firm has engaged in conduct involving “especially grave offenses that are clearly related to a person’s [or firm’s] fitness for registration with the Commission.” H.R. report No. 97-565, Part I at

50 (May 17, 1982). The report further explained that, since each Section 8a(2) disqualification is based upon a previous finding or order by a court, or the Commission or other governmental body, “whether or not a person is subject to such a disqualification generally is readily ascertainable by checking officially maintained records.” *Id.*

In conjunction with the Commission’s Part 3 rules, a Section 8a(2) disqualification generally operates as a strong presumption that a person or firm is conclusively unfit to do business in a relevant registered capacity. The Commission has noted that the strong presumption of unfitness for registration under Section 8a(2) of the Act rests on the common-sense inference that once an individual or firm has undertaken serious wrongdoing – as it has been amply demonstrated here that Arista and Walji have done – a substantial risk exists that the individual or firm will undertake similar wrongdoing in the future. *See In re Akar*, Comm. Fut. L. Rep. ¶ 22, 297 (CFTC February 24, 1986). The strong presumption of unfitness can be rebutted by a convincing showing that allowing a person or firm to become or remain registered will not pose a risk to the public, including, for example, mitigating circumstances, rehabilitation, or close supervision by another registrant. *See* Commission rules 3.60(b)(2)(i) and 3.60(b)(2)(ii)(A)-(C), 17 C.F.R. §§ 3.60(b)(2)(i) and 3.60(b)(2)(ii)(A)-(C) (2012). By defaulting, Arista and Walji have precluded themselves from presenting such rebuttal evidence.

*Section 8a(2)(C) of the Act*

Section 8a(2)(C) of the Act, 7 U.S.C. § 12a(2)(C) (2012), in relevant part, authorizes the Commission to revoke the registration of any person "if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction . . . including an order entered pursuant to an agreement of settlement to which the Commission ... is a party, from . . . (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, [or] associated person of any registrant under this Act . . . or (ii) engaging in or continuing any activity when such activity involves ... fraud ...." Here, cause exists for statutory disqualification of Arista and Walji pursuant to Section 8a(2)(C) because the Consent Order in *CFTC v. Arista*, which was entered by the United States District Court for the Southern District of New York, a court of competent jurisdiction: one, permanently enjoins Arista and Walji from trading and from seeking re-registration; and two, permanently enjoins Arista and Walji from committing fraud in violation of the Act and Commission rules.

*Section 8a(2)(D) of the Act*

Section 8a(2)(D) of the Act, 7 U.S.C. § 12a(2)(D) (2012), in relevant part authorizes the Commission to revoke the registration of any person who has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that, among other things, (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery; (ii) arises out of the conduct of the business of a commodity trading advisor or CPO, or

(iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities, or property, forgery, counterfeiting, false pretenses, bribery, or gambling. Cause exists for the statutory disqualification of Walji pursuant to Section 8a(2)(D) because Walji pled guilty to and was convicted of conspiracy to commit securities fraud and wire fraud, commodities fraud, and securities fraud, which arose from transactions or advice concerning contracts of sale of a commodity for future delivery, arose out of the conduct of the business of a CPO, and involved, *inter alia*, embezzlement, theft, extortion, fraud, fraudulent conversion, and misappropriation of funds.

*Section 8a(2)(E) of the Act*

Section 8a(2)(E) of the Act, 7 U.S.C. § 12a(2)(E) (2012), in relevant part, authorizes the Commission to revoke the registration of any person "if such person, within ten years preceding the filing of the application [for registration] or any time thereafter, has been found in a proceeding brought by the Commission... (i) to have violated any provision of [the] Act... where such violation involves ... fraud [or] misappropriation of funds..." Here, cause exists pursuant to Section 8a(2)(E), because the Consent Order in *CFTC v. Arista* found Arista and Walji each to have violated various provisions of the Act and various Commission rules for conduct involving fraud and misappropriation.

## ORDER

Arista LLC is statutorily disqualified from registration under Sections 8a(2)(C) and (E) of the Commodity Exchange Act, and Abdul Sultan Walji a/k/a Abdul Sultan Valji is statutorily disqualified under Sections 8a(2)(C), (D) and (E) of the Commodity Exchange Act. Accordingly: one, the Division's motion for entry of a default judgment is hereby granted; two, Arista and Abdul Sultan Walji a/k/a Abdul Sultan Valji are found conclusively unfit for registration; and three, the registrations of Arista LLC and Abdul Sultan Walji a/k/a Abdul Sultan Valji are hereby revoked.

Dated September 4, 2014.

A handwritten signature in black ink, appearing to read "Philip V. McGuire". The signature is written in a cursive style with a large initial "P".

Philip V. McGuire,  
Judgment Officer