

Commission filed with the Court, and being fully advised of the premises supporting the Application, hereby:

GRANTS the Commission's Application for Entry of Judgment by Default Against Defendants and enters findings of fact and conclusions of law finding Defendants liable as to all violations as alleged in the Complaint. The Court further grants the Commission's request to award restitution and civil monetary penalties against Defendants. Accordingly, the Court now issues the following Order for Default Judgment, Permanent Injunction, Civil Monetary Penalties, and Ancillary Equitable Relief ("Order") against Defendants.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court hereby **FINDS** as follows:

A. Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this action and the Defendants 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. Section 2(c)(2)(B) of the Act provides that the Commission shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery, so long as the contract is "offered to, or entered into with, a person that is not an eligible contract participant" unless the counterparty, or the person offering to be the counterparty, is any one of a number of regulated entities.

3. None of the foreign currency futures transactions for which Defendants solicited their customers involved a counterparty that fell under any of the Section 2(c)(2)(B)

classifications. None of the Defendants' customers fell under any of the Section 2(c)(2)(B) classifications. Neither Century Maxim nor AJR Capital was counterparty or an affiliate of a counterparty as set forth in the Section 2(c)(2)(B) classifications.

4. The Act anticipates that wealthy or institutional investors – known as “eligible contract participants” – that meet certain financial criteria and that trade foreign currency futures or options contracts have sufficient resources to protect their own interests when entering into foreign currency transactions, and therefore their transactions fall outside the Commission's jurisdiction.

5. The Act further contemplates that the forex futures or options transactions of investors who do not meet the financial criteria to be eligible contract participants (and who are referred to herein as “retail customers”) shall fall within the Commission's jurisdiction.

6. Section 1a(12)(A)(xi) of the Act defines an eligible contract participant as an individual who has total assets in excess of: a) \$10 million; or b) \$5 million and who enters the transaction to manage the risk associated with an asset owned or a liability incurred, or reasonably likely to be owned or incurred.

7. All of the foreign currency futures transactions alleged herein were offered to or entered into with persons who did not qualify as eligible contract participants, meaning that the Defendants' customers were retail customers whose transactions are contemplated by Section 2(c)(2)(C) of the Act to be within the Commission's jurisdiction.

8. Accordingly, because none of the foreign currency futures transactions for which Defendants' customers were solicited involved a counterparty exempted under Section 2(c)(2)(B) of the Act, and because none of Defendants' customers were eligible contract participants, the Commission has jurisdiction over this action.

9. The Commission has jurisdiction over Defendants' transactions because the Defendants offered to enter into, and conducted business in the United States for the purpose of soliciting, or accepting orders for, contracts for the purchase or sale of commodities for future delivery, and specifically, foreign currency futures, and such contracts were not made on or subject to the rules of any board of trade, exchange or market.

10. Defendants marketed the opportunity to trade foreign currency futures exclusively to individuals who had assets totaling less than \$5 million and who had no business, personal, or other need to take or make delivery in foreign currency or to hedge against movements in the foreign currency markets. All of Defendants' customers were members of the retail investing public who were not "eligible contract participants" as that term is defined under Section 1a(12) of the Act, 7 U.S.C. § 1a(12).

11. The Commission has jurisdiction over the foreign currency futures transactions for which Defendants solicited their customers pursuant to Section 2(c)(2)(B) of the Act, 7 U.S.C. § 2(c)(2)(B), inasmuch as those transactions were contracts of sale for future delivery; offered to or entered into with persons who were not eligible contract participants; and the counterparty to the transactions was not any of the entities enumerated in Section 2(c)(2)(B)(ii)(I) to (VI) of the Act, 7 U.S.C. § 2(c)(2)(B)(ii)(I) to (VI).

12. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1, in that the acts and practices in violation of the Act occurred within this district, among other places.

13. Since this action was commenced on September 30, 2005, the Defendants have all been properly served. None of the Defendants has appeared in the action. None of the Defendants have filed an answer or otherwise moved with respect to the Complaint. On March

8, 2006, the Clerk of the Court entered a certificate of Defendants' fault. As of April 28, 2006, the Commission duly moved for entry of judgment by default against Defendants.

14. None of the Defendants is an infant or incompetent person, and none of the Defendants is currently on active duty in any branch or division of the United States military.

B. Findings of Fact

15. From at least January 2004 through June 2005, Efrosman fraudulently solicited and obtained more than \$5,000,000 from as many as 110 unsophisticated retail customers, for the purpose of trading illegal foreign currency futures contracts at Century Maxim and AJR Capital, both New York corporations created by Efrosman for the purpose of perpetrating his fraudulent scheme. Instead of trading, however, Efrosman misappropriated all of the solicited funds for his personal expenses and to fund his gambling activities.

16. Efrosman solicited almost \$300,000 from a single Century Maxim investor and solicited almost \$4.8 million from at least 109 AJR Capital investors. During the duration of the fraud, Defendants provided Century Maxim and AJR Capital investors fictitious Century Maxim and AJR Capital account statements, showing trades that did not actually occur and profits that did not exist. These statements in turn were instrumental in the propagation of the fraud, and in the solicitation of new customers.

17. Century Maxim's investor sustained a net loss, and Efrosman and Century Maxim obtained net profits, equal to \$285,308.67. AJR Capital's investors sustained a net loss, and Efrosman and AJR Capital obtained net profits, equal to \$4,261,992.24.

18. Efrosman solicited prospective investors with Century Maxim and AJR Capital by telling them that they could expect returns on their investment of between 13% and 28% percent

per month, which Efrosman supported with falsified account statements showing similarly extravagant profits.

19. Efrosman used some of his investors as his agents for the purpose of soliciting new investments, promising them commission-free trades or bonus payments for each successful solicitation. Efrosman and his agents told prospective investors that Efrosman could double their investment within four months. They promised that Efrosman could limit risk to within three percent of funds invested. They stated that Efrosman had never had a losing month trading foreign currency for Century Maxim or AJR Capital; and, they stated that the owners of a nationally known hotel chain had invested millions with Century Maxim.

20. Although the account statements of Defendants' customers invariably showed profitable returns, Defendants never actually traded foreign currency futures with any of the funds solicited. To the contrary, all the money solicited by Defendants on behalf of Century Maxim and AJR Capital was misappropriated by Efrosman for his personal expenses.

21. At all relevant times, Efrosman was an agent or officer of both Century Maxim and AJR Capital.

22. In August 1997, the Commission filed an administrative action against Efrosman, charging him and other defendants with transacting in illegal off-exchange foreign currency contracts, fraud, failing to register as an associated person of an FCM, issuing false reports, bucketing, and misappropriation of customer funds. Efrosman was also indicted in the United States District Court for the Southern District of New York for mail and wire fraud in connection with the same activities. Efrosman then fled the country, which resulted in a default being entered against him in the Commission's enforcement action. On February 2, 2000, the Commission entered an order against Efrosman, finding him liable for violations of the Act

including Sections 4(c) and 4b(a), ordering him to cease and desist from such violations, and assessing a civil monetary penalty against him for \$500,000. Efosman was subsequently extradited from France, and in November 2000 pleaded guilty to nineteen counts of mail and wire fraud before U.S. District Court Judge Rakoff of the Southern District. Efosman was sentenced to a term of three years imprisonment.

C. Conclusions of Law: Violations of Sections 4(a), 4b(a)(2), and 6c(a) of the Act, and Commission Regulation 1.1(b)

23. From at least January 2004 to at least June 2005, Defendants defrauded other persons, who were not eligible contract participants as defined under Section 1a(12) of the Act, in connection with orders to enter into agreements, contracts or transactions in foreign currency that were contracts of sale of a commodity for future delivery pursuant to Section 2(c)(2)(B) of the Act. By this conduct Defendants violated Section 4b(a)(2) of the Act and Commission Regulation 1.1(b).

24. From at least January 2004 to at least June 2005, Defendants offered and sold contracts for the purchase or sale of commodities for future delivery, which were not made on or subject to the rules of any board of trade, exchange, or market, and which were not exempt from the requirements of the Act, to members of the general public who were not appropriate persons pursuant to Section 4(c)(3) of the Act. By this conduct Defendants violated Section 4(a) of the Act.

25. By this conduct, Efosman also violated the terms of the cease-and-desist order entered against him by the Commission in administrative proceedings in February 2000, thereby violating Section 6c(c) of the Act.

26. Defendants Century Maxim and AJR Capital are liable for Defendant Efosman's violations pursuant to Section 2(a)(1)(B) of the Act.

27. Defendant Efrosman, as controlling person of Century Maxim and AJR Capital, is liable for the violations of Century Maxim and AJR Capital, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

II. ORDER FOR PERMANENT INJUNCTION

IT IS HEREBY ORDERED that:

Defendants are permanently restrained, enjoined and prohibited from violating, directly or indirectly:

- A. Sections 4(a), 4b(a)(2), and 6c(a) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(2), and 13a-1(a) and Regulations 1.1(b), 17 C.F.R. § 1.1(b), by cheating or defrauding or attempting to cheat or defraud any other person by any means whatsoever in connection with any contract of sale of any commodity for future delivery, or any agreement, contract, or transaction in foreign currency.
- B. Soliciting funds for, engaging in, controlling, or directing the trading of any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise; and
- C. Withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control, or in the name of, any of the Defendants, individually or jointly, until such time as all monetary damages, including restitution, civil monetary damages, and other costs and fees, are assessed and ordered by the Court and paid in full to the victims and the Commission.

IT IS FURTHER ORDERED that:

- D. Defendants are permanently restrained, enjoined and prohibited from directly or indirectly destroying, altering or disposing of any books, records, or other documents of either Century Maxim or AJR Capital, wherever located, including all such records concerning Century Maxim's or AJR Capital's business operations, and Efrosman's role in those operations;
- E. Defendants shall provide the Commission with continuing access to any books and records or other documents of Century Maxim and AJR Capital, wherever located, including all such records concerning Century Maxim's and AJR Capital's business operations;

III. CIVIL MONETARY PENALTY

1. Defendants shall be jointly and severally liable for the payment, within ten (10) days of the entry of this Order, a civil monetary penalty of \$13,500,000.00, plus post-judgment interest. Interest after the date of this Order until the civil monetary penalty is paid in full shall be paid at the post-judgment interest rate set forth in 28 U.S.C. § 1961. Defendants shall pay such civil monetary penalty 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 Commodity Futures Trading Commission, and sent to Dennese Posey, or her successor, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street N.W., Washington, D.C. 20581, under cover of a letter that identifies Defendant and the name and docket number of this proceeding. Defendants shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street N.W., Washington, D.C. 20581.

IV. ORDER FOR OTHER EQUITABLE RELIEF

IT IS FURTHER ORDERED that:

A. **DISGORGEMENT:** Within thirty (30) days of the date of this Order, Defendant Efrosman shall pay disgorgement of \$4,547,300.9~~X~~^{1 - KMW}. Payment of disgorgement shall be sent ^{to - KMW} Restitution Monitor (as defined in Section E, below) and made payable to the AJR Capital/Century Maxim Settlement Fund. Efrosman shall pay post-judgment interest from the date of this Order until his disgorgement obligation is paid in full, at the Treasury Bill rate prevailing on the date of this Order, pursuant to 28 U.S.C. § 1961(a). Efrosman shall simultaneously transmit copies of the cover letter accompanying his disgorgement payment and

the form of payment to Gregory G. Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street, NW, Washington, DC 20581.

B. RESTITUTION: Defendants Efrosman and Century Maxim shall be jointly and severally liable for the payment of restitution within ten (10) days of the entry of this Order to investors in the amount of \$285,308.67. In addition, Efrosman and Century Maxim shall pay pre-judgment interest thereon from January 1, 2004 to the date of this Order calculated at the IRS underpayment rate established by the Internal Revenue Service, pursuant to 26 U.S.C. § 6621(a)(2). Efrosman and Century Maxim shall also pay post-judgment interest at the Treasury Bill rate prevailing on the date this Order is entered, pursuant to 28 U.S.C. § 1961, accruing from that date to the date full payment of restitution is made. Attachment A to this Order includes the name of the investor to whom restitution shall be made pursuant to this paragraph. The obligations of Century Maxim and Efrosman to make restitution under this paragraph shall be reduced by any amounts paid to the investor listed in Attachment A pursuant to any restitution ordered in any other legal proceeding or pursuant to any collateral agreement, subject to the conditions as set forth in paragraph H below. All payments made pursuant to this paragraph by either Century Maxim or Efrosman shall be considered restitution payments until that amount (including interest) is fully satisfied. All payments received by the Restitution Monitor after satisfaction of the restitution obligations set forth in this Order shall be applied to the civil monetary penalty described herein.

C. Defendants Efrosman and AJR Capital shall be jointly and severally liable for the payment of restitution within ten (10) days of the entry of this Order to investors in the amount of \$4,261,992.24. In addition, Efrosman and AJR Capital shall pay pre-judgment interest

thereon from April 1, 2004 to the date of this Order calculated at the IRS underpayment rate established by the Internal Revenue Service, pursuant to 26 U.S.C. § 6621(a)(2). Efrosman and AJR Capital shall also pay post-judgment interest at the Treasury Bill rate prevailing on the date this Order is entered, pursuant to 28 U.S.C. § 1961, accruing from that date to the date full payment of restitution is made. Attachment B to this Order includes the names of the AJR Capital investors to whom restitution shall be made pursuant to this paragraph, together with the amount of restitution payable by Efrosman and AJR Capital to each of them (not including required interest). Efrosman's and AJR Capital's obligations to make restitution under this paragraph shall be reduced by any amounts paid to the investors listed in Attachment B pursuant to any restitution ordered in any other legal proceeding or pursuant to any collateral agreement, subject to the conditions as set forth in paragraph H below. All payments made pursuant to this paragraph by either Efrosman or AJR Capital shall be considered restitution payments and dispersed on a pro rata basis until those amounts (including interest) are fully satisfied. All payments received by the Restitution Monitor after satisfaction of the restitution obligations set forth in this Order shall be applied to the civil monetary penalty described herein.

D. Any money paid to the Restitution Monitor above and beyond the amount sufficient to pay full disgorgement and restitution to the participants identified on Attachments A and B shall be made payable to and sent by the Restitution Monitor to the Commission to the attention of Dennese Posey, or her successor, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, under cover of a letter that identifies defendant making payment and the name and docket number of the proceeding, as payment of the civil monetary penalty provided for herein.

E. RESTITUTION MONITOR: All disgorgement and restitution payments made in satisfaction of the disgorgement and restitution obligations of Defendants shall be sent to Daniel Driscoll, Executive Vice-President, Chief Compliance Officer, or his successor (the "Restitution Monitor"), at the National Futures Association, 200 W. Madison Street #1600, Chicago, Illinois 60606, and made payable to the AJR Capital/Century Maxim Restitution Fund. The Restitution Monitor shall distribute restitution payments to customers on a pro rata basis unless, at his sole discretion, based upon the amount of funds available for distribution, the Restitution Monitor decides to defer distribution.

F. PARTIAL PAYMENTS: Any acceptance by the Commission or the Restitution Monitor of partial payment of Defendants' restitution and/or civil monetary obligations, shall not be deemed a waiver of Defendants' obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balances.

G. THIRD-PARTY BENEFICIARIES: Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each of the individuals identified in Attachments A and B hereto is explicitly made an intended third-party beneficiary of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the restitution amount which has not been paid by Defendants, to ensure continued compliance with any provision of this Order and to hold Defendants in contempt for any violations of any provision of this Order.

H. COLLATERAL AGREEMENTS: Defendants shall immediately notify the Commission and Restitution Agent if they make or have previously made any agreement with any investor obligating them to make payments outside of this Order. They shall also provide immediate evidence to the Court, the Commission and Restitution Monitor of any payments made pursuant to such agreement. Upon being notified of any payments made by Defendants to

investors outside of this Order, and receiving evidence of such payments, the Restitution Monitor will have the right to reduce and offset Defendants' obligations to specified investors and to make any other changes in the restitution distribution schedule that he deems appropriate.

I. Defendants shall take such steps as are necessary to repatriate to the territory of the United States all funds, assets or other property of Defendants' customers described herein which are held by any of the Defendants, or are under their direct or indirect control, jointly or singly, and deposit such funds with the Restitution Monitor and provide the Commission and the Court with a written description of the funds and assets so repatriated; and

J. Within sixty (60) days of the date of the entry of this Order, Defendants shall provide an accounting to this Court of all of Defendants' assets and liabilities, together with all funds it received from and paid to clients and other persons in connection with commodity futures and options transactions or purported commodity futures or options transactions, and all disbursements for any purpose whatsoever of funds received from commodity futures or options transactions, including salaries, commissions, interest, fees, loans and other disbursements of money and property of any kind, from, but not limited to, January 2004, through and including the date of such accounting.

V. DELIVERY OF FUNDS TO RESTITUTION MONITOR

IT IS FURTHER ORDERED that:

A. Immediately upon service of this Order upon them, Defendants, and any other person or entity served with a copy of this Order, shall immediately or within such time as permitted by the Restitution Monitor in writing, deliver over to the Restitution Monitor:

1. Possession and custody of all funds, assets, property, and all other assets, owed beneficially or otherwise, wherever situated, of the Defendants, including but not limited to

funds in checking account number 2974003622 held in the name of AJR Capital at North Fork Bank, and funds in checking account number 2974002202 held in the name of Century Maxim at North Fork Bank;

2. Possession and custody of documents of the Defendants, including but not limited to all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, cancelled checks, records of wire transfers, and check registers), clients lists, title documents and other papers;

3. Information identifying the accounts, employees, properties, or other assets or obligations of the Defendants.

4. This Order supersedes this Court's order dated September 30, 2005 freezing Defendants' assets.

VI. COSTS AND FEES

Pursuant to 28 U.S.C. §§ 1920 and 2412(a)(2), Defendants shall be jointly and severally liable for payment of the filing fee of \$350.00 prescribed in the Fee Schedule for the United States District Court for the Southern District of New York. Payment shall be sent to Dennese Posey, or her successor, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, under cover of a letter that identifies defendant making payment and the name and docket number of the proceeding. Defendants shall simultaneously transmit copies of the cover letter accompanying his disgorgement payment and the form of payment to Gregory G. Mocek, Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21st Street, NW, Washington, DC 20581.

VII. MISCELLANEOUS PROVISIONS

A. NOTICES: All notices required by this Order shall be sent by certified mail, return receipt requested, as follows:

1. Notice to Commission:

Gregory G. Mocek
Director of Enforcement
Commodity Futures Trading Commission
1155 21st Street N.W.
Washington, DC 20581

David Acevedo
Division of Enforcement, Eastern Regional Office
Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005

B. SUCCESSORS AND ASSIGNS: This Order shall inure to the benefit of and be binding on the parties' successors, assigns, heirs, beneficiaries and administrators.

C. JURISDICTION: This Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action.

D. The provisions of this Order shall be binding upon each of the Defendants, upon any person insofar as he or she is acting in the capacity of officer, agent, servant or employee of any of the 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 any or all of the Defendants, individually or jointly.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Default Judgment against Defendants Aleksander Efrosman a/k/a Alex Besser, AJR Capital, Inc., and Century Maxim Fund, Inc.

SO ORDERED, at New York, New York on this 27th day of March, 2007, at 3:25 a.m./p.m. 7-KMW

Kimba M. Wood
Honorable Kimba M. Wood
UNITED STATES DISTRICT JUDGE r

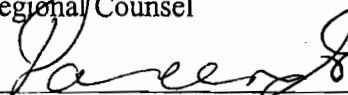
THIS DOCUMENT HAS BEEN ENTERED
ON THE DOCKET ON _____

Respectfully submitted,

U.S. COMMODITY FUTURES TRADING
COMMISSION

Stephen J. Obie
Regional Counsel

By:



David Acevedo [DA 0388]

Chief Trial Attorney

U.S. COMMODITY FUTURES TRADING
COMMISSION

140 Broadway, 19th Floor

New York, New York 10005

(646) 746-9763

(646) 746-9940 (facsimile)

smorris@cftc.gov