

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-61125-CIV-ZLOCH

U.S. COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
MINTLINE, INC. (FORMERLY KNOWN AS)
ALLIANCE PRECIOUS METALS, INC.),)
CINDY VANDIVIER, a/k/a CINDY)
VANDIVEER, AND PAUL VANDIVIER,)
a/k/a PAUL VANDIVEER,)
)
Defendants.)

**CONSENT ORDER OF PERMANENT INJUNCTION, CIVIL MONETARY PENALTY,
AND OTHER EQUITABLE RELIEF AGAINST DEFENDANTS CINDY VANDIVIER,
AND PAUL VANDIVIER**

I. INTRODUCTION

On May 12, 2014, Plaintiff U.S. Commodity Futures Trading Commission (“CFTC”) filed a *Complaint for Injunctive and Other Equitable Relief and Civil Monetary Penalties Under the Commodity Exchange Act* (“Complaint”) against Mintline, Inc. (“Mintline”), Cindy Vandivier, and Paul Vandivier (collectively, “Defendants”), charging them with violations of the anti-fraud and off-exchange trading provisions of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 1 *et seq.* (2012), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2014). The Court entered an *ex parte Statutory Restraining Order* against Defendants on May 13, 2014, and a *Consent Order of Preliminary Injunction and Other Equitable Relief* against Defendants on May 23, 2014.

II. CONSENTS AND AGREEMENTS

To effect settlement of all charges alleged in the Complaint against them, Cindy Vandivier and Paul Vandivier (hereafter, "Settling Defendants"), without a trial on the merits or any further judicial proceedings:

1. Consent to the entry of this *Consent Order of Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Defendants Cindy Vandivier and Paul Vandivier* ("Consent Order");
2. Affirm that they have read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the CFTC or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order;
3. Acknowledge service of the summons and Complaint;
4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to 7 U.S.C. § 13a-1 (2012);
5. Admit the jurisdiction of the CFTC over the conduct and transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1 *et seq.* (2012);
6. Admit that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e) (2012);
7. Waive:
 - (a) Any and all claims that they 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 CFTC in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2014), relating to, or arising from, this action;

(b) Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness 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), 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. Consent to the continued jurisdiction of this Court over them 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 Defendants now or in the future reside outside the jurisdiction of this Court;

9. Agree that they 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. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect their: (a) testimonial obligations or (b) right to take legal positions in other proceedings to which the CFTC is not a party. Settling Defendants shall undertake all steps necessary to ensure that all of

their agents and/or employees under their authority or control understand and comply with this agreement;

11. By consenting to the entry of this Consent Order, neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which they admit. Further, Settling Defendants agree and intend that the allegations contained in the Complaint and all of the Findings of Fact and Conclusions of Law contained in this Consent Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (a) any current or subsequent bankruptcy proceeding filed by, on behalf of, or against Settling Defendants; (b) any proceeding pursuant to 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 – 3.75 (2014); and/or (c) any proceeding to enforce the terms of this Consent Order. Settling Defendants do not consent to the use of this Consent Order, or the Findings of Fact and Conclusions of Law in this Consent Order, as the sole basis for any other proceeding brought by the CFTC.

12. Agree to provide immediate notice to this Court and the CFTC by certified mail, in the manner required by Paragraph 56 of Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against them, whether inside or outside the United States;

13. Agree 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 Settling Defendants in any other proceeding; and

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 7 U.S.C. § 13a-1 (2012), as set forth herein.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

A. Findings of Fact

1. The Parties to This Consent Order

14. **Plaintiff Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, 7 U.S.C. §§ 1 *et seq.* (2012), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 – 190.10 (2014).

15. **Defendant Cindy Vandivier** is an individual whose last known residence was Coconut Creek, Florida. Cindy Vandivier is the wife of Defendant Paul Vandivier. Cindy Vandivier was, throughout the relevant period here, President and Secretary of Mintline. Cindy Vandivier has never been registered with the CFTC in any capacity.

16. **Defendant Paul Vandivier** is an individual whose last known residence was Coconut Creek, Florida. Paul Vandivier is the husband of Defendant Cindy Vandivier. Between October 1994 and July 1997, Paul Vandivier had a Pending Associated Person status at three separate registered Introducing Brokers. In each instance, the Pending status was either withdrawn or rescinded. Paul Vandivier has no current registration status with the CFTC.

2. Settling Defendants Solicited Retail Customers to Engage in Financed Metals Transactions

17. Cindy Vandivier incorporated Alliance in Florida on or about January 24, 2008. Alliance operated as a precious metals dealer from that time until approximately May 22, 2012, when Cindy Vandivier filed with Florida an amendment to Alliance's Articles of Incorporation

changing Alliance's name to Mintline. All references in these Findings of Fact and Conclusions of Law to Mintline include its activities under the name Alliance during the relevant period here.

18. From at least July 16, 2011, and continuing through at least April 2013 (the "relevant period"), Cindy Vandivier and Paul Vandivier, by and through Mintline, solicited members of the general public through various means, including but not limited to, an internet website, promotional material, and telephone calls, to purchase physical metals, including gold, silver, platinum, and palladium, on a leveraged, margined, or financed basis ("financed metals transactions"). Although Mintline also offered metals on a fully-paid basis, the vast majority of its business was in financed metals transactions.

19. In solicitations to customers, Cindy and Paul Vandivier, by and through Mintline, offered customers the opportunity to purchase metals by depositing a percentage of the metals' purchase price and financing the remainder. Mintline's solicitation materials offered to finance approximately seventy-five per cent of the customer's purchase. Cindy and Paul Vandivier, by and through Mintline, charged customers an account fee, commissions and/or fees on transactions, and financing charges for the amount financed.

20. Cindy and Paul Vandivier, by and through Mintline, offered to store the purportedly purchased metals on behalf of its customers who engaged in financed metals transactions and to deliver those metals to the customer upon payment in full. With the exception of a few instances which are not the subject of this action, Mintline's customers did not take delivery of their metals. Rather, the vast majority of Mintline's customers were only speculating on price movements of their metals.

21. At least some, if not all, of Mintline's financed metals transaction customers were not "eligible contract participants" as defined by 7 U.S.C. § 1a(18)(xi) (2012).

22. None of the financed metals transactions which Settling Defendants solicited and/or accepted orders for during the relevant period was conducted on or subject to the rules of a board of trade which had been designated or registered by the CFTC.

3. Settling Defendants' Misrepresentations and Omissions in Connections with Financed Metals Transactions and Misappropriation of Customers' Funds

23. Contrary to what their customers were led to believe, Cindy Vandivier and Paul Vandivier, by and through Mintline, did not purchase metals on behalf of its financed metals transaction customers; nor did they arrange for or extend, either directly or indirectly, financing for the purchase of metals on behalf of these customers. Nevertheless, Mintline charged customers interest on the financed amount and deducted the interest from customers' accounts.

24. During the Relevant Period, Mintline accepted approximately \$1,569,487 from customers in connection with both fully-paid and financed metals transactions. Of this amount, approximately \$1,152,094 was accepted from customers in connection with financed metals transactions. Of the total of approximately \$1,569,487 accepted by Mintline during the Relevant Period, only approximately \$158,465 was disbursed by Mintline to a company known to engage in the sale of physical metals.

25. Instead of purchasing metals for Mintline's financed metals transaction customers, Cindy Vandivier and Paul Vandivier misappropriated most, if not all, of the financed metals transaction customers' funds.

26. Upon opening an account with Mintline, customers would either wire their funds directly to a bank account in the name of Mintline (or, prior to approximately May 2012, in the name of Alliance) or provide a check made out to Mintline (or prior to approximately May 2012, made out to Alliance) which was then deposited into Mintline's (or, prior to approximately May

2012, Alliance's) bank account. These bank accounts were opened by Cindy Vandivier and Paul Vandivier and each of them had signatory authority for these accounts.

27. When Mintline received funds from its financed metals transaction customers it did not purchase physical metals on behalf of those customers. Instead, Mintline would simply record the customer's transaction and track the value of the transactions in each customer's account.

28. In fact, once customer funds were deposited into the Mintline bank account (or, prior to approximately May 2012, the Alliance bank account) they were then transferred to a second bank account in the name of Mintline (or, prior to approximately May 2012, in the name of Alliance). These bank accounts were also opened by Cindy Vandivier and Paul Vandivier and each of them had signatory authority for these accounts. Once the funds were transferred to the second account, they were then used (with the exception of \$158,465 paid to a company known to engage in the sale of physical metals) to pay Mintline's operating expenses and to pay for personal expenses of Cindy Vandivier and Paul Vandivier, including, among other things, animal, automobile, communication, employee, medical, and shopping expenses. Checks for these payments were signed by both Cindy Vandivier and Paul Vandivier.

29. At no time during the relevant period did Cindy Vandivier and Paul Vandivier disclose to Mintline's financed metals transaction customers that Mintline was in fact neither financing, purchasing, nor storing actual metals on their behalf, or that Cindy Vandivier and Paul Vandivier were in fact misappropriating their funds to pay Mintline's operating expenses and the personal expenses of Cindy Vandivier and Paul Vandivier.

30. Sometime between January and April 2013, Mintline ceased its operations. Of the approximately \$1,152,094 million Mintline accepted from customers in connection with

financed metals transactions during the relevant period, Mintline returned approximately \$115,719 in cash to these customers prior to ceasing its operations. In addition to the cash returned, Mintline provided certain financed metals transaction customers with bullion bars worth approximately \$49,612. Mintline's financed metals transaction customers have suffered approximately \$986,763 in losses.

4. Cindy Vandivier and Paul Vandivier Were Controlling Persons of Mintline

31. During the relevant period, Cindy Vandivier and Paul Vandivier were controlling persons of Mintline. Cindy Vandivier was an officer of Mintline. Both Cindy Vandivier and Paul Vandivier opened bank accounts on Mintline's behalf and were signatories on Mintline's bank accounts. Both Cindy Vandivier and Paul Vandivier oversaw the activities of Mintline's employees and/or had the authority to hire and fire employees.

B. Conclusions of Law

1. Jurisdiction and Venue

32. This Court has jurisdiction over this action pursuant to 7 U.S.C. § 13a-1 (2012), 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.

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

2. Violation of 7 U.S.C. §§ 6b(a)(2)(A) and (C) (2012): Fraud in Connection with Financed Metals Transactions

34. By the conduct described in paragraphs 1 through 32 above, Settling Defendants cheated and defrauded, or attempted to cheat and defraud, and willfully deceived, or attempted to deceive, their customers in or in connection with financed metals transactions by, among other things, knowingly or recklessly: 1) misappropriating customer funds intended for the purchase of physical metals and using those funds to pay Mintline's operating expenses and to pay for personal expenses of Cindy Vandivier and Paul Vandivier; 2) misrepresenting to customers that Mintline purchased and stored physical metals and provided financing to customers for the purchase of physical metals; and 3) failing to disclose that customer funds, rather than being used to purchase metals, were in fact being misappropriated to pay Mintline's operating expenses and to pay for personal expenses of Cindy Vandivier and Paul Vandivier, in violation of 7 U.S.C. §§ 6b(a)(2)(A) and (C) (2012).

3. Violation of 7 U.S.C. § 9(1) (2012), and 17 C.F.R. § 180.1(a) (2014): Employment of Manipulative and Deceptive Devices

35. By the conduct described in paragraphs 1 through 32 above, Settling Defendants intentionally or recklessly used or employed, or attempted to use or employ, a manipulative device, scheme, or artifice to defraud, or made or attempted to make, untrue statements or misleading statements of material fact, or omitted to state material facts necessary in order to make statements made not untrue or misleading, or engaged or attempted to engage in acts, practices, or courses of business which operated a fraud or deceit upon other persons by:

1) misappropriating customer funds intended for the purchase of physical metals and using those funds to pay Mintline's operating expenses and to pay for personal expenses of Cindy Vandivier and Paul Vandivier; 2) misrepresenting to customers that Mintline purchased and stored physical

metals and provided financing to customers for the purchase of physical metals; and 3) failing to disclose that customer funds, rather than being used to purchase metals, were in fact being misappropriated to pay Mintline's operating expenses and to pay for personal expenses of Cindy Vandivier and Paul Vandivier, in violation of 7 U.S.C. § 9(1) (2012), and 17 C.F.R. § 180.1(a) (2014).

4. Violation of 7 U.S.C. § 6(a) (2012): Illegal Off-Exchange Trading

36. By the conduct described in paragraphs 1 through 32 above, Settling Defendants offered to enter into, entered into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting or accepting orders for, or otherwise dealing in, transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery that were not conducted on or subject to the rules of a board of trade which had been designated or registered by the CFTC as a contract market for such commodity in violation of 7 U.S.C. § 6(a) (2012).

37. Unless restrained and enjoined by this Court, there is a reasonable likelihood that the Settling Defendants 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:

38. Based upon and in connection with the foregoing conduct, pursuant to 7 U.S.C. § 13a-1 (2012), Settling Defendants are permanently restrained, enjoined and prohibited from directly or indirectly:

a. Cheating or defrauding, or attempting to cheat or defraud, other persons in or in connection with any order to make, or the making of, any contract of sale of any

commodity for future delivery, including, without limitation, financed precious metals, that is made, or to be made, for or on behalf of, or with, any other person, or willfully deceiving or attempting 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, in violation of 7 U.S.C. §§ 6b(a)(2)(A) and (C) (2012);

b. In connection with any contract of sale of any commodity in interstate commerce, including, without limitation, financed precious metals, using or employing, or attempting to use or employ, any manipulative device, scheme or artifice to defraud, making, or attempting to make, any untrue or misleading statement of material fact or omitting to state a material fact necessary in order to make the statements made not untrue or misleading, or engaging or attempting to engage in acts, practices or courses of business which operate or would operate as a fraud or deceit upon any person in violation of 7 U.S.C. §9(1) (2012), and 17 C.F.R. § 180.1(a)(1)-(3) (2014);

c. Offering to enter into, entering into, executing, confirming the execution of, or conducting any office or business in the United States, its territories or possessions, for the purpose of soliciting or accepting orders 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, including, without limitation, financed precious metals, in violation of 7 U.S.C. § 6(a) (2012).

42. Settling Defendants are also permanently restrained, enjoined and prohibited from directly or indirectly:

- a. Trading on or subject to the rules of any registered entity (as that term is defined in 7 U.S.C. § 1a(40) (2012));
- b. Entering into any transactions involving “commodity interests” (as that term is defined in 17 C.F.R. § 1.3(yy) (2014) for their own personal account or for any account in which they have a direct or indirect interest;
- c. Having any commodity interests traded on their 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 17 C.F.R. § 4.14(a)(9) (2014); and/or
- g. Acting as a principal (as that term is defined in 17 C.F.R. § 3.1(a) (2014)), 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) (2014).

V. RESTITUTION AND CIVIL MONETARY PENALTIES

A. Restitution

43. Settling Defendants shall pay, jointly and severally, restitution in the amount of nine hundred eighty-six thousand, seven hundred sixty-three dollars (\$986,763) (“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 Settling Defendants’ customers, the Court appoints the National Futures Association (“NFA”) as Monitor (“Monitor”). The Monitor shall collect restitution payments from Settling Defendants 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. Settling Defendants shall make Restitution Obligation payments under this Consent Order to the Monitor in the name “Cindy Vandivier & Paul Vandivier Settlement/Restitution Fund” and shall send such Restitution Obligation payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s, 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. Settling 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, 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 Settling

Defendants' customers identified by the CFTC or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Restitution Obligation payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a distribution to eligible customers is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the CFTC following the instructions for civil monetary penalty payments set forth in Paragraph 55 below.

47. Settling Defendants shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Settling Defendant's customers to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Settling 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 Restitution Obligation.

48. Upon entry of this Consent Order, the statutory restraining order entered on May 13, 2014 shall terminate. Within ten (10) days of the entry of this Consent Order, any repository, bank, investment, or other financial institution, wherever located, holding any of Settling Defendants' assets frozen pursuant to the statutory restraining order shall be authorized and directed to release such assets to the Monitor in the name of the "Cindy Vandivier and Paul Vandivier Settlement/Restitution Fund" per the instructions described above in paragraph 43, including, but not limited to approximately fifty-six thousand seven hundred sixty-five dollars (\$56,765) in frozen assets held at Wells Fargo Bank.

49. The Monitor shall provide the CFTC at the beginning of each calendar year with a report detailing the disbursement of funds to Settling Defendants' 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, NW, Washington, D.C. 20581.

50. The amounts payable to each customer shall not limit the ability of any customer from proving that a greater amount is owed from Settling 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.

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

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

B. Civil Monetary Penalty

53. Defendant Cindy Vandivier shall pay a civil monetary penalty in the amount of one million dollars (\$1,000,000) ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this

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

54. Defendant Paul Vandivier shall pay a civil monetary penalty in the amount of one million dollars (\$1,000,000) (“CMP Obligation”), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

55. Settling Defendants shall pay their CMP Obligations 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
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, Settling Defendants shall contact Nikki Gibson or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Settling Defendants shall accompany payment of their CMP Obligations with a cover letter that identifies the paying Defendant and the name and docket number of this proceeding. Settling 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, NW, Washington, D.C. 20581.

C. Provisions Related to Monetary Sanctions

56. Partial Satisfaction: Acceptance by the CFTC or the Monitor of any partial payment of Settling Defendants' Restitution Obligation or CMP Obligations shall not be deemed a waiver of their obligation to make further payments pursuant to this Consent Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

VI. MISCELLANEOUS PROVISIONS

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

Notice to CFTC:

Richard A. Glaser
Deputy Director
US Commodity Futures Trading Commission
Division of Enforcement
1155 21st St, NW
Washington, DC 20581

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

58. Change of Address/Phone: Until such time as Settling Defendants satisfy in full their Restitution Obligations and CMP Obligations as set forth in this Consent Order, Settling Defendants shall provide written notice to the CFTC by certified mail of any change to their telephone number and mailing address within ten (10) calendar days of the change.

59. 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.

60. 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.

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

62. 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 Settling Defendants to modify or seek relief from the terms of this Consent Order.

63. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Settling Defendants, upon any person under their 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 Settling Defendants.

64. 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.

65. Contempt: Settling Defendants understand that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Consent Order.

66. Agreements and Undertakings: Settling Defendants 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 of Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Cindy Vandivier and Paul Vandivier* forthwith and without further notice.

IT IS SO ORDERED on this ____ day of _____, 2015.

WILLIAM J. ZLOCH
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:



Cindy Vandivier

Date: 8/30/15



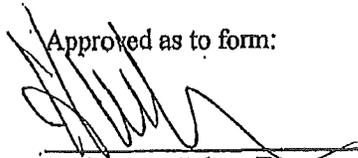
Paul Vandivier

Date: 8/30/15



Alan Edelman
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Dated 11/25/2015

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