

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 04-61235-CIV-LENARD/TORRES

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

vs.

**LIBERTY FINANCIAL TRADING
CORP, INC., LIBERTY REAL
ASSETS INVESTMENT
CORPORATION, TED ROMEO,
RANDY BURSTEIN, NADER
YAZDANI, and LESLIE WEINER,**

Defendants.

**CONSENT ORDER OF PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST DEFENDANTS LIBERTY FINANCIAL
TRADING CORP., INC., LIBERTY REAL ASSETS INVESTMENT
CORPORATION, AND TED ROMEO**

I. BACKGROUND

On September 21, 2004, the Commodity Futures Trading Commission (“Commission”) filed a Complaint against Liberty Financial Trading Corp., Inc. (“LFTC”), Liberty Real Assets Investment Corporation (“LRAIC”), Ted Romeo (“Romeo”), Randy Burstein, Nader Yazdani, and Leslie Weiner (collectively, the “Defendants”). On December 7, 2004, this Court entered a Consent Order Granting Preliminary Injunctive Relief (“Consent Preliminary Injunction”) that, among other

things, enjoined Defendants from violating Section 4c(b) of the Commodity Exchange Act as amended (the “Act”), 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c) (2004).

II. CONSENT AND AGREEMENT

1. Solely to effect settlement of the matters alleged in the Complaint without a trial on the merits or any further judicial proceedings or presentation of evidence, Defendants LFTC, LRAIC, and Romeo (collectively, “Settling Defendants”):

a. Consent to the entry of this Consent Order of Permanent Injunction and Other Equitable Relief (“Consent Order”).

b. Affirm that they have read and agreed to this Consent Order voluntarily, and that no threat or promise has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order, other than as set forth specifically herein.

c. Acknowledge service of the Summons and Complaint.

d. Admit that this Court has jurisdiction over them and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

e. Admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

f. Waive:

i. All claims which may be available under the

Equal Access to Justice Act, 5 U.S.C. § 504 (2002) and 28 U.S.C. § 2412 (2002) to seek costs, fees, and other expenses relating to, or arising from, this action;

ii. Any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any relief; and

iii. All rights of appeal from this Consent Order.

2. By consenting to the entry of this Consent Order, Settling Defendants neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law contained in this Consent Order, except as to jurisdiction and venue. Settling Defendants consent to the entry of this Consent Order solely for the purpose of settling this case.

3. Solely with respect to any bankruptcy proceeding relating to Settling Defendants or any proceeding to enforce this Consent Order, Settling Defendants agree that the allegations of the Complaint and the findings in this Consent Order shall be taken as true and correct and be given preclusive effect, without further proof. Furthermore, Settling Defendants agree to provide immediate notice to this Court and the Commission by certified mail of any bankruptcy proceeding filed by, on behalf of, or against them, individually or collectively.

4. Settling Defendants agree that neither they nor any of their agents, servants, employees, contractors or attorneys shall take any action or make any public

statement denying, directly or indirectly, any allegation in the Complaint or contained in this Order or creating, or tending to create, the impression that the Complaint or this Order is without a factual basis; provided, however, that nothing in this provision shall affect Settling Defendants' (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Settling Defendants shall take all necessary steps to ensure that all of their agents, servants, employees, contractors and attorneys understand and comply with this agreement.

5. Settling Defendants voluntarily undertake never to apply for registration or claim exemption from registration with the Commission in any capacity, or engage 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) (2006), or to act 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, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9)(2006).

6. Settling Defendants consent to the continued jurisdiction of this Court in order to implement and carry out the terms of all orders and decrees that may be entered herein, to assure compliance with the Order and for all other purposes related to this action.

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, without a trial on the merits or any further judicial proceedings or presentation of evidence, the entry of findings of fact, conclusions of law, and a permanent injunction and ancillary equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), as set forth herein.

A. Findings of Fact

Solicitation Fraud of LFTC, LRAIC, and Romeo

1. LFTC, from at least early 2002, and LRAIC, from approximately June or July 2004, operating as a common enterprise (together, the “Liberty Common Enterprise”), through its employees, including but not limited to Romeo, solicited customers through telephone calls to open and maintain commodity trading accounts through the Liberty Common Enterprise to trade commodity options contracts (“commodity options”).

2. During the relevant time period, the Liberty Common Enterprise successfully solicited at least 930 customers.

3. During the relevant time period, 96 percent of the Liberty Common Enterprise’s customers lost money on their investments. Losses to customers of the Liberty Common Enterprise totaled at least \$10 million.

4. During the relevant time period, the Liberty Common Enterprise generated at least \$6 million in commissions and fees.

5. The Liberty Common Enterprise, through its employees, including but not limited to Romeo, made false and misleading material representations to prospective and existing customers by knowingly or recklessly: 1) misrepresenting the likelihood that customers will profit from the purchase of commodity options; 2) misrepresenting the risk of trading commodity options; 3) failing to disclose, in light of the profit representations they were making, the Liberty Common Enterprise's dismal performance record trading commodity options for customers; and 4) misrepresenting the actual performance record of customers' accounts.

6. As examples of Romeo's misrepresentations while soliciting prospective and existing customers to invest with the Liberty Common Enterprise, Romeo:

- told a prospective customer that, "if the market continued as it was, [her] money could grow between 300% and 500% within three to six months";
- told an existing customer that all his clients were happy and making lots of money and that if she followed his advice she would make money also;
- told a prospective customer who said that she needed time to think about investing that she needed to invest right away in order to capitalize on the market;
- told an existing customer whose account was losing money that things were "going just the way we wanted" or that they were going "in our favor."

7. As examples of the misrepresentations made by the Liberty Common Enterprise's other employees while soliciting prospective and existing customers to invest with the Liberty Common Enterprise, other Liberty Common Enterprise employees:

- told a prospective customer that she could double her money by investing with them;
- told an existing customer that the customer could achieve a full recovery of his previous losses plus additional profit if the customer invested more money;
- told a prospective customer to purchase U.S. Treasury Bond put options because the war in Iraq would lead to a rise in the markets and a corresponding drop in the value of Treasury Bonds; and
- told an existing customer, whose account was losing money, "How does it feel to be making money?"

8. During the sales solicitations, the Liberty Common Enterprise, through its employees, including but not limited to Romeo, also routinely failed to disclose adequately the risk of loss inherent in trading commodity options. Their high-pressure sales tactics, misrepresentations, and omissions conveyed the false impression that the possibility of losses from investing with the Liberty Common Enterprise was minimal.

9. The Liberty Common Enterprise, through its employees, including but not limited to Romeo, failed to disclose the firm's losing track record when soliciting customers and misrepresented the profit potential and risks involved in trading commodity options, including the fact that in 2002, ninety-six percent (96%) of the Liberty Common Enterprise's customers lost money and in 2003, ninety-two percent (92%) lost money.

10. Liberty Common Enterprise employees, including but not limited to Romeo, intentionally made these material misrepresentations and omissions in order to induce individuals to invest funds for purposes of trading commodity options and to obtain commissions from the trading of those funds.

11. Liberty Common Enterprise customers relied on the material misrepresentations and omissions of the Liberty Common Enterprise employees, including but not limited to Romeo, in making their decision to invest with the Liberty Common Enterprise.

12. The fraudulent conduct of the Liberty Common Enterprise employees, including but not limited to Romeo, resulted directly in substantial losses to investors and ill-gotten gains to the Liberty Common Enterprise.

B. Conclusions of Law

1. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which authorizes the

Commission to seek injunctive relief against any person whenever it shall appear 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.

2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, in that Settling Defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

3. This Court has personal jurisdiction over Settling Defendants, who acknowledge service of the Complaint and consent to the Court's jurisdiction over them.

4. The Commission and Settling Defendants have agreed to this Court's continuing jurisdiction over each of them for the purpose of enforcing the terms of this Order.

5. By the conduct described in Section III.A above, LFTC, LRAIC, and Romeo committed fraudulent acts and thereby violated 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c) (2004).

IV. ORDER OF PERMANENT INJUNCTION

NOW THEREFORE, IT IS ORDERED THAT:

1. Settling Defendants are permanently restrained, enjoined and

prohibited from directly or indirectly:

a. Offering to enter into, entering into, executing, confirming the execution of, or conducting business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe, in violation of Section 4c(b) of the Act; and

b. In or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, or the maintenance of, any commodity option transaction, cheating or defrauding or attempting to cheat or defraud any person; or deceiving or attempting to deceive any person by any means whatsoever, in violation of Section 4c(b) of the Act and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c) (2004).

2. Settling Defendants are permanently restrained, enjoined and prohibited from engaging, directly or indirectly, in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, , 7 U.S.C. § 1a(4) (“commodity interest”), including, but not limited to, the following:

a. trading on or subject to the rules of any registered entity, at that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29);

b. engaging in, controlling or directing the trading for any commodity interest account for or on behalf of any other person or entity, whether by power of attorney

or otherwise;

c. soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity interest; and

d. engaging in any business activities related to commodity interest trading.

3. Settling Defendants are ordered to comply with the terms of their voluntary undertaking as set forth in Section II.5 above.

4. The injunctive and other provisions of this Order shall be binding on Settling Defendants, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Settling Defendants, and upon any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in active concert or participation with Settling Defendants.

V. RESTITUTION, CIVIL MONETARY PENALTY, AND ANCILLARY RELIEF

NOW THEREFORE, IT IS ORDERED THAT:

Settling Defendants shall comply fully with the following terms, conditions and obligations relating to the payment of restitution, the payment of a civil monetary penalty, and the submission of financial information.

A. RESTITUTION

1. **IT IS HEREBY ORDERED THAT** LFTC and LRAIC shall be jointly and severally liable to make restitution in the amount of \$9.783 million, plus pre-

judgment interest and post-judgment interest. Romeo shall be jointly and severally liable for the restitution of LFTC and LRAIC in the amount of \$300,000.00, plus pre-judgment interest and post judgment interest. Restitution shall be paid within ten days of entry of this Order. Pre-judgment interest from September 2004 to the date of entry of this Order shall be determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 662(a)(2). Post-judgment interest shall accrue 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.

2. The amount of restitution assessed against LFTC and LRAIC represents the amount of funds invested by customers of the Liberty Common Enterprise as identified in Exhibit A, attached hereto and filed under seal. Omission of any investor from Exhibit A shall in no way limit the ability of such investor from seeking recovery. Further, the amounts payable to each investor identified in Exhibit A shall not limit the ability of any investor 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 investor that exist under state or common law.

3. Appointment of Monitor: To effect payment by Settling Defendants and distribution of restitution to Settling Defendants' customers, the Court appoints Daniel Driscoll of the National Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall collect restitution payments from Settling Defendants,

compute pro rata allocations to injured customers identified in Exhibit A to this Consent Order, and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, he shall not be liable for any action or inaction arising from his appointment as Monitor, other than actions involving fraud.

4. Restitution payments under this Order shall be made to the Monitor by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Liberty Financial Settlement Fund and sent to Daniel Driscoll, Monitor, National Futures Association, 200 W. Madison St., #1600, Chicago, IL 60606-3447 under a cover letter that identifies the paying Settling Defendant and the name and docket number of the proceeding. Settling Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Director and the Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the following address: Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The Monitor shall oversee Settling Defendants' restitution obligation and shall make periodic distributions of funds to investors as appropriate. Restitution payments shall be made in an equitable fashion as determined by the Monitor to the persons identified on Exhibit A. Should the Monitor be unable to locate certain investors after making reasonable efforts to locate such investors, the Monitor shall distribute the funds owed to those investors equitably to

the other investors. Based upon the amount of funds available, the Monitor may defer distribution until such time as it deems appropriate.

B. CIVIL MONETARY PENALTY

LFTC is liable for and shall pay to the Commission a civil monetary penalty in the amount of \$6,000,000.00, plus post-judgment interest pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1. LRAIC is liable for and shall pay to the Commission a civil monetary penalty in the amount of \$500,000.00, plus post-judgment interest pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1. Romeo is liable for and shall pay to the Commission a civil monetary penalty in the amount of \$120,000.00, plus post-judgment interest pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1. The civil monetary penalties shall be paid within ten days of entry of this Order. Post-judgment interest shall accrue 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. All payments by Settling Defendants shall be applied to their respective restitution obligations under this Order until all respective restitution obligations have been paid in full. Upon full payment of their respective restitution obligations, all payments by Settling Defendants will be applied to their respective civil monetary penalty obligations under this Order. Settling Defendants shall pay such civil monetary penalties by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order made payable to the Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Marie Bateman-AMZ-300,
DOT/FAA/MMAC
6500 S. Macarthur Blvd.
Oklahoma City, OK 73169

If the payment is to be made by electronic funds transfer, contact Marie Bateman at 405-954-6569 for instructions. Settling Defendants shall accompany the payment of their respective penalties with cover letters that identify the paying defendant and the name and docket number of this proceeding. The paying defendant shall simultaneously transmit a copy of the cover letter and the form of payment to: Office of the Director and Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street, NW, Washington, D.C. 20581.

C. PARTIAL PAYMENTS

Any acceptance by the Plaintiff of partial payment of Defendants' restitution obligations and/or civil monetary penalties shall not be deemed a waiver of their respective requirement to make further payments pursuant to this Order, or a waiver of the Plaintiff's right to seek to compel payment of any remaining balance.

D. EQUITABLE RELIEF PROVISIONS

The equitable relief provisions of this Consent Order shall be binding upon Settling Defendants and any person who is acting in the capacity of officer, agent, employee, servant or attorney of settling Defendants, and any person acting in active

concert or participation with settling Defendants who receive actual notice of this Consent Order by personal service or otherwise.

VI. MISCELLANEOUS PROVISIONS

1. ENTIRE AGREEMENT, AMENDMENTS AND SEVERABILITY. This Order incorporates all of the terms and conditions of the settlement among the parties. Nothing shall serve to amend or modify this Order in any respect whatsoever, unless: (1) reduced to writing, (2) signed by all parties, and (3) approved by order of the Court. If any provision of this Order or the application of any provision or circumstance is held invalid, the remainder of this Order shall not be affected by the holding.

2. COUNTERPARTS. This Order may be executed by the parties in counterparts and by facsimile.

3. JURISDICTION. This Court shall retain jurisdiction of this cause in order to implement and carry out the terms of all orders and decrees that may be entered herein, to assure compliance with this Order and for all other purposes related to this action.

4. AUTHORITY: Shauna Romeo hereby warrants that she is the owner of LFTC and LRAIC and that this Consent Order has been duly authorized by LFTC and LRAIC and she has been duly empowered to sign and submit it on behalf of LFTC and LRAIC.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Consent Order of Permanent Injunction and Other Equitable Relief.

DONE AND ORDERED in Chambers, at Miami, Florida, this 24th day of April,
2007.

A handwritten signature in cursive script that reads "Joan A. Lenard". The signature is written in black ink and has a long, sweeping horizontal line extending to the right from the end of the name.

JOAN A. LENARD
UNITED STATES DISTRICT JUDGE

Consented to and approved for entry by:

DEFENDANTS

Shauna Romeo on behalf of
Liberty Financial Trading Corp., Inc.

_____, on behalf of
Liberty Real Assets Investment Corporation

Ted Romeo

Francisco O. Sanchez, Esq.
Homer & Bonner, P.A.
The Four Seasons Tower
1441 Brickell Avenue Suite 1200
Miami, Florida 33131

Attorneys for Defendants

PLAINTIFF

Alan Edelman
James H. Holl, III
U.S. Commodity Futures Trading
Commission
Three Lafayette Centre
1155 21st N.W.
Washington, D.C. 20581