

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

U.S. COMMODITY FUTURES	§	
TRADING COMMISSION,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 09-1540
v.	§	and
	§	Civil Action No. 09-1541
	§	(CONSOLIDATED)
	§	
PRIVATEFX GLOBAL ONE LTD., SA;	§	
36 HOLDINGS LTD; ROBERT D. WATSON;	§	
and DANIEL J. PETROSKI,	§	
	§	
Defendants.	§	
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SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
PRIVATEFX GLOBAL ONE LTD., SA;	§	
36 HOLDINGS LTD; ROBERT D. WATSON;	§	
and DANIEL J. PETROSKI,	§	
	§	
Defendants.	§	
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**CONSENT ORDER OF DISGORGEMENT, CIVIL MONETARY PENALTY, AND  
POST-JUDGMENT INTEREST AGAINST DEFENDANT DANIEL J. PETROSKI**

I. INTRODUCTION

On May 21, 2009, plaintiff U.S. Commodity Futures Trading Commission (CFTC) filed a Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief (Complaint) (DE#3) against defendants PrivateFX Global One Ltd., SA (Global One), 36 Holdings Ltd. (36 Holdings), Robert D. Watson (Watson), and Daniel J. Petroski (Petroski)

(each, a defendant, and collectively, defendants). The Complaint seeks injunctive and other equitable relief for violations of the Commodity Exchange Act (Act), 7 U.S.C. §§ 1 *et seq.* (2006), 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). The Court entered an Order Granting Plaintiff's *Ex Parte* Emergency Motion for Statutory Restraining Order, Appointment of Receiver, Expedited Discovery, Preliminary Injunction, and Other Equitable Relief against defendants (DE#10) pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), on May 21, 2009. The Court entered Consent Orders of Preliminary Injunction and for Other Equitable Relief against defendants (DE#28-31) on June 4, 2009. In addition, the Court entered a Consent Order of Permanent Injunction and for Other Equitable Relief against defendants (DE#92) on February 24, 2010 (Consent Order of Permanent Injunction).

## II. CONSENTS AND AGREEMENTS

To resolve the remaining issues of disgorgement, civil monetary penalty, and post-judgment interest (as provided in Section V. of the Consent Order of Permanent Injunction), without any further judicial proceedings, Petroski:

1. Consents to the entry of this Consent Order of Disgorgement, Civil Monetary Penalty, and Post-Judgment Interest Against Defendant Daniel J. Petroski (Consent Order);
2. Affirms that he has agreed to this Consent Order voluntarily, and that no threat, or promise, other than as specifically contained herein, has been made by the CFTC or any member, officer, agent, or representative thereof, or by any other person, to induce consent to this Consent Order;

3. Waives:

- a) any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and the rules promulgated by the CFTC in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1-30 (2011), relating to or arising from this action;
- b) any and all claims that he may possess under the Small Business Regulatory Enforcement Fairness 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, 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) any and all rights of appeal from this action;

4. Agrees that neither he nor any of his agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegations in the Complaint, or findings in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order are without a factual basis; provided, however, that nothing in this provision shall affect his (a) testimonial obligations or (b) rights to take legal positions in other proceedings to which the CFTC is not a party; and that he shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement;

5. Consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Consent Order and the Consent Order of Permanent Injunction

and for any other purpose relevant to this case, even if he now or in the future resides or operates outside the jurisdiction of this Court;

6. Agrees that no provision in this Consent Order shall in any way affect his obligation to comply with or otherwise modify the Consent Order of Permanent Injunction; and

7. Agrees that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against him in any other proceeding.

### III. FINDINGS AND CONCLUSIONS

8. The Findings and Conclusions contained in Section III of the Consent Order of Permanent Injunction are incorporated herein by reference and given preclusive effect as provided in Section V. (Restitution, Disgorgement, and Civil Monetary Penalties Reserved for Further Court Proceedings) of the Consent Order of Permanent Injunction.

### IV. DISGORGEMENT, CIVIL MONETARY PENALTY, AND POST-JUDGMENT INTEREST

IT IS HEREBY ORDERED that Petroski shall comply fully with the following terms, conditions, and obligations relating to the payment of disgorgement, civil monetary penalty, and post-judgment interest:

#### A. Return of Funds to Customers

9. On May 21, 2009, Thomas L. Taylor III was appointed Receiver, with full powers of an equity receiver, over the assets of defendants. On July 28, 2009, the Receiver's appointment was modified to include all assets of not only defendants, but also all assets of a number of entities whose ownership or operations were intertwined with those of defendants. The other entities include: 9 Group Ltd.; 36 Holdings Ltd. (BVI); Criterion Trading; Dracena; The Geld Corporation; FX Associates LLC; Isthmian Foundation; Kensington Aircraft;

Kensington Capital Group Ltd.; Kensington FX; Orchard Investors LLC; Orchard Land and Cattle Co.; Orchard Land and Cattle Partners; Pine Street Irrevocable Trust; Princeton and CIE, Inc.; Princeton Consulting LC; Princeton Forex LLC; Princeton International LLP; Princeton Morgan & CIE; Princeton Treasury; Private FX Ltd.; Private FX Ltd., SA; Private FX Fund LLC; Private FX Funds LP; Private FX Global Guarantee; Private FX Global One Ltd. (BVI); Private FX Partners LP; R. Watson Trading Company; Rationale Capital; Red Dragon FX, Ltd., SA; Sakura Foundation; Sakura II Foundation; and any entity owned and/or controlled by the listed entities (collectively, these entities and the defendants constitute the “Receivership Entities”).

10. Consistent with the power granted by the Court, the Receiver has taken possession of and/or liquidated numerous assets of the Receivership Entities, including assets in the name of or otherwise attributable to the Receivership Entities. The funds derived from the sale or liquidation—now or in the future—of these assets, along with any interest earned on these funds, will be returned to defrauded customers (less any court-approved fees and expenses incurred or to be incurred by the Receiver), and shall be used to satisfy, in full or in part, defendants’ disgorgement obligations, as set forth below in Part IV. B. of this Consent Order, and in Part IV. B. of the Consent Order of Disgorgement, Civil Monetary Penalty, and Post-Judgment Interest Against Defendants PrivateFX Global One Ltd., SA; 36 Holdings Ltd.; and Robert D. Watson. The Court orders that these funds be distributed to defrauded customers by the Receiver pursuant to and consistent with the distribution plan approved by this Court,<sup>1</sup> and

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<sup>1</sup> This distribution plan addresses not only the amounts owed to defrauded customers as part of the fraudulent scheme alleged by the CFTC, but also amounts owed to defrauded investors as part of the fraudulent scheme alleged by the Securities and Exchange Commission (SEC) in its related action filed in this Court on May 21, 2009 (Case No. 09-1541), and consolidated with the CFTC’s action on May 26, 2009 (DE#11) (Case No. 09-1540). The Receiver was appointed for both actions.

that the Receivership Entities' rights, if any, to these funds and/or the underlying assets be extinguished (except as may be necessary for the Receiver to carry out his duties).

B. Disgorgement

11. Petroski shall pay disgorgement in the amount of \$414,723, plus post-judgment interest, to defrauded customers.

12. Petroski's disgorgement obligation shall be satisfied first from the Receivership Entities' assets attributable to Petroski, held now or in the future, by the Receiver. To the extent the Receiver's sale or liquidation of the Receivership Entities' assets attributable to Petroski is insufficient to satisfy Petroski's disgorgement obligation, Petroski shall be responsible for any shortfall. All disgorgement payments are immediately due and owing.

13. Post-judgment interest shall accrue beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

14. Any disgorgement payments made by Petroski to satisfy the SEC's disgorgement claims against Petroski in this case shall offset (dollar for dollar) Petroski's disgorgement obligation identified in paragraph 11.

15. Within thirty (30) days of receiving a copy of this Consent Order, any financial institution holding funds of the Receivership Entities is specifically directed to liquidate and release all funds, whether the funds are held in a single or joint account, or in any other capacity, and to convey by wire transfer to an account designated by the Receiver, all funds in these accounts, less any amounts required to cover the financial institutions' outstanding administrative or wire transfer fees. At no time during the liquidation, release, and/or wire transfer of these funds pursuant to this Consent Order shall Watson or Petroski be afforded any access to, or be provided with, any funds from these accounts. Watson, Petroski, and all banks

and financial institutions subject to this Consent Order shall cooperate fully and expeditiously with the CFTC, the SEC, and the Receiver in the liquidation, release, and wire of these funds. Further, after any of these funds held at Sterling Bank are liquidated consistent with this Consent Order, nothing in this Consent Order shall prohibit Petroski from maintaining an account at Sterling Bank.

C. Civil Monetary Penalty

16. Petroski shall pay a CMP in the amount of \$140,000, plus post-judgment interest.

17. Post-judgment interest shall accrue on Petroski's CMP obligation commencing on the date this Consent Order is entered and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

18. Petroski's CMP obligation is immediately due and owing. Petroski shall pay his 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 U.S. Commodity Futures Trading Commission and sent to the address below:

U.S. Commodity Futures Trading Commission  
Division of Enforcement  
Linda Zurhorst  
Accounts Receivable – AMZ-340  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-5644

19. If payment by electronic transfer is chosen, Petroski shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Petroski shall accompany payment of the CMP with a cover letter that identifies himself, the case name, docket number, and the name of this Court. Petroski 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, 1155 21st Street, NW, Washington, D.C. 20581; (b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address; and (c) Charles Marvin, Chief Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 4900 Main Street, Suite 500, Kansas City, MO 64112.

**D. Partial Payments**

20. Any acceptance by the CFTC and/or the Receiver of partial payment of Petroski's disgorgement obligation and/or CMP obligation shall not be deemed a waiver of the respective requirement to make further payments pursuant to this Consent Order or a waiver of the CFTC's and/or the Receiver's right to compel payment of any remaining balance.

**V. MISCELLANEOUS PROVISIONS**

21. Any amount paid to one of defendants' customers pursuant to this Consent Order shall not limit the ability of that customer to independently prove in a separate action that a greater amount is owed from any person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any customer that exist under federal, state, or common law to assert a claim for recovery against defendants subject to any offset or credit that defendants may be entitled to claim under the law governing that customer's claim. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each customer of defendants 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 disgorgement amount that has not been paid.

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



Notice to CFTC:

Division of Enforcement  
U.S. Commodity Futures Trading Commission  
4900 Main Street, Suite 500  
Kansas City, MO 64112

Notice to Receiver:

Thomas L. Taylor III  
The Taylor Law Offices, P.C.  
4550 Post Oak Place, Suite 241  
Houston, TX 77027

Notice to Daniel J. Petroski:

Richard Roper  
Thompson & Knight LLP  
333 Clay Street, Suite 3300  
Houston, TX 77002

AND DANIEL PETROSKI  
17403 W. COPPER LAKES DR  
HOUSTON, TX 77095

All such notices to the CFTC shall reference the name and docket number of this action.

23. Entire Agreement and Amendments: This Consent Order in combination with the Consent Order of Permanent Injunction incorporate all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order or the Consent Order of Permanent Injunction in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

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

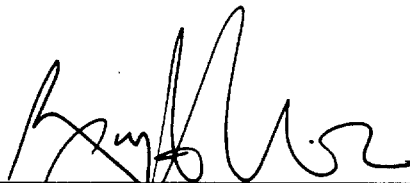
25. Waiver: The failure of any party hereto at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later

time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be a waiver, or construed as a further or continuing waiver, of such breach or waiver of the breach of any other provision of this Consent Order.

26. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this cause to assure compliance with, and for the purpose of enforcing the terms and conditions of, this Consent Order and the Consent Order of Permanent Injunction and for any other purpose related to this action, including, but not limited to, any motion by a defendant to modify or for relief from the terms of this Consent Order.

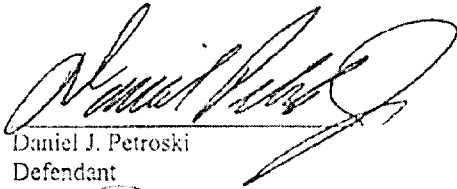
27. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered (by email, facsimile, or 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 email, facsimile, or otherwise shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.

Signed at Houston, Texas on February 2, 2012.



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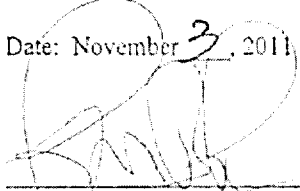
Gray H. Miller  
United States District Judge



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Daniel J. Petroski  
Defendant

Date: November 3, 2011

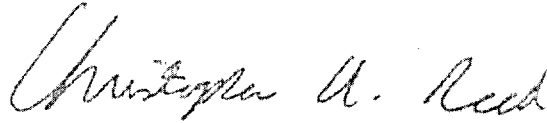


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Houston, TX 77002

Attorney for Defendant Daniel J.  
Petroski

Date: November 5<sup>th</sup>, 2011



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Date: January 31, 2012