

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. COMMODITY FUTURES TRADING §
COMMISSION, §

Plaintiff, §

No.: 3-09-cv-1831-M §

v. §

M25 INVESTMENTS, INC., M37 §
INVESTMENTS, LLC, SCOTT P. KEAR, §
SR., and JEFFREY L. LYON, §

Defendants. §

**CONSENT ORDER OF PERMANENT INJUNCTION, FOR OTHER
EQUITABLE RELIEF, AND FOR CIVIL PENALTIES M25 INVESTMENTS,
INC., M37 INVESTMENTS, LLC, SCOTT P. KEAR, SR. and JEFFREY L. LYON**

WHEREAS, on September 29, 2009, Plaintiff United States Commodity Futures Trading Commission ("Commission"), filed a Complaint for Injunctive and other Equitable Relief and for Civil Penalties ("Complaint") against M25 Investments, Inc. ("M25"), M37 Investments, LLC ("M37"), Scott P. Kear, Sr. ("Kear") and Jeffrey L. Lyon ("Lyon") (collectively, "Defendants") alleging violations of the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.* ("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 or "CRA"), §§ 13101-13204, 122 Stat. 1651, and the Commission's Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (Docket Entry ("DE") No. 1).

WHEREAS, on September 29, 2009, this Court issued a Statutory Restraining Order, Order for an Accounting, Order for Appointment of Receiver, Order for Expedited Discovery, and Other Equitable Relief, and Order to Show Cause Regarding Preliminary

Injunction ("SRO") (DE 6). The SRO froze assets under the control of Defendants, prohibited the destruction of documents, and appointed Kelly M. Crawford Temporary Receiver ("Receiver"), among other things.

WHEREAS, on March 8, 2010, this Court issued an Order Expanding Authority of Receiver and Directing Turnover of Assets ("Receiver Expansion Order") (DE 54).

I.

CONSENTS AND AGREEMENTS

1. To effect settlement of the matters alleged in the Complaint, without a trial on the merits or any further judicial proceedings, Defendants consent to the entry of this "Consent Order of Permanent Injunction, For Other Equitable Relief, and for Civil Penalties ("Order"). By consenting to the entry of this Order, Defendants neither admit nor deny any of the findings or conclusions made in this Order or the allegations contained in the Complaint, except as to jurisdiction and venue, which they admit. However, Defendants agree that the allegations of the Complaint and all of the findings and conclusions made by this Court and contained in Sections II and III of this Order shall be taken as true and correct and be given preclusive effect, without further proof, for the purpose of any bankruptcy proceeding filed by, on behalf of, or against any Defendant or to enforce the terms of this Order. Defendants shall also provide immediate notice of any bankruptcy filed by, on behalf of, or against them in the manner required by Section VII of this Order.

2. Defendants agree that they have read this Order and agree 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 other person, to induce their consent to this Order, other than as set forth specifically herein.

3. Defendants 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 (2006), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission 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.

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

5. Defendants waive: (a) any and all claims that they may possess under the Equal Access to Justice Act (EAJA), 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; (b) any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this action; (c) 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 (d) all rights of appeal in this action.

6. Defendants agree that neither they nor any of their agents or employees under their 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 Kear's

and/or Lyon's (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants 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.

7. Defendants 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 action even if they now or in the future reside or operate outside of this jurisdiction.

8. 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, a permanent injunction and ancillary equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), as set forth herein.

II.

FINDINGS OF FACT

A. Defendants' Fraudulent Solicitation of Customers

1. From December 2007 to September 2009, Defendants solicited members of the general public to trade leveraged off-exchange foreign currency ("forex") and forex options, often targeting elderly individuals through their churches. M25 and M37 successfully solicited individuals in West Virginia, Texas, Mississippi and Maryland as well as in other states.

2. In exchange for the funds to trade forex and forex options, on behalf of the customers, M25 and M37 provided customers with promissory notes guaranteeing interest payments of 2 percent per month and 24 percent per year.

3. Defendants engaged in a common scheme to solicit customers to trade forex. M25 and M37 share owners, officers, directors, offices, telephone numbers, web sites and solicitation materials. The individual Defendants (Kear and Lyon) control both M25 and M37. The customers of M25 and M37 often do not know the difference between the two companies.

4. Defendants solicited customers in person and through word-of-mouth, websites and promotional materials.

5. Representatives of M25 and M37 in West Virginia were acquainted with many of the West Virginia residents who became customers. During the Relevant Period (December 2007 through September 2009), the West Virginia representatives of M25 and M37 solicited many customers after church services they attended, and at meetings at the representatives' or the customers' homes.

6. Defendants Kear and Lyon solicited customers in person during solicitation meetings in West Virginia.

7. Other customers living outside West Virginia heard about these solicitations and contacted Defendants' primary West Virginia representative. The representative also solicited persons living outside West Virginia to trade forex with M25 or M37.

8. While soliciting potential customers in person, Defendants or their representatives obtained telephone numbers of other potential customers. Then, Defendants or their representatives solicited these additional potential customers through telephone calls.

9. During their solicitations, representatives of M25 and M37 referred potential customers to the officers and directors of M25 and M37 who reside in Texas. At least one

customer of M25 and one customer of M37 spoke directly to Kear and Lyon, who solicited their investments.

10. In their solicitations, representatives of M25 and M37 utilized power point presentations, offered written documents and referred potential customers to websites operated by Defendants, including www.m25investments.com and www.mmoneygroup.com.

11. The websites of M25 and M37 expressly state that they offered managed forex trading.

12. Through the power point slides and documents, M25 and M37 offered two types of "accounts," one purportedly subject to regular taxes and the other purportedly in the form of an IRA. With both forms of account, M25 and M37 provided the customers with unsecured promissory notes.

13. The solicitation materials of M25 and M37 stated, for example, that their "self directed IRA" allowed the customer to "invest in more items," to "invest with few restrictions" and to "invest in liquid assets, plus real estate, private companies, commodities foreign currency [and] promissory notes."

14. Other solicitation materials stated that M37 is "a private investment company that operates like a discretionary hedge fund" to "only trade currencies, or Forex as this is what we know."

15. Defendants' oral and written solicitations guaranteed, repeatedly, to pay customers two percent interest per month, and 24 percent interest per year, on all principal invested with M25 and M37. The Defendants also promised a 2% renewal bonus if the customer renewed the investment.

16. The Defendants, directly or through their representatives, provided a chart in their written promotional materials that showed the growth of an initial \$100,000 investment to over \$1 million after year 11, assuming a 24% annual return plus a 2% renewal bonus and all dollars remain in the account.

17. In their written promotional materials, M25 and M37 also claimed to outperform other investments, by trading forex, including Warren Buffet's annual returns, despite the credit crunch. The materials further claimed that their trading strategy is the fruit of 35 years of trading experience.

18. The promotional materials make clear that the guarantee of 24% annual return is based on their profitable trading of forex.

19. Defendants successfully solicited approximately 213 customers who gave funds to the Defendants for purposes of trading forex and forex options.

20. M25 and M37 collectively received approximately \$8 million from customers.

21. Customers understood that M25 and M37 use their investments to trade primarily forex, and that their guaranteed returns were based upon the profitability of trading conducted by M25 and M37.

22. Customers wired their funds to bank accounts in the name of M25 or M37 or sent checks made payable to M25 or M37, which pooled the funds in those accounts and then transferred funds to various trading accounts held in the name of M25 or M37.

23. Most of the customers maintained their investments with M25 and M37 and re-invested the purported interest they were earning each month.

24. Customers relied upon Defendants' oral and written material

misrepresentations and omissions when deciding whether to invest and reinvest with M25 and M37.

25. The funds used for the relatively few payments made to customers by M25 and M37 came from funds that they received from other customers. Therefore, when M25 and M37 made payments to customers, they operated a Ponzi scheme.

B. M25 and M37 Were Unsuccessful Traders

26. During the Relevant Period, Defendants opened forex and forex options trading accounts in the name of M25 and M37 at several Futures Commission Merchants ("FCMs") registered with the Commission to carry customer accounts. Of the approximately \$8 million received from customers, M25 and M37 deposited approximately \$6.1 million into these forex and forex options trading accounts but then withdrew a total of \$4.9 million and transferred other funds to other trading accounts.

27. With the remaining approximately \$500,000 left in the forex and forex options trading accounts, M25 and M37 incurred net trading losses of approximately \$210,000 through June 30, 2009.

28. M25 and M37 also held funds in on-exchange commodity futures trading accounts they controlled at other FCMs. In those accounts, M25 and M37 sustained trading losses of approximately \$632,000.

29. Therefore, overall, M25 and M37 sustained total net losses of approximately \$842,000 trading forex contracts, forex options and on-exchange futures contracts at FCMs located in the United States.

30. M25 also held at least one forex trading account at a bank whose headquarters are located outside the United States. During the relevant period, M25

deposited approximately \$1.3 million into and withdrew approximately \$1 million from this account. M25 sustained profits of approximately \$186,000 trading as of June 30, 2009.

31. Therefore, M25 and M37 sustained total net trading losses of approximately \$656,000.

32. Kear and Lyon controlled the trading of one of the forex and forex options trading account, and with respect to that account, Kear represented to the FCM that it was not trading on behalf of clients. That trading account was funded with customer money.

33. As of March 31, 2009, M25 and M37 owed customers approximately \$7.6 million on their guarantees, but had assets of only approximately \$3.9 million. Defendants did not disclose to potential customers or existing customers that their liabilities to customers exceeded their assets.

34. Defendants did not disclose to prospective or existing customers that a significant portion of their funds would not be used for trading.

35. Neither Defendants nor the FCMs that were the counterparties to the forex transactions were financial institutions, registered brokers or dealers, insurance companies, financial holding companies, or investment bank holding companies or the APs of financial institutions, registered brokers or dealers, insurance companies, financial holding companies, or investment bank holding companies.

36. Some or all of Defendants' customers were not "eligible contract participants" as that term is defined in Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12)(A)(xi) (2006) (an "eligible contract participant," as relevant here, is an individual with total assets in excess of (i) \$10 million, or (ii) \$5 million and who enters the transaction in order to hedge risk).

37. The forex transactions conducted by Defendants at the FCMs on behalf of their customers were entered into on a leveraged or margined basis. Defendants were required to provide only a percentage of the value of the foreign currency contracts that they purchased.

38. The forex transactions conducted by Defendants neither resulted in delivery of actual currency within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these forex contracts remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).

C. False Account Statements

39. During the Relevant Period, Defendants concealed their trading losses as well as their lack of trading by issuing or causing to be issued monthly account statements that consistently show two percent monthly interest and 24 percent annual interest for each customer.

40. Customers believed, and continue to believe, that that the interest they were purportedly earning came from profitable trading by M25 and M37.

41. Customers relied upon the monthly account statements when deciding whether to reinvest any purported earnings, whether to keep their principal investments, and whether to invest additional funds with Defendants.

D. Kear and Lyon Are Controlling Persons of M25 and M37

42. Kear is a controlling person of M25 and M37. He is the chief executive officer of M25 and M37, and a director and registered agent of M25. Kear was involved in

all material business aspects of M25 and M37, and was one of the primary representatives of M25 and M37 in responding to inquiries of the NFA. He also directly solicited prospective customers and controlled trading accounts, including executing account opening documentation.

43. Lyon is a controlling person of M25 and M37. He is the chief financial officer of both M25 and M37 and is listed with the NFA as a principal of both firms. Lyon is a part owner of M37, and is its registered agent in Texas with respect to payment of state taxes. Lyon oversaw the accounting and finance operations of M25 and M37. Lyon also directly solicited prospective customers, and controlled trading and bank accounts for M25 and M37. Lyon was one of the primary representatives of M25 and M37 in responding to inquiries of the NFA.

44. Kear, Lyon and another owner represented to NFA that they would use their personal assets to meet their guarantees to pay principal and interest to customers.

III.

CONCLUSIONS OF LAW

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, who have acknowledged service of the Complaint and have consented to the Court's jurisdiction.

4. The Commission and Defendants agree to this Court's retention of continuing jurisdiction for the purpose of enforcing the terms of this Order and for any other purposes relevant to this action even if they now or in the future reside or operate outside of this jurisdiction.

5. Beginning on June 18, 2008 and continuing through September 29, 2009, in or in connection with forex contracts, made, or to be made, for or on behalf of customers, Defendants violated Sections 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), by: (i) guaranteeing profits of two percent monthly interest and 24 percent annual interest when any such interest income would come from Defendants' speculative and risky trading; (ii) falsely claiming to be successful forex traders; (iii) failing to disclose that they did not have sufficient assets to make the promised interest payments and return of principal; (iv) failing to disclose that a significant portion of customer funds would not be used for trading; and (v) issuing or causing to be issued monthly account statements to customers showing the consistent 2% interest credits when Defendants consistently lost customer funds trading or were not using their funds for trading.

6. Beginning on June 18, 2008 and continuing through September 29, 2009, in or in connection with commodity futures contracts, made, or to be made, for or on behalf of customers, Defendants violated Sections 4b(a)(1)(A)-(C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), by: (i) guaranteeing monthly profits of two percent monthly interest and 24 percent annual interest when any such interest income would come from Defendants' speculative and risky trading; (ii) falsely claiming to be successful forex traders; (iii) failing to disclose that they did not have sufficient assets to

make the promised interest payments and return of principal; (iv) failing to disclose that a significant portion of customer funds would not be used for trading; and (v) issuing or causing to be issued monthly account statements to customers showing the consistent 2% interest credits when Defendants consistently lost customer funds trading or were not using their funds for trading.

7. Beginning in December 2007 and continuing through September 29, 2009, Defendants violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2006), and Commission Regulations 32.9(a)-(c), 17 C.F.R. §§ 32.9(a)-(c) (2009), by engaging in forex options transactions and: (i) guaranteeing monthly profits of two percent monthly interest and 24 percent annual interest when any such interest income would come from Defendants' speculative and risky trading; (ii) falsely claiming to be successful forex traders; (iii) failing to disclose that they did not have sufficient assets to make the promised interest payments and return of principal; (iv) failing to disclose that a significant portion of customer funds would not be used for trading; and (v) issuing or causing to be issued monthly account statements to customers showing the consistent 2% interest credits when Defendants consistently lost customer funds trading or were not using their funds for trading.

8. Beginning in March 2009 and continuing through September 29, 2009, M25, Kear and Lyon violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006), in that M25, as a Commodity Pool Operator ("CPO"), and Kear and Lyon, as Associated Persons ("APs") of M25, directly or indirectly employed a device, scheme, or artifice to defraud commodity pool participants, or engaged in transactions, practices or a course of business which operated as a fraud or deceit upon commodity pool participants by: (i) guaranteeing monthly profits of two percent monthly interest and 24 percent annual interest when any such interest

income would come from Defendants' speculative and risky trading; (ii) falsely claiming to be a successful forex trader; (iii) failing to disclose that it did not have sufficient assets to make the promised interest payments and return of principal; (iv) failing to disclose that a significant portion of customer funds would not be used for trading; and (v) issuing or causing to be issued monthly account statements to customers showing the consistent 2% interest credits when Defendants consistently lost customer funds trading or were not using their funds for trading.

9. Beginning in March 2009 and continuing through September 29, 2009, M25 violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006), in that it acted as a CPO by engaging in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and, in connection therewith, solicited, accepted and received from others, funds for the purpose of trading in commodity futures on or subject to the rules of a contract market without registering as a CPO.

10. Beginning in March 2009 and continuing through September 29, 2009, Kear and Lyon violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006), by associating with M25 as a partner, officer, employee or agent and soliciting or accepting customer orders or supervising others soliciting customer funds, while failing to register as APs of M25.

11. Kear, directly or indirectly, controlled M25 and M37 and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting M25's and M37's violations of the Act and Regulations. Therefore, Defendant Kear is liable for any violations of the Act and Regulations by M25 and M37 pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

12. Lyon, directly or indirectly, controlled M25 and M37 and did not act in good

faith or knowingly induced, directly or indirectly, the acts constituting M25's and M37's violations of the Act and Regulations. Therefore, Defendant Lyon is liable for any violations of the Act and Regulations by M25 and M37 pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

IV.

ORDER OF PERMANENT INJUNCTION

NOW THEREFORE, IT IS ORDERED THAT:

1. Defendants shall be permanently restrained, enjoined, and prohibited from directly or indirectly engaging in conduct that violates: Sections 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C); Sections 4b(a)(1)(A)-(C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C); Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2006); Section 4g(1) of the Act, 7 U.S.C. § 6g(1) (2006); Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006); and Regulations 32.9(a)-(c), 17 C.F.R. §§ 32.9(a)-(c) (2009), including, but not limited to, the conduct described in the Findings of Fact and Conclusions of Law, above.

2. Defendants are permanently restrained, enjoined, and prohibited from engaging, directly or indirectly, in:

a. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006));

b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2009)) ("commodity options"), and/or foreign currency (as described in Sections 2(c)(2)(B) and/or 2(c)(2)(C)(i) of the Act as amended by the CRA, to

be codified in 7 U.S.C. §§ 2(c)(2)(B) and/or 2(c)(2)(C)(i) ("forex contracts") for their own personal account or for any account in which they have a direct or indirect interest;

c. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf, provided, however, should Kear or Lyon be bequeathed interests in any accounts with positions in commodity futures, options on commodity futures, commodity options or forex, Kear or Lyon shall, within 30 days of receipt pursuant to any bequest, authorize a third party to liquidate those positions and close such accounts. Kear or Lyon shall within 10 days notify the Commission in writing identifying the account(s) and location of those accounts, and the name, address and telephone numbers of the decedent who bequeathed the account(s) as well as the third party liquidating the position(s) and providing documentation of the liquidation, any profit or loss incurred, and of the closing of the account(s);

d. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;

e. soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;

f. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging 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) (2009); and

g. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2009)), 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) (2009).

3. The injunctive provisions of this Order shall be binding upon Defendants, upon any person who acts in the capacity of an agent, servant, employee, attorney, successor and/or assign of Defendants insofar as he or she is acting in active concert or participation with 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 Defendants.

V.

**ORDER OF RESTITUTION, CIVIL MONETARY PENALTY
AND ANCILLARY RELIEF**

IT IS FURTHER ORDERED THAT:

A. Restitution

1. Defendants shall pay, jointly and severally, restitution in the amount of \$7,404,036.56, plus post judgment interest ("Restitution obligation").
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.
3. The balance of Defendants' Restitution obligation shall be reduced, dollar for dollar, by any funds returned to Defendants' investors by the Receiver. As of April 14, 2010 the Receiver has collected \$3,788,324.19 in the estate. Restitution shall be paid to M25 and M37 investors whose claims are approved by final order of the Court, as

provided for in the Receivership Expansion Order of March 8, 2010.

4. The following assets frozen as a result of the Court's SRO and other assets and property of Defendants identified herein, will be transferred into the control of the Receiver and shall be available for distribution to investors pursuant to further orders of the Court:

- a. All assets under the control of M25;
- b. All assets under the control of M37;
- c. Kear shall convey to the Receiver, or cause to be conveyed to the Receiver, all of his interest in the following accounts:
 - i. Kingdom Life Ministries' ("KLM") account xxx-xxxx659 at Wells Fargo Bank;
 - ii. Kingdom Expansion Ministries' ("KEM") account xx457 at Citizens Bank; and
 - iii. KLD's account at Wachovia Bank;
- d. Kear shall convey valid title to the Receiver, or cause to be conveyed to the Receiver valid title from the existing owner, the following property, including all buildings and improvements thereon, subject to existing valid liens and encumbrances:
 - i. all interest in timeshare located at #170 Sapphire Valley Road, Sapphire Valley, North Carolina;
 - ii. 1212 Broadhead Road, Waxahachie, Texas;
 - iii. machinery and equipment, owned by KLD.
 - iv. 1999 GMC Suburban, Pennsylvania license plate number

HCK0377;

- v. 2006 Suzuki Prairie 360 4 wheeler,
- vi. 2006 Suzuki Mule 610 4 wheeler;
- vii. 2003 Chrysler Town & Country Van, Pennsylvania license

plate number GTC5543;

- viii. firearms located at residence; and
- ix. bow located at residence;

e. Lyon shall convey valid title to the Receiver, or cause to be conveyed to the Receiver valid title from the existing owner, the following property, including all buildings and improvements thereon, subject to existing valid liens and encumbrances:

- i. all interest in timeshare located at unit 101, Palace View Resort condominium, Branson, Missouri;
- ii. all interest in timeshare located at unit 078, Ozark Mountain Resort, Stone County, Missouri;
- iii. 2002 GMC Sierra Pickup, Texas license plate number 13N XG9;
- iv. cash surrender value of Southern Farm Bureau Life Insurance Company Endowment at 65 Policy; and
- v. large screen television set.

5. To effectuate the distribution of any Restitution paid by Defendants after the termination of the Receiver's duties, the Court appoints the National Futures

Association (“NFA”) as Monitor, to be effective immediately upon any order entered by this Court terminating the Receiver’s duties. The Monitor shall receive any Restitution payments from Defendants 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, NFA shall not be liable for any action or inaction arising from NFA’s appointment as Monitor, other than actions involving fraud.

6. Any restitution payments to the Monitor shall be made in the name of “M25/M37 Restitution Fund” and shall be sent by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s, or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover of a letter that identifies the payer, the name and Docket number of this action and the name of this Court. The payer shall simultaneously transmit copies of the cover letter and form of payment to: (a) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; and (b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

7. The Monitor shall distribute funds to the investors identified by the Receiver in an equitable manner as determined by the Monitor. The Monitor shall oversee the distribution of funds of the Restitution obligation and shall have the discretion to defer distribution until such time as it may deem appropriate. In the event that the amount of Restitution payments are of a de minimis nature such that the Monitor determines that the administrative costs of the making a distribution to investors is

impractical, the Monitor may, in its discretion, treat such Restitution payments as civil monetary penalty payments, which the Monitor shall forward to the CFTC following the instructions for the CMP obligations as set forth below.

8. To the extent that any funds accrue to the U.S. Treasury as a result of the Restitution obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in the preceding paragraph.

B. Civil Monetary Penalties

1. M25 and M37 shall be jointly and severally liable to pay a civil monetary penalty in the amount of \$7,100,000.00, plus post-judgment interest.

2. Kear shall pay a civil monetary penalty in the amount of \$1,400,000, plus post-judgment interest.

3. Lyon shall pay a civil monetary penalty in the amount of \$375,000, plus post-judgment interest.

4. Defendants shall pay the civil monetary penalties 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, Oklahoma 73169
Telephone: 405-954-6569

If payment is to be made by electronic funds transfer, Defendants shall contact Marie

Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Defendants shall accompany payment of the penalty with a cover letter that identifies Defendants and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and to the Chief, Office of Cooperative Enforcement, at the same address.

C. Priority Of Monetary Sanctions And Partial Payments; Termination of September 29, 2009 Statutory Restraining Order

1. Any payments by Defendants pursuant to this Order shall first be applied to satisfaction of their Restitution obligation. After satisfaction of their Restitution obligation if any, payments by Defendants pursuant to this Order shall be applied to satisfy their civil monetary penalty obligation.
2. Any acceptance by the Commission and/or Receiver of partial payment of Defendants' restitution obligation and/or civil monetary penalty shall not be deemed a waiver of the respective requirement to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
3. The Statutory Restraining Order entered on September 29, 2009 shall have no further force and effect upon entry by the Court of this Order.
4. Notwithstanding paragraph V.C.3 above, Kelly M. Crawford shall continue to serve as the Receiver appointed in the Statutory Restraining Order, with the expanded powers set forth in the Receiver Expansion Order entered by the Court on March 8, 2010, and with additional powers set forth in the Unopposed Order Further Expanding Authority of Receiver entered on _____, 2010 and as set forth herein.

D. Equitable Relief Provisions

1. The equitable relief provisions of this Order shall be binding upon Defendants and any person who is acting in the capacity of an officer, agent, employee, servant or attorney of Defendants, and any person acting in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise.

VI.

RELEASES BY RECEIVER

The Receiver hereby releases any and all claims he has or may hereafter have against Kear, Lyon, their respective spouses and children, and the following entities they own or control: Kingdom Expansion Ministries, Kingdom Life Ministries, and Kingdom Land and Development, LLC. All releases provided by the Receiver pursuant to this Order shall not release Kear and Lyon from their duties to comply with the terms of any Order of this Court.

VII.

MISCELLANEOUS PROVISIONS

IT IS FURTHER ORDERED THAT:

1. **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.

2. **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.

3. Waiver: The failure of any party hereto 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.

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

5. 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.

6. All notice required to be given by this Order shall be sent by certified mail, return receipt requested, or express mail addressed as follows:

Notice to the Commission: Gretchen L. Lowe
Glenn I. Chernigoff
Trial Attorney
Division of Enforcement
U.S. Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Notice to the Receiver: Kelly M. Crawford
Charlene C. Koonce
Scheef & Stone, L.L.P.
500 N. Akard Street, Suite 2700
Dallas, Texas 75201

Notice to Defendants M25
Investments, Inc. and/or
M37 Investments, LLC:

S. George Alfonso
Law Offices of S. George Alfonso
5340 Alpha Road
Dallas, TX 75240

Notice to Defendants Scott P.
Kear, Sr. and/or Jeffrey L.
Lyon:

John Fedders
Jody Rosen
Law Office of John M. Fedders
1914 Sunderland Place, N.W.
Washington, D.C. 20036

7. Authority: Kelly M. Crawford, as Receiver, is hereby authorized, empowered and directed to sign and submit this Order on behalf of M25 and M37 and to take all necessary and appropriate acts to carry out and implement the Order in accordance with its terms and without further order of the Court.

APPROVED FOR ENTRY BY:

PLAINTIFF U.S. COMMODITY FUTURES TRADING COMMISSION

By:



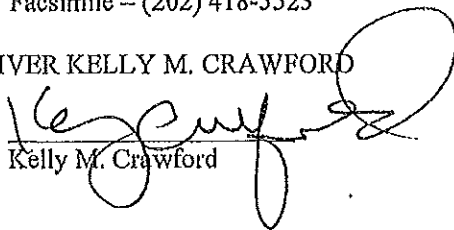
Dated:

7/23/2010

Gretchen L. Lowe, Associate Director
Luke B. Marsh, Chief Trial Attorney
Kevin Batteh, Chief Trial Attorney
Glenn I. Chernigoff
Timothy M. Kirby
Division of Enforcement
U.S. Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581
Telephone -- (202) 418-5000
Facsimile -- (202) 418-5523

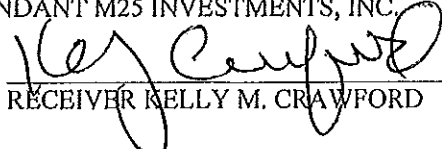
RECEIVER KELLY M. CRAWFORD

By:

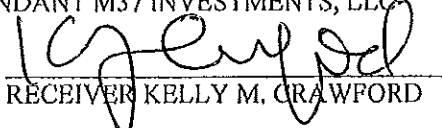


Kelly M. Crawford

Scheef & Stone, L.L.P.
500 N. Akard Street, Suite 2700
Dallas, Texas 75201
Telephone: 214.706.4200
Telecopier: 214.706.4242
Attorneys for Receiver

DEFENDANT M25 INVESTMENTS, INC.
BY: 
RECEIVER KELLY M. CRAWFORD

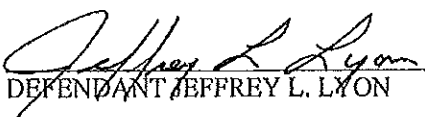
Dated: 8/16/2010

DEFENDANT M37 INVESTMENTS, LLC
BY: 
RECEIVER KELLY M. CRAWFORD

Dated: 8/16/2010

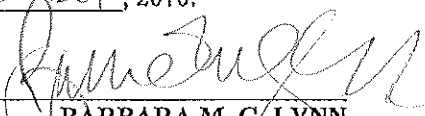

DEFENDANT SCOTT P. KEAR, SR.

Dated: 5/04/2010


DEFENDANT JEFFREY L. LYON

Dated: 5/04/2010

IT IS SO ORDERED, on this 25 day of October, 2010.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS