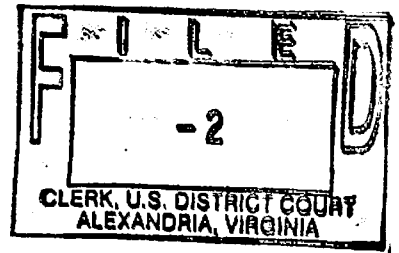


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
AT ALEXANDRIA



U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

FINANCIAL INVESTMENTS, INC.

Defendant.

CIVIL ACTION NO. 1:10-cv-00214

**CONSENT FINAL ORDER OF PERMANENT INJUNCTION, CIVIL MONETARY
PENALTY, AND OTHER EQUITABLE RELIEF**

INTRODUCTION

1. On March 5, 2010, Plaintiff, the U.S. Commodity Futures Trading Commission ("CFTC" or "Commission"), filed its one-count *Complaint for Injunctive and Other Equitable Relief and for Civil Monetary Penalty under the Commodity Exchange Act* ("Complaint") against Defendant Financial Investments, Inc. ("FII") alleging that FII has engaged in acts and practices that constitute violations of certain of the Commission's Regulations ("Regulations"), 17 C.F.R. §§ 1.1, *et seq.* (2009), promulgated under the Commodity Exchange Act (the "CEA" or "Act"), 7 U.S.C. §§ 1, *et seq.* (2006), and seeking a permanent injunction, a civil monetary penalty, and other equitable relief.

2. The Complaint alleges that, beginning in 2004 and until December, 2008 (the "relevant period"), FII, a registered commodity pool operator ("CPO"), operated a commodity pool, Financial Investments, L.P. (the "pool"). The Complaint further alleges that FII violated

Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009), by failing to file the pool's required annual reports for fiscal years 2004, 2005 and 2006 within 90 calendar days after the end of the pool's fiscal year with the National Futures Association ("NFA"), a self-regulatory organization for the United States futures and options industry.

3. Although FII failed to file the pool's required annual reports, during the relevant period, FII sent to the pool's investors material financial information regarding the Pool's performance including quarterly reports.

4. On April 15, 2009, FII ceased being a registered CPO.

I. CONSENTS AND AGREEMENTS

5. In order to effect settlement of the matters alleged in the Complaint in this action without a trial on the merits or further judicial proceedings, FII:

- a. Consents to the entry of this *Consent Final Order of Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief* ("Order");
- b. Affirms that it has read this Order and agrees to this Order voluntarily, and that no promise or threat of any kind has been made by the CFTC, or any member, officer, agent or representative thereof, or by any other person, to induce its consent to this Order;
- c. Acknowledges proper service of the summons and Complaint;
- d. Admits that this Court has personal and subject matter jurisdiction over it and the subject of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1;
- e. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) and 28 U.S.C. § 1391;
- f. Waives:

i. Any and all claims that it possesses under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2009), relating to or arising from this action;

ii. Any and all claims that it possesses under the Small Business Regulatory Enforcement Act of 1996, Pub. L. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112 (2007), relating to or arising from this action;

iii. The entry of findings of fact and conclusions of law in this action pursuant to Rule 52 of the Federal Rules of Civil Procedure, except as provided below in Section II;

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

v. Any and all rights of appeal from this action;

g. Consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purpose relevant to this action, even if FII now or in the future resides outside the jurisdiction of the United States District Court for the Eastern District of Virginia; and

h. Agrees that neither it nor its agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or findings or conclusions 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 FII's: (i) testimonial obligation, or (ii) right to

take legal positions in other proceedings to which the Commission is not a party. FII shall undertake all steps necessary to ensure that all of its agents and employees under its authority or control understand and comply with this agreement.

6. In consenting to the entry of this Order, FII neither admits nor denies the allegations of the Complaint and the Findings of Fact and Conclusions of Law contained in this Order, except as to subject matter and personal jurisdiction, and venue, all of which it admits. FII further agrees and intends that the allegations of the Complaint and the Findings of Fact and Conclusions of Law made by this Court and contained in Section II of this Order shall be taken as true and correct and be given preclusive effect without further proof in any proceeding: to revoke, restrict or condition FII's registration or attempt to register under the Act; or to enforce the terms of this Order. FII does not consent to the use of this Order, or the findings or conclusions consented to in this Order, by any other party in any other proceeding except as described in this Paragraph 6.

7. This 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. This Court therefore directs the entry of the following Findings of Fact, Conclusions of Law and Permanent Injunction and other relief granted in this Order pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein, without a trial on the merits, presentation of evidence, or further judicial proceedings.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

The Parties

8. The **Commodity Futures Trading Commission** is a federal independent regulatory agency charged by Congress with the administration and enforcement of the CEA, 7 U.S.C. §§ 1 *et seq.*, and the Regulations thereunder, 17 C.F.R. §§ 1.1 *et seq.* The CEA and Regulations, among other things, establish a comprehensive system for regulating the solicitation for, and/or the purchase and sale of, futures and options.

9. **Financial Investments, Inc.** is incorporated under the laws of Virginia and is located at 462 Herndon Parkway, Suite 205, Herndon, Virginia 20170. FII was registered as a CPO from December 19, 2005 until April 15, 2009. FII registered as a commodity trading advisor on February 4, 2009. FII has been a member of NFA since July 15, 2003.

Facts

10. For fiscal years 2004 and 2005, FII was a CPO required to be registered with the Commission. For fiscal year 2006, FII was a registered CPO. FII was the CPO that operated the pool.

11. FII was required to file and distribute annual reports for fiscal years 2004, 2005, and 2006 within 90 days after the end of the pool's fiscal year (December 31) as required by Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009).

12. For fiscal year 2004, FII was required to distribute to pool participants, and to file with the NFA, the pool's annual report no later than March 31, 2005. Despite this requirement, FII did not file the pool's annual report for fiscal year 2004 until November 8, 2006.

13. For fiscal year 2005, FII was required to distribute to pool participants, and to file with the NFA, the pool's annual report no later than March 31, 2006. Despite this requirement, FII did not file the annual report for fiscal year 2005 until June 29, 2006.

14. For fiscal year 2006, FII was required to distribute to pool participants, and to file with the NFA, the pool's annual report no later than April 2, 2007. Despite this requirement, FII did not file the annual report for fiscal year 2006 until August 20, 2007.

B. Conclusions of Law

Jurisdiction and Venue

15. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006).

16. 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 (2006).

17. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), in that FII is found in, inhabits or transacts business in this District, or the acts and practices in violation of the Act have occurred, are occurring, or are about to occur, within this District.

18. This Court has personal jurisdiction over FII, who acknowledges service of the Complaint and consents to the Court's jurisdiction over it.

Violations of the CEA

19. By the conduct during the relevant time period described in Section II.A above, FII has violated Regulation 4.22(c), 17 C.F.R. §§ 4.22(c) (2009).

20. Under the totality of the circumstances, there is a reasonable likelihood of future violations of Regulation 4.22(c), 17 C.F.R. §§ 4.22(c) (2009), by FII. Therefore, a permanent injunction should issue in this action.

21. There is good cause for entry of any order requiring FII to pay a civil monetary penalty.

III. ORDER FOR PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

22. FII is permanently restrained, enjoined and prohibited from violating Regulation 4.22(c), 17 C.F.R. §§ 4.22(c) (2009).

IV. CIVIL MONETARY PENALTY

IT IS FURTHER ORDERED THAT:

A. Civil Monetary Penalty

23. FII shall pay to the CFTC a civil monetary penalty in the amount of \$130,000.00, plus post-judgment interest, within ten (10) days of the date of the entry of this Order (the "CMP Obligation"). Post judgment interest shall accrue beginning eleven (11) days after 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.

24. FII shall pay its CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, 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
(405) 954-6569

If payment is to be made by electronic funds transfer, FII shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. FII shall accompany payment of the CMP Obligation with a cover letter that identifies FII, and the name and docket number of this proceeding. FII shall simultaneously transmit copies of the cover letter and the form of payment to: a) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW, Washington, DC 20581; and b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

V. MISCELLANEOUS PROVISIONS

IT IS FURTHER ORDERED THAT:

25. Jurisdiction of this Court: This Court shall retain jurisdiction of this cause to assure compliance with this Order, the CMP Obligation and for all other purposes related to this action.

26. Notices: All notices required by this Order shall be sent by certified mail, return receipt requested. Notices to the CFTC shall be sent to the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581. Notices to FII shall be sent to Financial Investments, Inc., 462 Herndon Parkway, Suite 205, Herndon, Virginia 20170.

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

28. Successors and Assigns: This Order shall inure to the benefit of and be binding upon the successors, assigns, heirs, beneficiaries, and administrators of all parties to this Order.

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

30. Counterparts and Facsimile Execution: This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered (by facsimile or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Agreement that is delivered by facsimile or portable document format (PDF) shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Agreement.

31. Authority: FII hereby represents and warrants that this Order has been duly authorized and is signed and submitted on its behalf by duly authorized and empowered officer.

32. Entry of Judgment: There being no just cause for delay, the Clerk of the Court shall enter final judgment against FII forthwith and without further delay.

SO ORDERED, at Alexandria, Virginia on the 2nd day of August 2010.

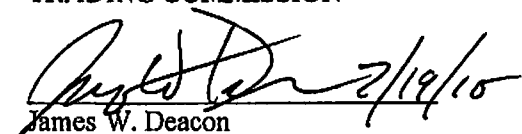
/s/
Gerald Bruce Lee
United States District Judge

UNITED STATES DISTRICT JUDGE

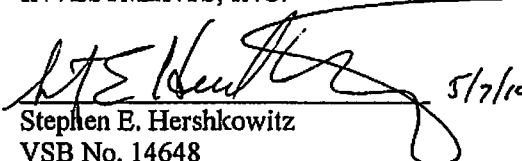
Consent Final Order Of Permanent Injunction, Civil Monetary Penalty And Other Equitable Relief consented to and approved for entry by:

PLAINTIFF U.S. COMMODITY FUTURES
TRADING COMMISSION

DEFENDANT FINANCIAL
INVESTMENTS, INC.

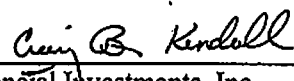

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