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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

10 _____)
11 UNITED STATES COMMODITY FUTURES)
TRADING COMMISSION,)

12)
13 Plaintiff,)

14 vs.)

15 SNC ASSET MANAGEMENT, INC., SNC)
INVESTMENTS, INC., PETER SON and)
16 JIN K. CHUNG,)

17)
18 Defendants,)

19 and,)

20 ANN LEE,)

21)
22 Relief Defendant.)
23 _____)

Case No. CV 09-2555MMC

SUPPLEMENTAL CONSENT
ORDER SETTING JUDGMENT
AND CIVIL MONETARY
PENALTY AND ADDRESSING
RESTITUTION AGAINST
DEFENDANTS SNC
ASSET MANAGEMENT, INC.,
SNC INVESTMENTS, INC.,
AND PETER SON AND
RELIEF DEFENDANT
ANN LEE

I.

INTRODUCTION

On June 9, 2009, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a civil enforcement action against Defendants SNC Asset Management, Inc. (“SNC Asset”), SNC Investments, Inc. (“SNC Investments”), Peter Son (“Son”) and Jin K. Chung (“Chung”)¹, seeking injunctive and other equitable relief, and the imposition of restitution and civil monetary penalties, for violations of the Commodity Exchange Act (“Act”), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), § 13102-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission’s Regulations promulgated thereunder (“Regulations”), 17 C.F.R. §§ 1 *et seq.* (2009). (See, Complaint for Permanent Injunction, Civil Monetary Penalties and Other Equitable Relief (“Complaint”) (DE# 1)). The Complaint also named Defendant Son’s wife, Ann Lee (“Lee”), as a Relief Defendant, seeking disgorgement of the ill gotten gains she received from her husband.

¹ On June 16, 2011, this Court entered an Order Dismissing Without Prejudice Plaintiff’s Claims Against Jin K. Chung (DE# 67) as the Commission was unable to effect service of Chung after repeated attempts including several attempts via the *Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters*.

1 On June 10, 2009, this Court entered a Statutory Restraining Order ("SRO") and
2 Order for Other Equitable Relief prohibiting the transfer, dissipation or disposal of
3 Defendants' and Relief Defendant's assets, ordering an accounting of Defendants' and Relief
4 Defendant's assets, prohibiting the destruction of documents, permitting the Commission
5 access to all of Defendants' and Relief Defendant's books and records, and authorizing
6 expedited discovery. (DE# 10).

7 On June 19, 2009, this Court entered an Order of Preliminary Injunction and Other
8 Equitable Relief, prohibiting further violations of the Act by Defendants SNC Asset, SNC
9 Investments, and Son, and continuing the provisions of the SRO against those Defendants
10 and Relief Defendant (DE# 21).

11 On May 13, 2011, this Court entered a Consent Order of Permanent Injunction and
12 Other Relief Against Defendants SNC Asset Management, Inc., SNC Investments, Inc., Peter
13 Son and Order of Disgorgement as to Relief Defendant Ann Lee ("Consent Order") (DE# 64)
14 that found: (1) SNC Asset, SNC Investments and Son violated Sections 4b(a)(2)(A)-(C) of
15 the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C); and SNC
16 Investments and Son violated Section 4f(b) of the Act, 7 U.S.C. § 4f(b) (2006), and
17 Regulations 1.12 and 1.17(a)(1), 17 C.F.R. §§1.12 and 1.17(a)(1) (2009). The Consent Order
18 enjoins SNC Asset Management, Inc., SNC Investments, Inc., and Peter Son ("Defendants")
19 from further violations of the Act and Regulations, and permanently prohibits them from,
20 among other things: trading on or subject to the rules of any registered entity; engaging,
21 controlling or directing the trading of commodity futures, options on commodity futures,
22 commodity options, and foreign currency; and from seeking registration or claiming
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26 Supplemental Consent Order

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1 exemption from registration with the Commission in any capacity engaging in any activity
2 requiring such registration or exemption from registration, or acting as a principal, agent or
3 and any other officer or employee or any person registered, exempted from registration or
4 required to be registered with the Commission, except as provided for in Regulation
5 4.14(a)(9), 17 C.F.R. § 4.14(a)(9).

6 The Consent Order also requires Defendants to pay restitution and a civil monetary
7 penalty and it requires that Relief Defendant Ann Lee disgorge certain payments made to her.
8 This Supplemental Consent Order Setting Judgment For Restitution and Civil Monetary
9 Penalty ("Supplemental Consent Order") sets out the amount of restitution and civil
10 monetary penalty to be paid by Defendants and the disgorgement amount to be paid by Relief
11 Defendant Ann Lee.

12
13 II.

14 CONSENTS AND AGREEMENTS

15 1. To effect settlement of the matters alleged in the Complaint, without a trial on
16 the merits or any further judicial proceedings, Defendants SNC Asset, SNC Investments, Son
17 and Relief Defendant Ann Lee consent to the entry of this Supplemental Consent Order.

18 2. Defendants SNC Asset, SNC Investments, and Son admit that this Court has
19 jurisdiction over them and the subject matter of this action pursuant to Section 6c of the Act,
20 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief against
21 any person whenever it shall appear to the Commission that such person has engaged, is
22 engaging, or is about to engage in any act or practice constituting a violation of any provision
23 of the Act or any rule, regulation, or order thereunder. Relief Defendant Lee admits that, as a

relief defendant, no separate subject matter jurisdiction need be asserted over her. *See, e.g.,*
1 *CFTC v. Kimberlynn Creek Ranch*, 276 F.3d 187, 191 (4th Cir. 2002).

2 3. Defendants SNC Asset, SNC Investments, Son, and Relief Defendant Lee
3 admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C.
4 § 13a-1 (2006), in that certain of the acts and practices alleged in the Complaint occurred in
5 this District.
6

7 4. In addition, Defendants SNC Asset, SNC Investments, Son, and Relief
8 Defendant Lee, waive: (a) any and all claims that they may possess under the Equal Access
9 to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the
10 Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2011), relating to or arising from this action; (b) any
11 and all claims that they may possess under the Small Business Regulatory Enforcement
12 Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as
13 amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to or arising
14 from this action; (c) any claim of Double Jeopardy based upon the institution of this
15 proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or
16 any other relief; and (d) all rights of appeal from this action.
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18 5. Defendants SNC Asset, SNC Investments, Son, and Relief Defendant Lee,
19 agree that neither they nor any of their agents or employees under their authority or control
20 shall take any action or make any public statement denying, directly or indirectly, any
21 allegation in the Complaint or findings or conclusions in the Consent Order or this
22 Supplemental Consent Order or creating, or tending to create, the impression that the
23 Complaint, Consent Order or this Supplemental Consent Order is without a factual basis;
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provided, however, that nothing in this provision shall affect Defendants' and Relief Defendant's (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants SNC Asset, SNC Investments, Son, and Relief Defendant Lee, shall take all necessary steps to ensure that all of their agents and employees under their authority or control understand and comply with this agreement.

6. Defendants SNC Asset, SNC Investments, Son, and Relief Defendant Lee, agree that they have read this Supplemental Consent Order and agree to it voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Supplemental Consent Order, other than as set forth specifically herein.

7. Defendants SNC Asset, SNC Investments, Son, and Relief Defendant Lee, consent to the continued jurisdiction of this Court in order to implement and carry out the terms of this Supplemental Consent Order and the Consent Order, to ensure compliance with this Supplemental Consent Order and the Consent Order, for any suitable application or motion for additional relief within the jurisdiction of this Court, and for any other purposes relevant to this action, even if Defendants SNC Asset, SNC Investments, Son, or Relief Defendant Lee now or in the future resides outside this District.

8. The Court, being fully advised in the premises, finds that there is good cause for the entry of this Supplemental Consent Order and that there is no just reason for delay. The Court therefore directs 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

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(2006), as set forth herein.

III.

CONCLUSIONS OF LAW

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1. This Court has jurisdiction over the subject matter of this action pursuant to Section 6c of the Act, 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.

3. This Court has personal jurisdiction over Defendants SNC Asset, SNC Investment, Son, and Relief Defendant Lee, who have acknowledged service of the Complaint and consented to the Court's jurisdiction.

4. Defendants SNC Asset, SNC Investment, Son, and Relief Defendant Lee, have agreed to this Court's retention of continuing jurisdiction of this action in order to carry out and enforce the terms of the Consent Order and this Supplemental Consent Order.

5. Based upon principles of equity, there is good cause for entry of an order directing Defendants SNC Asset, SNC Investments and Son to make restitution to the defrauded investors.

6. There is good cause for entry of an order requiring Defendants SNC Asset, SNC Investments, and Son to pay a civil monetary penalty for their violations of the Act and Regulations and for the Relief Defendant to disgorge funds received from the Defendants.

IV.

EQUITABLE RELIEF

NOW, THEREFORE, IT IS ORDERED THAT:

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3 1. Defendants SNC Asset, SNC Investments and Son's violations of the Act and
4 Regulations merit the award of significant restitution. However this Court recognizes that
5 the court in a related criminal matter, *United States v. Peter C. Son*, No. CR 09-00755 DLJ
6 (N.D. Cal. filed July 27, 2009), has already ordered restitution in the amount of
7 \$60,302,886.59 to Defendants' defrauded investors for the misconduct at issue in this matter.
8 Accordingly, additional restitution is not ordered in this matter.²

9
10 2. Defendants SNC Asset, SNC Investments and Son shall pay jointly and
11 severally, a civil monetary penalty in the amount of \$5,000,000 within ten (10) days of the
12 date of entry of this Order, plus post judgment interest (the "CMP Obligation").
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14 3. Should Defendants not satisfy their CMP Obligation within ten (10) days of
15 the date of entry of this Order, post judgment interest shall accrue on the CMP Obligation
16 beginning on the date of entry of this Order and shall be determined by using the Treasury
17 Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.
18 Defendants shall pay their CMP Obligation by electronic funds transfer, U.S. postal money
19 order, certified check, bank cashier's check, or bank money order. If payment is to be made
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23 ² On April 9, 2010, Defendant Son pleaded guilty in a related criminal action captioned
24 *United States v. Peter C. Son*, No. CR 09-00755 DLJ (N.D. Cal. filed July 27, 2009). On
25 July 30, 2010, Son was sentenced to 180 months in custody. On October 25, 2011 Son was
26 ordered to pay restitution in the amount of \$60,302,886.59.

by other than electronic funds transfer, the payments shall be made payable to the

1 Commodity Futures Trading Commission, and sent to the address below:

2 Commodity Futures Trading Commission
3 Division of Enforcement
4 ATTN: Accounts Receivables – AMZ 340
5 E-mail Box: 9-AMC-AMZ-AR-CFTC
6 DOT/FAA/MMAC
7 6500 S. MacArthur Blvd.
8 Oklahoma City, OK 73169
9 Telephone: 405-954-5644

10 If payment by electronic transfer is chosen, Defendants shall contact Linda Zurhorst or her
11 successor at the above address to receive payment instruction and shall fully comply with
12 those instructions. Defendants shall accompany payment of their penalty with a cover letter
13 that identifies Defendants and the name and docket number of this proceeding. Defendants
14 shall simultaneously transmit copies of the cover letter and the form of payment to (1) the
15 Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st
16 Street, N.W., Washington, D.C. 20581 and (2) the Chief, Office of Cooperative Enforcement,
17 Division of Enforcement, Commodity Futures Trading Commission, at the same address.

18 4. Relief Defendant Lee shall disgorge \$300,000.

19 5. Disgorgement shall be paid by electronic funds transfer, U.S. postal money order,
20 certified check, bank cashier's check, or bank money order. If payment is to be made by
21 other than electronic funds transfer, the payments shall be made payable to the Commodity
22 Futures Trading Commission, and sent to the address below:

23 Commodity Futures Trading Commission
24 Division of Enforcement

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ATTN: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: 405-954-5644

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5 If payment by electronic transfer is chosen, Lee shall contact Linda Zurhorst or her successor
6 at the above address to receive payment instruction and shall fully comply with those
7 instructions. Lee shall accompany payment of her disgorgement with a cover letter that
8 identifies Lee and the name and docket number of this proceeding. Lee shall simultaneously
9 transmit copies of the cover letter and the form of payment to (1) the Director, Division of
10 Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W.,
11 Washington, D.C. 20581 and (2) the Chief, Office of Cooperative Enforcement, Division of
12 Enforcement, Commodity Futures Trading Commission, at the same address.
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14 VI.

15 MISCELLANEOUS PROVISIONS

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17 1. If any provision of this Supplemental Consent Order or the application of any
18 provision or circumstance is held invalid, the remainder of this Supplemental Consent Order,
19 and the application of the provision to any other person or circumstance, shall not be affected
20 by the holding.

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22 2. This Court shall retain jurisdiction of this action in order to implement and
23 carry out the terms of this Supplemental Consent Order and the Consent Order, to ensure
24 compliance with this Supplemental Consent Order and the Consent Order, to entertain any

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1 suitable application or motion for additional relief within the jurisdiction of this Court, and
2 for any other purposes relevant to this action, even if Defendants SNC Asset, SNC
3 Investments, Son, or Relief Defendant Lee now or in the future resides outside this District.

4 3. All notice required to be given by any provision in this Order shall be sent by
5 overnight mail (e.g., Federal Express) or email, as follows:

6 Notice to the Commission: Gretchen Lowe
7 Associate Director, Division of Enforcement
8 Commodity Futures Trading Commission
9 1155 21st Street, NW
10 Washington, D.C. 20581
11 (202) 418-5379
12 glowe@cftc.gov

13 Notice to the Defendants: John H. Feiner, Esq.
14 Attorney for Defendants SNC Asset, SNC Investment,
15 Son and Relief Defendant Lee
16 One Park Plaza, Suite 600
17 Irvine, CA 92651
18 (949) 852-7345
19 jhfeiner@aol.com

20 4. In the event that the Defendants or Relief Defendant Ann Lee change their
21 residential or business telephone number(s) and/or address(es) at any time, they shall provide
22 written notice of the new number(s) and/or address(es) to the Commission within ten
23 calendar days thereof.


24 5. The failure of any party to this Supplemental Consent Order at any time to
25 require performance of any provision of this Supplemental Consent Order shall in no manner
26 affect the right of the party or investor to enforce the same or any other provision of this

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Supplemental Consent Order at a later time. No waiver in one or more instances of the
1 breach of any provision contained in this Supplemental Consent Order shall be deemed or
2 construed as a further or continuing waiver of such breach or waiver of the breach of any
3 other provision of this Supplemental Consent Order.
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11 **IT IS SO ORDERED**, on the 19th day of April, 2012.

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13 MAXINE M. CHESNEY
14 United States District Judge
15 Northern District of California
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CONSENTED TO AND APPROVED BY:

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Dated: 4/16/12

Gretchen L. Lowe
Kevin K. Batteh, Chief Trial Attorney
Gretchen L. Lowe, Associate Director
Attorneys for Plaintiff
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Dated: _____

Peter Son, Defendant, signing individually and
on behalf of Defendants SNC Asset
Management, Inc., and SNC Investments, Inc.

Dated: 10/10/2011

Ann Lee
Ann Lee, Relief Defendant

Dated: 10-15-11

John H. Feiner
John H. Feiner, Esq.
*Attorney for Defendants SNC Asset
Management Inc., SNC Investments, Inc.,
Peter Son and Relief Defendant Ann Lee*
One Park Plaza, Suite 600
Irvine, CA 92651

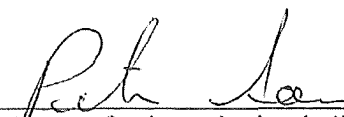
CONSENTED TO AND APPROVED BY:

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Dated: _____

Kevin K. Batteh, Chief Trial Attorney
Gretchen L. Lowe, Associate Director
Attorneys for Plaintiff
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

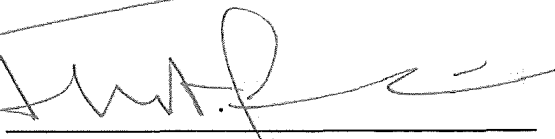
Dated: 10/11/11


Peter Son, Defendant, signing individually and
on behalf of Defendants SNC Asset
Management, Inc., and SNC Investments, Inc.

Dated: _____

Ann Lee, Relief Defendant

Dated: 10-18-11


John H. Feiner, Esq.
*Attorney for Defendants SNC Asset
Management Inc., SNC Investments, Inc.,
Peter Son and Relief Defendant Ann Lee*
One Park Plaza, Suite 600
Irvine, CA 92651