

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

	)	
U.S. COMMODITY FUTURES TRADING	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	CASE NO. 3:11 cv-02862-F
v.	)	
	)	<b>ORDER FOR ENTRY OF DEFAULT</b>
CDH FOREX INVESTMENTS, LLC,	)	<b>JUDGMENT, PERMANENT</b>
CDH GLOBAL HOLDINGS, LLC,	)	<b>INJUNCTION, CIVIL PENALTIES AND</b>
LINDA FAYE HARRIS AND CHANCE	)	<b>OTHER EQUITABLE RELIEF</b>
DOMEL HARRIS,	)	<b>PURSUANT TO FEDERAL RULE OF</b>
	)	<b>CIVIL PROCEDURE 55(b)(2)</b>
Defendants		

On October 25, 2011, the U. S. Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint in this civil action against defendants CDH Forex Investments, LLC (“CDH Forex”), CDH Global Holdings, LLC (“CDH Global”), (collectively, “CDH”), Linda Faye Harris and Chance Domel Harris (collectively “Defendants”). The Complaint seeks injunctive and other legal and equitable relief for violations of certain antifraud provisions of the Commodity Exchange Act (the “Act”), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 1 *et seq.*, in connection with the trading of off-exchange foreign currency contracts (“forex”) from at least August 2008 through July 2010 (the “Relevant Period”).

Service of the Complaint was perfected on Defendants on November 10, 2011 for

Linda Faye Harris and CDH Forex and on December 18, 2011 for Chance Domel Harris and CDH Global. Therefore, Defendants Linda Harris and CDH Forex's Answers were due on or before December 1, 2011 and Defendants Chance Harris and CDH Global's were due on or before January 8, 2012. On February 1, 2012, the Commission filed an Application for a Certificate of Default Pursuant to Federal Rule of Civil Procedure 55(a), which the Clerk of the Court entered on February 2, 2012. After the Default had been entered, Defendants Linda Harris and Chance Domel Harris filed an Answer on February 23, 2012 asserting a General Denial. Importantly, the defendants never sought to vacate the Default or made any showing of good cause for doing so. The CDH Forex and CDH Global have not filed any response to the Complaint and no counsel has entered an appearance for those defendants.

The Commission now has submitted its Motion for Default Judgment, Permanent Injunction, Civil Penalties and Other Equitable Relief Pursuant to Federal Rule of Civil Procedure 55(b)(2) and Memorandum in Support ("Default Motion"). The Court has considered carefully the Complaint, the allegations of which are well-pleaded and hereby taken as true, the Default Motion, and Declaration of Christopher Giglio in support thereof, and being fully advised, hereby:

GRANTS the Commission's Default Motion and enters the following findings of fact and conclusions of law finding Defendants liable for all violations alleged in the Complaint. Accordingly, the Court now issues the following Order for Entry of Default Judgment, Permanent Injunction, Civil Monetary Penalties and Other Equitable Relief Pursuant to Federal Rule of Civil Procedure 55(b)(2) ("Order"), which determines that Defendants have violated Section 4b(a)(2)(A)-(C), 7 U.S.C. § 6b(a)(2)(A)-(C) and Section 9(a)(4), 7 U.S. C. § 13(a)(4) of the Act, as amended by the CRA; and that Defendants Linda Harris and Chance

Harris are liable as controlling persons of CDH Forex and CDH Global under Section 13(b) of the Act, as amended by the CRA; and that Defendants CDH Forex and CDH Global are liable under principal-agent theories, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CRA.

**I.**

**FINDINGS OF FACT**

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, Permanent Injunction, and Equitable Relief, pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, as set forth herein.

**A. The Parties**

1. Plaintiff U.S. Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act, as amended by the CRA and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011).
2. Defendant CDH Forex Investments, LLC (as defined above, “CDH Forex”), is a Texas limited liability corporation with its principal place of business in Flower Mound, Texas. CDH Forex has been registered with the Commission as a Commodity

Pool Operator since September 17, 2008 and a Commodity Trading Advisor since May 13, 2008 with Linda Harris as its sole Associated Person. CDH Forex is not a financial institution, registered broker dealer, insurance company, financial holding company or investment bank holding company, and is not an associated person of such entities.

CDH Forex is not an “eligible contract participant” and CDH Investors are not “eligible contract participants,” as those terms are defined in the Act.

3. Defendant CDH Global Holdings, LLC (as defined above, “CDH Global”), is a Texas limited liability corporation with its principal place of business in Flower Mound, Texas. CDH Global has been registered with the Commission as a Commodity Trading Advisor since December 1, 2009 with Linda Harris as its sole Associated Person. CDH Global is not a financial institution, registered broker dealer, insurance company, financial holding company or investment bank holding company, and is not an associated person of such entities. CDH Global is not an “eligible contract participant” and CDH Investors are not “eligible contract participants,” as those terms are defined in the Act.
4. Defendant Linda Faye Harris (“Linda Harris”) is an individual residing and conducting business in Flower Mound, Texas. During the Relevant Period, Linda Harris was registered with the Commission as an Associated Person with CDH Forex and CDH Global. Linda Harris is not an “eligible contract participant” as defined in the Act and is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, and is not an associated person of such entities.
5. Defendant Chance Domel Harris (“Chance Harris”) is an individual residing and

conducting business in Flower Mound, Texas. During the Relevant Period, Chance Harris was Chief Investment Officer for CDH Global and an agent of CDH Forex. Chance Harris is not an “eligible contract participant” as defined in the Act and is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, and is not an associated person of such entities.

**B. Facts Establishing Violation of the Act**

6. During the Relevant Period, Defendants fraudulently solicited members of the general public (“CDH Investors”) for the purported purpose of investing in forex.
7. Many of the CDH Investors reside in this District.
8. Linda Harris, directly and on behalf of CDH, solicited CDH Investors to invest in forex.
9. Chance Harris, directly and on behalf of CDH, solicited CDH Investors to invest in forex.
10. Defendants solicited funds for two separate types of investments, a commodity pool or pooled account and a managed account.
11. The commodity pool is an entity called CDH Alternative Investments, LLC.
12. CDH Investors who invested in the pooled account were told by Defendants that their investment would be pooled with other investors and invested with a futures commission merchant (“FCM”) in a pooled account trading forex.
13. CDH Investors who invested in managed accounts sent their funds directly to a FCM and their funds were managed by defendants Linda Harris and/or Chance Harris.
14. Linda Harris, Chance Harris and CDH accepted approximately \$395,860 directly

from the CDH Investors for investment into the pooled account, depositing the funds into bank accounts held in the names of CDH Alternative Investments, LLC, CDH Capital Investment Group, LLC, CDH Global and CDH Forex.

15. Of the \$395,860 of CDH Investor money, only \$61,250 was transferred to the proprietary trading accounts held in the name of CDH Alternative Investments at two FCMs, which was used to trade forex on a margined or leveraged basis.
16. The balance of the CDH Investors' funds that had not been lost trading was not used to trade forex. Rather, these funds, approximately \$353,757, were misappropriated by Defendants and used to pay rent on Harris's family home, make payments on a leased BMW and pay credit card bills, among other things.
17. Defendants also solicited CDH Investors to open managed accounts at FCMs to trade forex.
18. CDH Investors who invested in managed accounts sent their funds directly to an FCM and their funds were managed by Defendants Linda Harris and/or Chance Harris.
19. Linda Harris and Chance Harris managed approximately \$1.864 million in managed forex accounts.
20. Of the \$1.864 million transferred to the FCMs for the managed accounts, approximately \$823,000 was lost trading forex, approximately \$891,000 was transferred back to CDH customers and \$150,000 was transferred to CDH bank accounts as commissions.
21. The forex transactions conducted by Linda Harris, Chance Harris and CDH in both the pooled accounts and managed accounts were all done on a margined or leveraged basis.

22. The forex transactions conducted by Linda Harris, Chance Harris and CDH in both the pooled accounts and managed accounts neither resulted in delivery 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 were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).
23. During the Relevant Period, Linda Harris and Chance Harris, directly and on behalf of CDH, made numerous misrepresentations and deceptive omissions to the CDH Investors in connection with the forex trading.

**CDH, Linda Harris and Chase Harris Misrepresented the past trading performance of CDH**

24. In soliciting the CDH Investors, Linda Harris and Chance Harris each made representations orally and in writing that returns for accounts managed by CDH Forex were 25.85% in 2007, 269.94% in 2008 and 510.66% in 2009 and by CDH Global 371.81% in 2009. Additionally, in certain promotional material, representations were made by Defendants that CDH Forex obtained returns of 646% in 2009.
25. In soliciting CDH Investors, Chance Harris and Linda Harris each made representations orally and in writing that CDH Forex had \$15.8 million in assets under management.
26. These material representations of profitability and assets under management, however, were false and/or misleading.
27. CDH Forex never had \$15.8 million under management and never obtained trading profits as reflected in the disclosure documents for CDH Forex.

28. CDH Forex admittedly cannot substantiate these earnings and amount of assets under management with trading records.
29. The disclosure document for CDH Global dated January 2010 disclosed positive returns of 371% on forex trading in 2009. However, CDH Global did no trading in 2009. Thus, the disclosure in CDH Global disclosure document of returns on investment of 371% on forex trading in 2009 is false.

**Linda Harris and Chance Harris Misrepresented How the CDH Investors funds would be used and were used**

30. Defendants Linda Harris and Chance Harris, individually and as agents of CDH Forex and CDH Global, misrepresented to CDH Investors that the entirety of their invested funds would be invested in forex in an account or accounts at an FCM.
31. These representations were materially false and/or misleading.
32. The majority of the funds of the CDH Investors who invested in the pooled accounts were never invested in forex; rather the funds were used to pay personal expenses of the Linda Harris and Chance Harris.
33. Of the \$395,860 of CDH Investor funds for the pooled accounts, only \$61,250 was actually invested. The balance, including funds returned from the FCM of \$353,757, was used to pay for personal expenses of defendants.

**Linda Harris and Chance Harris Misrepresented that the trades executed in connection with the CDH Investors' funds were profitable and that the value of the pooled accounts had substantially increased**

34. Linda Harris, individually and as an agent for CDH Forex and CDH Global, prepared and sent monthly account statements to the CDH Investors who invested in the pooled accounts.



35. These account statements falsely represented that the investments in the pooled accounts generated profits.
36. The account statements generated by Linda Harris on a monthly basis and sent to each of the CDH Investors in the pooled accounts falsely represented that the value of the CDH Investors in pooled accounts collectively had a value as of June 30, 2010 in excess of \$600,000.
37. Chance Harris knew that Linda Harris prepared and sent monthly account statements to the CDH Investors who invested in the pooled accounts.
38. Chance Harris knew that these account statements misrepresented that the investments in the pooled accounts generated profits.
39. Chance Harris knew that the account statements generated by Linda Harris on a monthly basis and sent to each of the CDH Investors in the pooled accounts misrepresented that the value of the CDH Investors in pooled accounts collectively had a value as of June 30, 2010 in excess of \$600,000.
40. As of June 30, 2010, the value of the pooled accounts was less than \$10,000.
41. The investments generated losses, were not profitable or were never made.
42. Linda Harris and Chance Harris knew that the investments generated losses, were not profitable or were never made.

**Linda Harris and Chance Harris Control CDH Forex and CDH Global**

43. Throughout the Relevant Period, Defendants Linda Harris and Chance Harris each had complete control over CDH Forex and CDH Global.
44. Defendant Linda Harris was registered with the Commission as the Associated Person of CDH Forex. Linda Harris was also the Chief Investment Officer for CDH

Forex and for CDH Global until March 30, 2010 and directed all trading of the CDH Investors' managed accounts and pooled accounts for CDH Forex throughout the relevant period and for CDH Global through March 30, 2010.

45. Defendant Linda Harris engaged in solicitation on behalf of CDH Forex and CDH Global, speaking with prospective investors in both pooled and managed accounts.
46. Throughout the Relevant Period, Defendants Linda Harris and Chance Harris were the sole signatories on the CDH Forex, CDH Global and CDH Alternative Investments bank accounts.
47. Defendant Chance Harris has been the Chief Investment Officer for CDH Global since March, 2010, directing all trading of managed accounts under the CDH Global account name.
48. Defendant Chance Harris has managed accounts for CDH Forex, CDH Global and the pooled account, and solicited customers for CDH Forex and CDH Global throughout their existence as entities.
49. Defendants Linda Harris and Chance Harris did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations of the Act described herein.

**Linda Harris Submitted Falsified Account Statements and Bank Statements to the National Futures Association ("NFA")**

50. In April 2010 NFA began an audit of CDH Forex and CDH Global. When performing this audit NFA was a futures association designated or registered under the Act acting in furtherance of its official duties under the Act.
51. In the course of the audit, NFA requested account statements and bank statements to

substantiate the extremely high rates of return disclosed in the disclosure documents for CDH Forex and CDH Global.

52. In response to the NFA request, Defendant Linda Harris provided to NFA falsified account statements for CDH Forex and CDH Global accounts purportedly at or carried by ODL Securities.
53. The account statements showed, among other things, that CDH Forex had \$18.9 million of assets under management.
54. These account statements were fabricated by Defendant Linda Harris.
55. The ODL accounts reported on these statements did not exist.
56. Defendant Linda Harris also submitted to NFA bank account statements purportedly from Wachovia Bank for the CDH Forex account for January, February and March 2010.
57. The Wachovia Bank account statements for CDH Forex indicate that CDH Forex had deposits and withdrawals in the hundreds of thousands dollars for January, February and March, 2010.
58. In fact, these Wachovia Bank account statements were altered and contain deposits and withdrawals that were never made.

## II.

### CONCLUSIONS OF LAW

#### **A. Jurisdiction and Venue**

1. This Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the Commission/CFTC that any 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 promulgated thereunder, the Commission/CFTC may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

2. The Commission has jurisdiction over the Defendants' solicitation and operation of pooled investments and managed accounts in connection with forex transactions because the transactions were offered or entered into with persons that were not an eligible contact participant and on a leveraged or margined basis or financed by the offeror, counterparty, or person acting in concert with either.
3. The transactions did not result in actual delivery within two days or otherwise create an enforceable obligation to make/take delivery in connection with the parties' line of business.
4. Neither the counterparty to the transactions nor the Defendant were one of certain enumerated persons identified in Sections 2(c)(2)(C)(i)(I)(aa) and 2(c)(2)(C)(ii)(II) of the Act, as amended by the CRA (i.e., financial institutions, registered broker dealers, insurance companies, financial holding companies, investment bank holding companies, and their associated persons).
5. The CFTC has jurisdiction over the forex solicitations and transactions at issue in this action pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (Supp. III 2009).
6. The Defendants' forex contracts are subject to Section 4b pursuant to Section 2(c)(2)(C)(ii)(I) which prohibits any person from cheating and defrauding or

attempting to cheat or to defraud or willfully deceiving or attempting to deceive other persons in connection with margined or leveraged foreign currency transactions for, on behalf of or with such persons.

7. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, 7 U.S.C. § 13a-1(e), because the Defendant(s) reside(s) in this jurisdiction and the acts and practices in violation of the Act occurred within this District.

**B. Violations of the Act.**

**FRAUD IN CONNECTION WITH THE TRADING OF OFF-EXCHANGE FOREX CONTRACTS BY CDH FOREX, CDH GLOBAL, LINDA HARRIS AND CHANCE HARRIS.**

8. By the conduct described in paragraphs 6 through 58 of the Findings of Fact above, Defendants , in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery<sup>1</sup>, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g) [of the Act, 7 U.S.C. 7a(g)], that is made, or to be made, for or on behalf of any other person, other than on or subject to the rules of a designated contract market, cheated or defrauded or attempted to cheat or defraud other persons and willfully deceived or attempted to deceive other persons in connection with offering of, or entering into the margin or leveraged foreign currency transactions alleged herein, for or on behalf of such persons, by fraudulently soliciting prospective and existing investors by, among other things, knowingly, (a) misappropriating CDH Investors funds; and (b) making material misrepresentations, including but not limited to: (i) misrepresenting that all funds invested by the CDH Investors would be invested in forex through an account or

---

<sup>1</sup> The forex contracts at issue here are subject to Section 4b pursuant to Section 2(c)(2)(C)(ii)(I) and are thus treated as futures contracts under the Act.

accounts maintained at a FCM; (ii) misrepresenting that trades executed in connection with the investments were profitable and that the CDH Investors were earning profits from the trading of their funds; (iii) misrepresenting trading results from past trading performance as high as 646% per year; and (iv) deceptively omitting disclosure that funds deposited with Linda Harris, Chance Harris and CDH would be and were not being used for trading but instead were being diverted to pay for the personal expenses of Linda Harris and Chance Harris in violation of Section 4b(a)(2)(A) and (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(2)(A) and (C).

9. By the conduct described in paragraphs 6 through 58 of the Findings of Fact above, Chance Harris and Linda Harris, committed the acts and omissions described herein within the course and scope of their employment with CDH Forex and CDH Global; therefore, CDH Forex and CDH Global are liable under Section 2(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2 (2011), for violations of the Act committed by Chance Harris and Linda Harris.
10. By the conduct described above in paragraphs 6 through 58 of the Findings of Fact above, Chance Harris and Linda Harris are controlling persons of CDH Forex and CDH Global, and failed to act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations. Therefore, Chance Harris and Linda Harris are each liable for the unlawful conduct of CDH Forex and CDG Global and their violations of the Act, pursuant to Section 13(b) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13c(b).

**FALSE STATEMENTS MADE TO NFA BY  
LINDA HARRIS, CDH FOREX AND CDH GLOBAL**

11. By the conduct described above in paragraphs 6 through 58 of the Findings of Fact above, Linda Harris willfully made materially false, fictitious and fraudulent representations to NFA knowing them to be false, and made and used documents she knew were false, fictitious and fraudulent which she submitted to NFA in violation of Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2006).
12. By the conduct described above in paragraphs 6 through 58 of the Findings of Fact above, Linda Harris, committed the acts and omissions described herein within the course and scope of her employment with CDH Forex and CDH Global; therefore, CDH Forex and CDH Global are liable under Section 2(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2 (2011), for violations of the Act committed by Linda Harris.

**C. There is A Reasonable Likelihood of Continued Misconduct by Defendants.**

13. Defendants' repeated violations of the Act, as amended by the CRA, indicate a likelihood of continued violations absent a permanent injunction. Defendants began soliciting customers to trade in forex at least as early as August 2008, continuing through July 2010. These fraudulent solicitations were not isolated occurrences, but instead constitute an established pattern. Defendants acted with knowledge that their representations were fraudulent and actively took steps to disguise their fraud, notably through sending fraudulent account statements to customers. This pattern of fraudulent misrepresentations and efforts to disguise the fraud presents a "reasonable likelihood" of future violations.

**III.**

**ORDER OF PERMANENT INJUNCTION AND ANCILLARY RELIEF**

**IT IS HEREBY ORDERED THAT:**

1. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, the Defendants are permanently restrained, enjoined, and prohibited from directly or indirectly:
  - a. cheating or defrauding or attempting to cheat or defraud other persons in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of, or with, any other person in violation of Section 4b(a)(2)(A) of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 6b(a)(2)(A); and/or
  - b. willfully deceiving or attempting to deceive any other persons by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such persons in violation of Section 4b(a)(2)(C) of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 6b(a)(2)(C); and
  - c. willfully falsifying, concealing, or covering up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry to a registered entity, board of trade, or futures association designated or registered under this Act in furtherance of its official duties under this Act in violation of Section 9(a)(4) of the Act, as amended by the CRA



and the Dodd-Frank Act, to be codified at 7 U.S.C. § 13(a)(4).

2. The Defendants are permanently restrained, enjoined, and prohibited from directly or indirectly:
  - a. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 1a;
  - 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)) (“commodity options”), security futures products, and/or foreign currency (as described in Sections 2(c)(2)(B) and/or 2(c)(2)(C)(i) of the Act) (“forex contracts”) for any personal or proprietary 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, security futures products, and/or forex contracts traded on their behalf;
  - 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, security futures products, 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, security futures products 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) (2011); and/or

g. acting as a principal (as that term is defined in Regulation 3.1(a)), 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) (2011).

#### **IV.**

### **RESTITUTION, CIVIL MONETARY PENALTY AND OTHER EQUITABLE RELIEF**

#### **IT IS FURTHER ORDERED THAT:**

3. The Defendants shall comply fully with the following terms, conditions and obligations relating to the payment of restitution and a civil monetary penalty. The equitable relief provisions of this Order shall be binding upon the Defendants and any person who is acting in the capacity of officer, agent, employee, servant, or attorney of the Defendants, and any person acting in active concert or participation with the Defendants and those equitable relief provisions that relate to restitution shall be binding on any financial institutions listed herein or holding frozen funds or assets of the Defendants, who receives actual notice of this Order by personal service or otherwise.

#### **A. Restitution and Appointment of Monitor**

4. Defendants shall pay and be jointly and severally liable for restitution to defrauded investors in the amount of one million three hundred sixty one thousand eight hundred ninety seven dollars (\$1,361,897.00). In addition, Defendants are required to pay post-judgment interest on the restitution amount. Post-judgment interest shall accrue

beginning on the date of entry of this Order and will be calculated by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

5. To effect payment by Defendants and distribution of restitution, the Court appoints the NFA as Monitor ("Monitor"). The Monitor shall collect restitution payments from Defendants, and make distributions as set forth below. Because the Monitor is acting as an officer of the Court in performing these services, the Monitor shall not be liable for any action or inaction arising from the Monitor's appointment, other than actions involving fraud.
6. Defendants shall make restitution payments under this order in the name "CDH-Restitution Fund" and shall send such restitution payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier check, or bank money order, to Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover letter that identifies the paying Defendant(s) and the name and docket number of the proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to (a) the Director, Division of Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and (b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.
7. The Monitor shall oversee Defendants' restitution obligation, and shall have discretion to determine the manner for distribution of funds in an equitable fashion to defrauded investors, and others identified in the list that shall be provided to the Monitor upon

entry of this Order ("Restitution List"), as appropriate, or may defer distribution until such time as it deems appropriate. In the event that the amount of restitution payments to the Monitor are of a de minimis nature such that the Monitor determines that the administrative costs of the making a restitution distribution is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth below.

8. Defendants shall cooperate with the Monitor as appropriate to provide such information as the NFA deems necessary and appropriate to identify defrauded investors to whom the Monitor, in his sole discretion, may determine to include in any plan for distribution of any restitution payments. Omission from the Restitution List should not limit the ability of any defrauded investor to seek recovery from Defendants or any other entity or person.
9. Upon the termination of the receivership estate, the Receiver shall provide the Commission with a report detailing the disbursement of funds to the defrauded investors. The Receiver shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.
10. The amounts payable to each defrauded investor shall not limit the ability of any defrauded investor from proving that a greater amount is owed from defendants or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any defrauded investor that exist under state or common law.

11. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each defrauded investor of Defendants who suffered a loss is explicitly made an intended third-party beneficiary of this Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by Defendants to ensure continued compliance with any provision of this Consent Order and to hold Defendants in contempt for any violations of any provision of this Consent Order.
12. To the extent that any funds accrue to the U.S. Treasury as a result of Defendants' restitution obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above in paragraph IV. A. 7.

**B. CIVIL MONETARY PENALTY**

13. Defendants shall pay and be jointly and severally liable for a civil monetary penalty in the amount of four million eighty five thousand six hundred ninety one dollars (\$4,085,691.00), plus post-judgment interest (the "CMP Obligation"). Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and will be calculated using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.
14. Defendants shall pay their CMP Obligation by electronic funds transfer, or by 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: Accounts Receivables -AMZ-340  
E-mail Box: 9-AMC-AMZ-AR-CFTC  
DOTIFAAIMMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK, 73169  
Telephone: 405-954-5644

If payment is to be made by electronic funds transfer, Defendant shall contact Linda Zurhost or her successor at the above address at the above address to receive payment instructions and shall fully comply with those instructions. Defendant shall accompany payment of the penalty with a cover letter that identifies the paying Defendant and the name and docket number of the proceedings. The Defendant 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, NW, Washington, DC 20581, and the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address. Notice of payment shall also be sent to the Regional Counsel, Commodity Futures Trading Commission, Eastern Regional Office, 140 Broadway, 20th Floor, New York, NY 10005.

**C. Miscellaneous Provisions**

**Order of Payments:** Defendants' obligation to pay restitution and civil monetary penalties are all due and owing as of the date of this Order. Should Defendants, however, not be able to satisfy all these obligations at the same time, any payments from Defendants shall first be used to satisfy their restitution obligation. After Defendants' restitution obligation is satisfied fully, then any of Defendants' payments shall be applied to satisfaction of the civil monetary penalties.

**Interest :** This Court further Orders that pre and post-judgment interest should be awarded using the Treasury Bill rate prevailing on the date of the Court's final order in this matter pursuant to 28 U.S.C. § 1961(a) (2006).

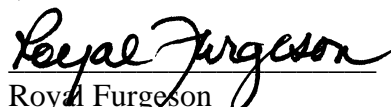
**Equitable Relief:** The equitable relief provisions of this Order shall be binding upon Defendants and any person who is acting in the capacity of agent, employee, servant, or attorney of Defendants, and any person acting in active concert or participation with Defendants, who receives actual notice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

**Notices:** All notices required to be given to the CFTC or the NFA by any provision in this Order shall be sent certified mail, return receipt requested, as follows: Notice to CFTC: Attention - Director of Enforcement, Commodity Futures Trading Commission, Division of Enforcement, 1155 21st Street N.W., Washington, DC 20581; Notice to NFA – Daniel Driscoll, National Futures Association, 300 S. Riverside Plaza, Suite 1800, Chicago, IL 60606-3447.

**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.

IT IS SO ORDERED.

SIGNED this 12th day of June, 2012.

  
Royal Furgeson  
Senior United States District Judge