

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

Case No.: 05-CIV-61588 ALTONAGA/Turnoff

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

vs.

**INTERNATIONAL BERKSHIRE
GROUP HOLDINGS, INC. ET AL.**

Defendants.

**CONSENT ORDER OF PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AGAINST DEFENDANTS
ROXANA SOFIA LAO MENDEZ AND BEATRIZ PERALTA QUESADA**

Roxana Sofia Lao Mendez (“Lao”) and Beatriz Peralta Quesada (“Peralta”) (collectively “Defendants” herein), having signed their Consents to this Consent Order of Permanent Injunction and Other Equitable Relief, which Consents having been filed with the Court and are incorporated herein by reference, it appears to the Court that:

I.

INTRODUCTION

On September 29, 2005, the Commodity Futures Trading Commission (“Commission”) filed a Complaint commencing this civil action against Defendants Lao and Peralta, and others.

The Complaint seeks injunctive and other equitable relief for violations of the antifraud provisions of the Commodity Exchange Act (the "CEA" or "Act"), 7 U.S.C. § 1 *et seq.* (2002), and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* (2004).

II.

CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint without a trial on the merits, Lao and Peralta each individually, hereby:

1. Consent to the entry of this *Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Roxana Sofia Lao Mendez and Beatriz Peralta Quesada*, ("Order");

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

3. 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);

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

5. Waive:

(a) all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000);

(b) 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 other relief; and

(c) all rights of appeal from this Order;

6. Consent to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purposes relevant to this case;

7. Agree that neither of them nor their respective agents, employees or representatives acting under either of their control shall take any action or make any public statement denying, directly or indirectly, any allegations in the Complaint or creating or tending to create the impression that the Complaint is without factual basis; provided, however, that nothing in this provision shall affect either Defendants': i) testimonial obligations, or ii) right to take legal positions in other proceedings to which the Commission is not a party. The Defendants will undertake all steps to assure that all of their respective agents, employees and representatives understand and comply with this Order.

8. By consenting to the entry of this Order, the Defendants neither admit nor deny the allegations of the Complaint or the Findings of Fact contained in this Order, except as to jurisdiction and venue. However, the Defendants agree and intend that the allegations of the Complaint and all of the Findings of Fact made by this Court and contained in Part III of this Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of any subsequent bankruptcy proceeding filed by, on behalf of, or against the Defendants, or any proceeding to enforce this Order, or any other proceeding relating to the fitness of the Defendant to act in various capacities governed by the Act. The Defendants shall provide immediate notice of any bankruptcy filed by, on behalf of, or against the Defendant in the manner required by Part VI of this Order. No provision of this Order shall in any way limit or impair the ability of any person to seek any legal or equitable remedy against the Defendant or any other person in any other proceeding.

9. The Court, being fully advised in the premises, finds that there is good cause for the entry of this 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 (2002), as set forth herein.

III.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. FINDINGS OF FACT

a. The Parties

10. **Plaintiff Commodity Futures Trading Commission** is an independent federal regulatory agency charged with administering and enforcing the provisions of the CEA, 7 U.S.C. §§ 1 *et seq.* (2002) and the Regulations promulgated thereunder, 17 C. F. R. §§ 1 *et seq.* (2004).

11. **Defendant Roxanna Sofia Lao Mendez, a.k.a. Roxanna Sofia Lao** is an individual with an address at 8345 N.W. 66th Street Suite 6508, Miami, Florida 33166. Lao was president/manager of Berkshire International, LLC. Lao has never been registered with the Commission in any capacity.

12. **Defendant Beatriz Peralta Quesada, a.k.a. Beatriz Peralta** is an individual with an address at 8345 N.W. 66th Street Suite 6508, Miami, Florida 33166. Peralta was president of Berkshire International Holdings, LLC and director of IMS Holdings, LLC ("IMS"). In addition, Peralta was secretary of International IMS Group Holdings, Inc. and a managing member of Oakmont International, LLC ("Oakmont"). Peralta has never been registered with the Commission in any capacity.

b. **The Scheme - The Berkshire Common Enterprise**

13. Harrington Advisory Services SL a.k.a. Harrington Group, Inc. ("Harrington") began operations on or about July 2003, and ostensibly provided advice to customers wishing to trade in the currency markets or options on the currency markets.

14. Harrington established a website, www.harringtonfx.com, which represented to customers: "[w]ith every tick of the clock, fortunes are made and lost. In the Foreign Exchange market (sic), where bulls and bears have little or no role, a timely decision can spell success." The website further represented that Harrington had the "expertise and resources" to guide customers to success in the foreign exchange markets.

15. According to the Harrington website, Berkshire International, LLC was the clearing firm for foreign exchange options that would hold the customer accounts and funds. Harrington included Berkshire International, LLC account opening documents on its website. These account opening documents instructed customers to send money to a Wachovia bank account in the name of Berkshire International Group, Inc., an apparent "d/b/a" of Berkshire International, LLC.

16. There were four "Berkshire" entities: International Berkshire Group Holdings, Inc., Berkshire International, LLC also known as Berkshire International Group, Inc., Berkshire International Holdings, LLC, and Berkshire International Holdings Group, LLC (collectively the "Berkshire companies"). The Berkshire companies and others, acted as a common enterprise ("Berkshire Common Enterprise" or "BCE"). Berkshire International, LLC maintained a website, www.berkshirefx.net, and accepted funds from customers solicited by, among others, Harrington. Harrington introduced its customers only to Berkshire International, LLC.

17. Instead of executing forex options transactions, the Berkshire companies misappropriated customer funds. From July 2003 to March 2004, Berkshire International, LLC received over \$1.48 million in customer deposits in a Bank of America account. From December 2003 to March 2004, Berkshire International, LLC transferred funds in excess of \$1.45 million from the Bank of America account to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles. The Bank of America's Berkshire International, LLC account refunded funds to customers in the amount of approximately \$45,000.

18. From August 2003 and November 2003, Berkshire International, LLC received customer deposits of over \$3.2 million in an account at Wachovia bank in Florida. Of the \$3.2 million, approximately \$1.35 million was transferred to an account titled "IIHC" at the Bank of Nevis International and approximately \$542,000 was transferred to an account titled Berkshire International Group Inc. at First International Bank of Curacao in the Netherlands Antilles. Of the \$3.2 million, approximately \$1.2 million was transferred to a Berkshire International, LLC "operating account" at Wachovia ("Wachovia Operating Account"). The Wachovia Operating Account transferred approximately \$243,000 offshore to the Berkshire International Group, Inc. account at First International Bank of Curacao in the Netherlands Antilles. The remainder of the funds in the Wachovia Operating Account were used for payroll expenses, various operating expenses and payments to relief defendants, as follows: Briscoe and Associates - \$7,975; FED and Associates - \$155,000, Geraud Enterprises, Inc. - \$49,100, Jeffrey Jedlicki, Inc. - \$89,000. Combined refunds to customers from these Berkshire International accounts at Wachovia totaled \$30,800.

19. In addition, there existed an account at Wachovia in the name of International Berkshire Group Holdings, Inc. ("IBGH"). From March 2004 through July 2004, the IBGH account received over \$813,000 in customer deposits. During the same time period, IBGH transferred over \$762,000 to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles. The IBGH Wachovia account paid back customers approximately \$43,000. Many customers were paid refunds out of this account even though their initial deposits were with other banks with other account names. For example, one customer opened his account with Berkshire International and wired \$13,000 into Berkshire International, LLC's Bank of America account on February 17, 2004. However, when he closed his account in April 2004, he received a check in the amount of \$3,036 from the Wachovia account of IBGH.

20. Defendant Peralta served as president of Berkshire International Holdings, LLC and was a signatory on IBGH's Florida bank accounts. She also wrote checks from International Berkshire Holdings Group, Inc.'s bank account to incorporate Berkshire International, LLC in Nevada.

21. In March 2004, Peralta opened and became a signatory on the account entitled IBGH at another Florida branch of Wachovia. As stated above, between March 2004 and July 2004, this account received over \$813,000 in customer deposits. During this period, Peralta signed numerous checks transferring over \$762,000 from the IBGH account to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles.

22. Defendant Lao served as manager of Berkshire International, LLC and both opened and was a signatory on Berkshire International, LLC's bank accounts at Wachovia and Bank of America.

23. As noted above, Peralta was the managing member of a firm known as Oakmont and Director of an entity known as IMS. Funds of customers opening an account with Oakmont were directed to a Bank of America account entitled "Oakmont International LLC" at a bank branch in Sarasota, Florida ("Oakmont Account").

24. A cash flow analysis of the activity in the Oakmont Account indicates that the account was used to pass money to offshore and domestic accounts in the name of Berkshire Common Enterprise entities. During April 2005, in excess of \$439,000 was wired into the account and over \$426,688 was wired out.

25. Similarly, customers sent approximately \$425,000 to various IMS bank accounts at Wachovia Bank, N.A. or Bank of America in Florida. IMS, through its agents, wired approximately \$364,846 in customer funds to IMS accounts at the First International Bank of Curacao in the Netherlands Antilles.

26. As described above, the Berkshire companies, IMS, International IMS Group Holdings, Inc., and Oakmont operated as the Berkshire Common Enterprise. The companies comprising the Berkshire Common Enterprise were commonly controlled in that they were created and operated by the same individuals; they shared officers, addresses, solicitation schemes and commingled corporate funds.

c. The Defendants' Involvement

27. Lao and Peralta knowingly associated themselves with the unlawful Berkshire Common Enterprise venture, and sought to make it succeed by establishing corporate structures that were used by Berkshire Common Enterprise participants in the conduct of the fraudulent scheme, and engaging in other acts in furtherance of the scheme.

28. In particular, Lao was the manager of Berkshire International, LLC, the Berkshire entity that falsely claims to conduct trading opposite Harrington customers.

29. Lao opened a Berkshire International, LLC bank account and was the sole signatory on this account. She transferred funds offshore and/or to various defendants and relief defendants.

30. In addition, Peralta was the corporate secretary of International IMS Group Holdings, Inc. Peralta opened and was a signatory on the International IMS Group Holdings, Inc. bank accounts and wrote checks from the International IMS Group Holdings, Inc. bank account at Bank of America transferring funds offshore.

31. Peralta also was the manager of Berkshire International Holdings, LLC and director of IMS. In addition, she was a signatory on IBGH. She signed checks from an IBGH account opened at Wachovia Bank in Florida, including a check from this account used to incorporate Berkshire International, LLC in the State of Nevada.

32. Peralta was also a managing member of Oakmont.

B. CONCLUSIONS OF LAW

a. Jurisdiction and Venue

33. This Court has subject matter jurisdiction over this action and the allegations in

the Complaint pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2002).

34. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(e) (2002), because Defendants transacted business in the Southern District of Florida.

35. The Defendants violated the anti-fraud provisions of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) and Regulations 1.1(b), and 32.9, 17 C.F.R. §§ 1.1(b), and 32.9, as follows:

36. In or in connection with the offer to enter into, the entry into, the confirmation of, the execution of, or the maintenance of commodity option transactions, the Berkshire Common Enterprise, through its websites and telemarketers cheated, defrauded, or deceived, or attempted to cheat, defraud or deceive, other persons, by misappropriating customer funds and by making false, deceptive or misleading representations of material facts and by failing to disclose material facts necessary to make other facts they disclosed not misleading, all in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b) (1) and (3), 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), 32.9(a) and (c).

37. Peralta aided and abetted the violations committed by the Berkshire Common Enterprise. Peralta is therefore liable for each of these violations of the Act and Regulations pursuant to Section 13(a) of the Act, 7 U.S.C. §13c(a) (2002).

38. Lao aided and abetted the violations committed by the Berkshire Common Enterprise. Lao is therefore liable for each of these violations of the Act and Regulations pursuant to Section 13(a) of the Act, 7 U.S.C. §13c(a) (2002).

39. Each misrepresentation, omission, actual or attempted act to cheat, defraud, or deceive is a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), and 32.9(a) and (c) (2004).

b. Injunctive Relief

40. The Commission's Complaint seeks entry of a permanent injunction against Defendants Lao and Peralta to prohibit them from future violations of the CEA and granting other relief.

41. Unless restrained and enjoined by this Court, the Defendants could continue to engage in the acts and practices alleged in the Commission's Complaint, as well as similar acts and practices.

42. The Court finds the requested relief to be appropriate in this case because there is a reasonable likelihood that the wrong will be repeated. *SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1322 (11th Cir. 1982); *CFTC v. Investors Freedom Club, Inc.*, 2005 WL 940897 (M.D. Fla. 2005). *See also CFTC v. Rosenberg*, 85 F. Supp. 2d 424, 454 (D. N.J. 2000); *CFTC v. Morgan, Harris & Scott, Ltd.*, 484 F. Supp. 669, 676-77 (S.D.N.Y. 1979).

43. The Court finds that there is sufficient evidence to warrant a permanent injunction against Defendants Lao and Peralta to prevent further illegal activity and additional injury to the public, and therefore orders as follows.

IV.

ORDER FOR PERMANENT INJUNCTION

IT IS HEREBY ORDERED that:

44. Defendants Lao and Peralta are permanently restrained, enjoined, and prohibited from, directly or indirectly, cheating or defrauding or attempting to cheat or defraud other persons and willfully deceiving or attempting to deceive other persons by making false, deceptive or misleading representations of material facts, by failing to disclose material facts, and by misappropriating customer funds in or in connection with orders to make, or the making

of, contracts of sale of any option on commodities for future delivery, made or to be made for or on behalf of any other person in violation of violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), and 32.9(a) and (c) (2004).

45. Defendants Lao and Peralta are each permanently restrained, enjoined, and prohibited, directly or indirectly, from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts;

46. Lao and Peralta shall cooperate fully with the Commission by providing documentary and witness evidence and information, in this case and related matters.

47. The injunctive provisions of this Order shall be binding upon Defendants Lao and Peralta and any person insofar as he or she is acting in the capacity of officer, agent, servant, or attorney of Defendants Lao or Peralta and 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 Defendants Lao or Peralta.

IT IS FURTHER ORDERED THAT:

V.

CIVIL MONETARY PENALTIES

48. Good cause exists for the imposition of equitable remedies and civil monetary penalties ("CMP"), upon Defendants Lao and Peralta.

49. Pursuant to 7 U.S.C. § 13a-1 and 17 C. F. R. § 143.8(a)(1)(i), this Court may

impose, on a proper showing, an order directing each Defendant to pay a CMP, to be assessed by the Court, in amounts of not more than \$120,000 for each violation of the Act and Regulations described herein.

50. A proper showing having been made, Defendant Lao shall be assessed a CMP in the amount of \$120,000.

51. A proper showing having been made, Defendant Peralta shall be assessed a CMP in the amount of \$120,000.

VI.

PAYMENT OF CIVIL MONETARY PENALTY

52. Defendants Lao and Peralta shall each pay their respective CMPs within ten (10) days of the entry of this Order. Interest shall accrue beginning on the date of entry of this Order, and will be determined by using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961. Defendants shall pay their respective CMPs 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 by other than electronic funds transfer, 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: 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. Defendants shall accompany the payment of their respective CMPs with a cover letter that identifies them 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: Office of

Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission,
Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

VII.

MISCELLANEOUS PROVISIONS

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

Notice to Commission:

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

Timothy J. Mulreany
Division of Enforcement
Commodity Futures Trading
Commission
1155 21st Street N.W.
Washington, DC 20581

Notice to Defendants:

Lilly Ann Sanchez, Esq.
Fowler White Burnett
Espirito Santo Plaza, 14th Floor
1395 Brickell Avenue
Miami, FL 33131-3302

54. Entire Agreement and Amendments: This Order incorporates all of the terms and conditions of the settlement among the parties hereto. Nothing shall serve to amend or modify this Order in any respect whatsoever, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

55. Invalidation: If any provision of this Order or the application of any provisions or circumstances is held invalid, the remainder of the Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

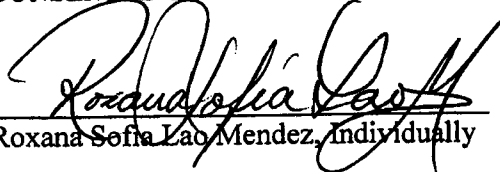
56. Waiver: The failure of any party hereto or of any customer at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this Order. No waiver in one or more instances of the breach of any provision contained in this 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 Order.

57. Acknowledgements: Upon being served with copies of this Order after entry by the Court, the Defendants shall sign acknowledgments of such service and serve such acknowledgments on the Court and the Commission within seven (7) calendar days.

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

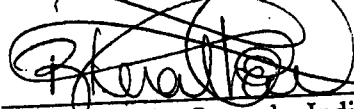
There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Roxana Sofia Lao Mendez and Beatriz Peralta Quesada*.

CONSENTED TO AND APPROVED BY:


Roxana Sofia Lao Mendez, Individually

Date: April 4, 2007

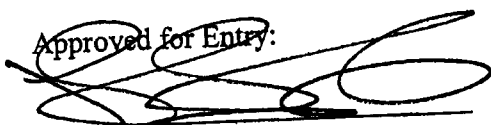
CONSENTED TO AND APPROVED BY:



Beatriz Peralta Quesada, Individually

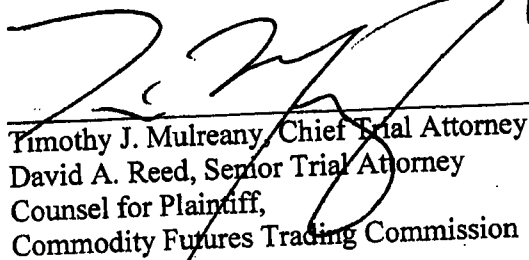
Date: April 4, 2007

Approved for Entry:



Lilly Ann Sanchez, Esq.
Counsel for Lao and Peralta
Fowler White Burnett
Espirito Santo Plaza, 14th Floor
1395 Brickell Avenue
Miami, FL 33131-3302

Date: April 11/07

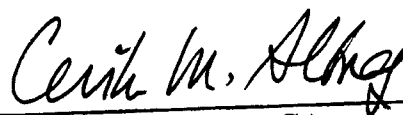


Timothy J. Mulreany, Chief Trial Attorney
David A. Reed, Senior Trial Attorney
Counsel for Plaintiff,
Commodity Futures Trading Commission

Date: 10-11-07

DONE AND ORDERED, in Chambers at Miami, Florida,

this 15 day of ~~January~~ ^{Oct.}, 2007.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

**cc: Magistrate Judge William C. Turnoff
Counsel of Record**