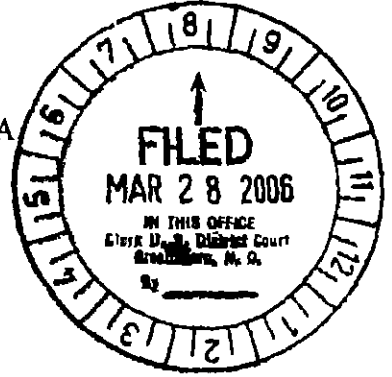


UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



U S Commodity Futures Trading Commission,)
)
Plaintiff,)
)
v)
)
Longhorn Financial Advisors, LLC, Phoenix)
Financial Group, Daniel Belbeck,)
and Roger Owen)
)
Defendants)

04cv00911(Beaty)

**CONSENT ORDER OF PERMANENT INJUNCTION AND OTHER EQUITABLE
RELIEF AGAINST DEFENDANT DANIEL BELBECK**

I. INTRODUCTION

On October 5, 2004, Plaintiff U S Commodity Futures Trading Commission (“Commission”) filed a Complaint against Daniel Belbeck¹ seeking injunctive and other equitable relief for violations of the Commodity Exchange Act (“Act”), 7 U S C §§ 1 *et seq* (2002), and various Commission Regulations (“Regulations”), 17 C F R §§ 1 1 *et seq* (2004)

II. CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint against Belbeck without a trial on the merits or further judicial proceedings, Belbeck

1 Consents to entry of this Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants (the “Order”),

2 Affirms that he has read and agreed to this Order voluntarily, and that no promise or threat has been made by the Commission or any member, officer, agent or representative

¹ The Commission’s Complaint also brought claims against Roger Owen, Longhorn Financial Advisors, LLC and Phoenix Financial Group

thereof, or by any other person, to induce consent to this Order, other than as set forth specifically herein,

3 Acknowledges service of the summons and Complaint in this action,

4 Admits that this Court possesses personal and subject matter jurisdiction over him and this action pursuant to Section 6c of the Act, 7 U S C § 13a-1,

5 Admits that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U S C § 13a-1,

6 Waives

a All claims that he may possess pursuant to the Equal Access to Justice Act (EAJA), 5 U S C § 504 (2000) and 28 U S C § 2412 (2000), and Part 148 of the Regulations, 17 C F R § 148 *et seq* , relating to or arising from this action,

b Any claim of double jeopardy based on the institution of this proceeding or order imposing civil monetary penalties or any other relief, and

d All rights of appeal from this Order,

7 Consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purpose relevant to this matter,

8 Neither admits nor denies the allegations of the Complaint and the findings and conclusions of this Order, except as to jurisdiction and venue,

9 Agrees that he shall not take any action or make any public statements denying, directly or indirectly, any allegation of the Complaint or findings in this Order, or creating or tending to create the impression that the Complaint and this Order are without factual basis,

provided, however, that nothing in this provision affects Belbeck's (i) testimonial obligations, or (ii) his right to take legal positions in other proceedings to which the Commission is not a party, and

10 Agrees, and the parties to this Order intend, that the allegations of the Commission's Complaint and all of the findings of fact made by this Court and contained in this Order shall be taken as true and correct and shall be given preclusive effect without further proof in any bankruptcy proceeding filed by, on behalf of, or against Belbeck, or any proceeding to enforce this Order, or any other proceeding relating to the fitness of Belbeck to act in various capacities governed by the Act. Belbeck also shall provide immediate notice of any bankruptcy proceeding filed by, on behalf of, or against him in the manner required by this Order

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Being fully advised in the premises and finding that there is just cause for entry of this Order that fully disposes of all issues in this matter, THE COURT FINDS THAT

FINDINGS OF FACT

A The Parties

11 The Commission is an independent federal regulatory agency charged with administering and enforcing the provisions of the Act, 7 U S C §§ 1 *et seq* and the Regulations promulgated thereunder, 17 C F R §§ 1.1 *et seq*

12 Defendant **Daniel Belbeck** currently resides in Nashville, Tennessee. Belbeck operates Dan Belbeck & Associates, LLC, a Tennessee limited liability corporation that offers estate planning services. Belbeck has never been registered with the Commission in any capacity. Belbeck's clients consist primarily of senior citizens.

B The Trading System

13 Belbeck solicited prospective clients in Tennessee beginning in early 2002 to purchase a commodity Trading System (the "Trading System") on behalf of Longhorn Financial Advisors, LLC ("Longhorn"). The Trading System consisted of a computer program that was designed to predict market movements of, among other things, the S&P 500 and NASDAQ 100 e-mini futures contracts and would send alerts or signals via computer about when to buy and sell the contracts.

14 Clients usually paid \$6500 to purchase the Trading System. After purchasing the Trading System, a client was required to open a commodity futures trading account at a Futures Commission Merchant ("FCM"). Further, the client was required to execute a power of attorney granting Longhorn's agent and registered Introducing Broker, UTRADE and its Associated Person Frank Ebel ("Ebel"), trading authority over the account. Ebel entered all trades for clients that purchased the Trading System.

15 As part of his solicitations to prospective clients to entice them to purchase the Trading System, Belbeck gave them a pamphlet which explained and described the Trading System. The pamphlet was created by Longhorn and given to Belbeck by Roger Owen ("Owen"), Longhorn's sole owner and operator.

16 The pamphlet claimed that the Trading System earned profits in excess of 134% in 2000, 66% in 2001 and 40% in 2002. Additionally, Owen gave to Belbeck a chart for distribution to potential clients. The chart contained a month-by-month breakdown of the profits that Longhorn claimed were earned by clients who purchased and used the Trading System. Both the pamphlet and chart were designed to convey the impression that the Trading System

successfully earned actual profits in 2000, 2001 and 2002 when, in fact, the Trading System never generated a profit for any client

17 Despite these profit representations, Belbeck never independently confirmed the truth or accuracy of the information contained in the pamphlets that he disseminated to prospective clients

18 As a result of Belbeck's solicitations on behalf of Longhorn, at least four clients bought the Trading System at a cost of \$6500 each

CONCLUSIONS OF LAW

A Violation of Section 4k(3) of the Act, 7 U S C. § 6k(3)

1 Longhorn Acted as a Commodity Trading Advisor

19 As defined in Section 1a(6) of the Act 7 U S C 1a(6), a Commodity Trading Advisor is any person who for compensation or profit engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of any contract market or derivatives transaction or, for compensation or profit, and as part of a regular business, issues or promulgates analysis or reports concerning any of the activities referred to above

20 Longhorn acted as a CTA Longhorn solicited prospective clients to purchase a Trading System that offered trading advice pertaining to when to buy and sell the S & P 500 and NASDAQ e-mini futures contract As part of the purchase, Longhorn required clients to sign powers of attorney allowing a broker to manage clients' accounts In exchange, Longhorn received a fee Accordingly, for compensation and profit, Longhorn engaged in the business of advising others as to the value or the advisability of trading in futures contracts

2 Belbeck Was an Unregistered Associated Person of a CTA

21 Section 4k(3) of the Act makes it unlawful for any person to be associated with a CTA as a partner, officer, employee, consultant, or agent in any capacity that involves the solicitation of a client's or prospective client's discretionary account or the supervision of any person or persons so engaged, unless such person is registered with the Commission as an AP of the CTA

22 Belbeck acted as an Associated Person of Longhorn by soliciting clients and prospective clients to provide funds for discretionary futures accounts traded in accordance with the Trading System. Belbeck violated Section 4k(3) of the Act by engaging in these acts without being registered

IV. ORDER OF PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

23 Based upon and in connection with the foregoing conduct, Belbeck is permanently restrained, enjoined and prohibited from directly or indirectly

a Being associated with and acting as a partner, officer, employee, consultant, or agent of a commodity trading advisor, in a capacity requiring registration with the Commission, without being registered as an Associated Person with the Commission, in violation of Section 4k(3) of the Act, 7 U S C §6k(3),

IT IS FURTHER ORDERED THAT:

24 Belbeck is permanently restrained, enjoined and prohibited from directly or indirectly

a engaging in any commodities trading that is subject to the rules of a contract market or, pursuant to Section 5a of the Act, 7 U S C § 7a(a), a Derivatives Transaction Execution Facility in any account A) that is held in Belbeck's name, B) in which Belbeck has a direct or indirect financial interest, or C) held in the name of any other person, and

b applying for registration or claiming exemption from registration with the Commission in any capacity, or engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4 14(a)(9), or acting as a principal, 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) This includes, but is not limited to, soliciting, accepting or receiving any funds, revenue or other property from any person, giving commodity trading advice for compensation, except as provided for in Regulation 4 14(a)(9), soliciting prospective customers, related to the purchase or sale of any commodity futures, security futures, options, options on futures, or foreign currency futures

V. ORDER FOR OTHER EQUITABLE RELIEF

IT IS FURTHER ORDERED THAT:

Restitution

25 Belbeck is hereby liable to pay restitution in the amount of \$26,000 plus post-judgment interest to accrue beginning on the date this Order is entered and payable at the interest rate set forth in 28 U S C § 1961. All restitution payments as set forth in this paragraph shall be made by electronic funds transfer, or by U S postal money order, certified check, bank cashier's check, or bank money order, made payable to "Daniel Belbeck Settlement Account" and sent to Daniel Driscoll, Monitor, National Futures Association, 200 W Madison St , #1600, Chicago, IL 60606-3447 under a cover letter that identifies Belbeck and the name and docket number of the proceedings. Belbeck shall simultaneously transmit a copy of the cover letter and the form of payment to Gregory Mocek, or his successor, Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: Three Lafayette Centre, 1155 21st Street, N W , Washington, D C 20581.

26 The National Futures Association is designated as Monitor to oversee any restitution payments made to the Commission by Belbeck.

27 The Monitor will distribute funds obtained from Belbeck in an equitable fashion as determined by the Monitor to all persons who gave funds, either directly or indirectly, to Belbeck as a result of his course of illegal conduct alleged in the Complaint and any other investor upon sufficient proof of his or her investment with Belbeck.

Civil Monetary Penalty

28 Belbeck is ordered to pay a \$10,000 Civil Monetary Penalty ("CMP"). Belbeck shall make his CMP payments by electronic funds transfer, or by U S postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, or her successor, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st

Street, N W , Washington, D C 20581, under a cover letter that identifies Belbeck and the name and docket number of the proceedings Belbeck shall simultaneously transmit a copy of the cover letter and the form of payment to the Monitor and to Gregory Mocek, or his successor, Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address Three Lafayette Centre, 1155 21st Street, N W , Washington, D C 20581

VI. MISCELLANEOUS PROVISIONS

29 Notices All notices required to be given by any provision in this Order shall be sent certified mail, return receipt requested, as follows Notice to Commission 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, 200 W Madison St , #1600, Chicago, IL 60606-3447

30 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 Consent Order in any respect whatsoever, unless (1) reduced to writing, (2) signed by all parties hereto, and (3) approved by order of this Court

31 Invalidation If any provision of this Order, or if the application of any provisions or circumstances is held invalid, 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

32 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

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


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

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO ORDERED, on this 28 day of March 2005.

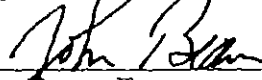

HONORABLE JAMES A. BEATY, JR.
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY



Daniel Belbeck

Date: 2/13/06

Approved as to form:


John Beam, Esq.
Beam, Miller & Rogers, PLLC,
709 Taylor
PO Box 280240
Nashville, TN 37228
Attorney for Daniel Belbeck

Date: 2/13/06


Richard Glaser, Esq. (Pro Hac Vice)
Commodity Futures Trading Commission
1155 21st St, NW
Washington, DC 20581
Attorney for Plaintiff

Date: 3/15/06