

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COMMODITY FUTURES TRADING COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 08 CV 2410
v.)	
)	Hon. Charles P. Kocoras
SENTINEL MANAGEMENT GROUP, INC., ERIC A. BLOOM, and CHARLES K. MOSLEY,)	
)	Magistrate Judge Sheila M. Finnegan
)	
Defendants.)	

**JUDGMENT FOR PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST DEFENDANT ERIC A. BLOOM**

INTRODUCTION

Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1 *et seq.* (2012), and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1-190.10 (2014). From 1992 to 2007, Defendant Eric A. Bloom (“Bloom”) was the President and Chief Executive Officer (“CEO”) of Sentinel Management Group, Inc. (“Sentinel”), an Illinois corporation with its principal place of business located in Northbrook, Illinois. Sentinel was registered with the CFTC as a futures commission merchant (“FCM”) and served as an investment vehicle for other FCMs and other sophisticated entities to invest their excess cash in a variety of short-term management portfolios. During the relevant period, Bloom controlled the company’s day-to-day operations.

In August 2007, Sentinel became insolvent. On August 17, 2007, Sentinel filed a voluntary petition for protection under Chapter 11 of the Bankruptcy Code in the U.S.

Bankruptcy Court for the Northern District of Illinois.¹ That same day, the National Futures Association (“NFA”) initiated a Membership Responsibility Action against Sentinel – *i.e.*, a summary action deemed necessary by the self-regulatory organization to protect the commodity futures markets, customers, or other members or associates, pursuant to which the NFA may suspend, restrict, or otherwise direct members to take remedial action. Three days later, the SEC filed a federal injunctive action against Sentinel, *SEC v. Sentinel, et al.*, No. 07 CV 4684 (N.D. Ill. filed Aug. 20, 2007), and on April 28, 2008, the CFTC filed a Complaint against Sentinel, Bloom and Sentinel’s Senior Vice President and head trader, Charles K. Mosley, seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violating various provisions of the Act and Commission Regulations.

On August 3, 2009, this Court entered final judgment against Sentinel pursuant to the CFTC’s settlement agreement with the Sentinel Trustee. The CFTC’s settlement agreement with Sentinel did not contain findings of fact, conclusions of law, civil monetary penalties or restitution due to Sentinel’s status as a debtor in bankruptcy, among other things. The CFTC and Bloom filed Cross-Motions for Summary Judgment on May 16, 2011. On March 30, 2012, this Court denied the CFTC’s Motion for Summary Judgment against Bloom and granted Bloom’s Cross-Motion for Summary Judgment against the CFTC dismissing all five of the counts the

¹ On August 29, 2007, the Bankruptcy Court appointed Frederick J. Grede as Trustee of Sentinel’s estate (“Sentinel Trustee”). On May 6, 2008, the Sentinel Trustee filed, *Frederick J. Grede, not individually but as Liquidation Trustee of the Sentinel Liquidation Trust v. The Bank of New York and The Bank of New York Mellon Corp.*, 08 CV 2582 (May 6, 2008, N.D. Ill. 2008) (“*Grede v. BNY*”), an adversary action against BNY seeking equitable subordination of its claim to a portion of Sentinel’s estate, among other things, which was denied. That case was appealed to the Seventh Circuit and affirmed in part and reversed and remanded in part for further proceedings consistent with the 7th Circuit’s opinion. *In re Sentinel Management Group, Inc.*, 728 F.3d 660 (7th Cir. 2013) (“*In re Sentinel*”). The District Court conducted further proceedings and again denied the equitable subordination claim, among other things. *Grede v. BNY*, 2014 WL 6990322 (N.D. Ill. December 10, 2014).

CFTC had alleged against Bloom. (Doc. 159) On April 26, 2012, the CFTC moved for reconsideration of the Court's decision regarding its claims that Sentinel and Bloom violated Sections 4b and 4d(b) of the Act. The Court granted the CFTC's Motion for Reconsideration regarding its Section 4d(b) claim against Bloom (Count III), and denied Bloom's Cross-Motion for Summary Judgment regarding that provision, finding that there was a genuine issue of material fact precluding judgment. (Doc. 175) That remains the sole count pending before the Court.

On March 25, 2014, a jury convicted Bloom of 18 counts of wire fraud and one count of investment adviser fraud based on the same conduct at issue in this case. *See United States v. Eric A. Bloom*, Case No. 12-CR-409 (N.D. Ill. June 1, 2012). On January 30, 2015, Bloom was sentenced to fourteen years in prison and ordered to pay \$665,968,174 in restitution. Bloom filed a notice of appeal of his criminal conviction on March 3, 2015 and reported to prison on June 22, 2015. *United States v. Eric A. Bloom*, No. 15-1445 (7th Cir.).

Because of his criminal conviction, Bloom is estopped from disputing the facts determined in the criminal action that support the CFTC's case. "[I]t is well established that prior criminal proceedings can work an estoppel in a subsequent civil proceeding, so long as the question involved was 'distinctly put in issue and directly determined' in the criminal action. *Emich Motors Corp. v. General Motors Corp.*, 340 U.S. 558, 568-569, 71 S.Ct. 408, 414, 95 L.Ed. 534 (1950); *United States v. Wainer*, 211 F.2d 669, 671-672 (7th Cir. 1954); *see also Williams v. Liberty*, 461 F.2d 325 (7th Cir. 1972) (internal citations and quotations omitted) ("In the case of a criminal conviction based on a verdict of guilty, issues which were essential to the verdict must be regarded as having been determined by the judgment.") and *CFTC v. International Foreign Currency, Inc. et al.*, No. 03-CV-3577, slip. op. at 5-7 (E.D.N.Y. Jan. 30,

2012) (Defendant was estopped from re-litigating factual issues determined in his prior criminal case and leading to his criminal conviction).

JUDGMENT TERMS

1. This Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1, which provides 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.

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

3. The summons and Complaint have been properly served.

4. The parties shall 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 objections based thereon.

5. Section 4d(b) of the Act, 7 U.S.C. § 6d(b) (2006), makes it unlawful for any person, including any depository, that has received any money, securities, or property for deposit in a separate account as provide for in Section 4d(a)(2) of the Act, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such FCM.

6. Based upon the collateral estoppel effect of the matters on which Bloom was convicted, specifically as set forth in the Special January 2012 Grand Jury Indictment and the

judgment (*Bloom*, Case No. 12-CR-409, Docket Nos. 1 and 223), Sentinel violated Section 4d(b) of the Act, 7 U.S.C. § 6d(b) (2012). Sentinel accepted for deposit and investment the customer funds of other registered FCMs. In disregard of its duties as an FCM, Sentinel commingled and misappropriated the Seg 1 customer funds to finance its proprietary trading. In doing so, Sentinel failed to treat and deal with customer funds as belonging to the commodity customers, withdrawing customer segregated funds beyond Sentinel's actual interest therein and using them to collateralize its BNY overnight loan.

7. Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), provides that a person who controls anyone who has violated the Act is liable "to the same extent as such controlled person" if the CFTC establishes that the defendant either did not act in good faith or knowingly induced the violation. Based upon the collateral estoppel effect of the matters on which Bloom was convicted, specifically as set forth in the Special January 2012 Grand Jury Indictment and the judgment (*Bloom*, Case No. 12-CR-409, Docket Nos. 1 and 223), Bloom controlled Sentinel, and knowingly induced, or failed to act in good faith concerning Sentinel's violations of Sections 4d(b) of the Act. Bloom therefore is liable as a controlling person for Sentinel's violations of Section 4d(b) of the Act, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).

8. Bloom has entered an appearance and acknowledges the collateral estoppel effect of his conviction in *Bloom*, Case No. 12 CR 409, on this case and, on that basis alone, while not admitting any of the facts or legal conclusions stated above, does not contest entry of this judgment based solely on the collateral estoppel effect of his criminal conviction.

9. The Court recognizes that if Bloom's criminal conviction is overturned on appeal that collateral estoppel no longer would apply and that Bloom could then petition the Court to vacate this judgment and that this judgment should be vacated.

10. The Court acknowledges that it previously denied Defendant Bloom's Application for Attorneys' Fees and Costs brought Pursuant to the Equal Access to Justice Act (Docket No. 166) without prejudice (Docket No. 169). Defendant Bloom has not sought to renew this motion. Accordingly, no relief is granted to Defendant Bloom, and pursuant to this judgment the CFTC shall not be liable for:

A. Any and all claims under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the Regulations, 17 C.F.R. §§ 148.1, et seq. (2009);

B. Any and all claims under the Small Business Regulatory Enforcement Act of 1996, Pub. L. No. 104-121 §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007); and/or

C. Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing any relief.

NOW, THEREFORE, the Court enters the following relief:

11. Based upon and in connection with the foregoing conduct and Bloom's conduct described in his criminal case, Case No. 12 CR 409, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendant Bloom is permanently restrained, enjoined and prohibited from directly or indirectly holding, disposing, or using any money, securities, or property received for deposit in a separate account as provided for in Section 4d(a)(2) of the Act, as belonging to the depositing FCM or any person other than the customers of such FCM, in violation of Section 4d(b) of the Act, 7 U.S.C. § 6d(b) (2012).

12. Defendant is also permanently restrained, enjoined and prohibited from directly or indirectly:

A. 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” as that term is defined at 17 C.F.R. § 1.3 (yy);

B. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any “commodity interests” as that term is defined at 17 C.F.R. § 1.3 (yy);


C. 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)(2014); and/or

D. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2014)), 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, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R § 4.14(a)(9) (2014).

13. This Court recognizes that on January 30, 2015, in the criminal action, Case No. 12-CR-409 (N.D. Ill.), the criminal court ordered that Defendant Bloom pay restitution in the amount of \$665,968,174 to Sentinel’s customers in connection with the same conduct at issue in this action. Accordingly, restitution is not ordered in this action.

14. This Court shall retain jurisdiction of this action to ensure compliance with this Judgment and for all other purposes related to this action, including any motion by Defendant Bloom to modify or for relief from the terms of this Judgment.

IT IS SO ORDERED on this 18th day of November, 2015.



Honorable Charles P. Kocoras

UNITED STATES DISTRICT JUDGE