

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. Commodity Futures Trading Commission,

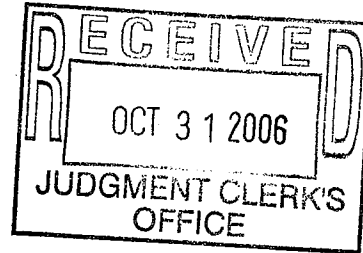
Plaintiff,

v.

Madison Deane & Associates, Inc.,
Madison Deane Asia Corporation,
New York Capital Assets, Inc.,
ISB Clearing Corporation,
Free Star Capital, Inc.,
William, Holbrook & Associates, LLC
Oxford Capital Group, LLC
Vito Napoletano,
Leonard Basman,
Matthew Salinas,
Ian Bursztyn,
George Omeste,
Damon Ripley, and
Abdeldayem Mazen,

Defendants.

03 CV 9128 (GBD)



**CONSENT ORDER OF
PERMANENT INJUNCTION**

**I. CONSENT ORDER OF PERMANENT INJUNCTION,
CIVIL MONETARY PENALTY, AND OTHER EQUITABLE RELIEF
AGAINST DEFENDANT MATTHEW SALINAS**

On November 18, 2003, Plaintiff, U.S. Commodity Futures Trading Commission ("Commission"), filed a Complaint against defendants Madison Deane & Associates, Inc. ("Madison Deane"), Madison Deane Asia Corporation ("Madison Deane Asia"), New York Capital Assets, Inc. ("NYCA"), ISB Clearing Corporation ("ISB"), Free Star Capital, Inc. ("Free Star"), William, Holbrook & Associates, LLC ("Holbrook"), Oxford Capital Group, LLC ("Oxford"), Vito Napoletano ("Napoletano"), Leonard Basman ("Basman"), Matthew Salinas ("Salinas"), Ian Bursztyn ("Burstzyn"), George Omeste ("Omeste"), Damon Ripley ("Ripley"),

and Abdeldayem Mazen (“Mazen”) (collectively, “the Defendants”) seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 1 et seq. (2002), and Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. (2003). The Court entered an *ex parte* statutory restraining order on November 18, 2003 that, among other things, froze all assets belonging to or related to Defendants and ordered the maintenance of, and access to, business records. On August 26, 2004, the Court entered a consent order of preliminary injunction against Salinas.

II. CONSENT AND AGREEMENT

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

1. Consents to the entry of this Consent Order of Permanent Injunction and Other Equitable Relief and a Civil Monetary Penalty against Salinas (“Order”).
2. Affirms that he has agreed 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 consent to this Order, other than as set forth specifically herein.
3. Acknowledges service of the Summons and Complaint.
4. Admits jurisdiction of this Court over him, admits that the Court has subject matter jurisdiction over this action, and admits that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).
5. Waives:
 - (a) all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000) and Part 148 of the Regulations, 17 C.F.R. § 148.1, et seq. (2003), relating to, or arising from, this action;

(b) 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

(c) all rights of appeal from this Order.

6. Does not consent to the use of this Order in any other proceedings other than those to which the Commission is a party. However, no provision of this Order shall in any way limit or impair the ability of any person, including third-party beneficiaries, to seek any legal or equitable remedy against Salinas or any other person in any other proceeding, including any current or subsequent bankruptcy.

Furthermore, the allegations of the Complaint shall be taken as true and be given preclusive effect without further proof only for the purpose of any current or subsequent bankruptcy proceeding filed by, or on behalf of, Salinas for the purpose of determining whether his disgorgement obligation and/or civil monetary penalty ordered herein are excepted from discharge. Salinas shall also provide immediate notice of any bankruptcy filed by, on behalf of, or against him.

7. Agrees that neither he nor any of his agents or employees acting under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation of the Complaint or findings or conclusions of law 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 Salinas' (i) testimonial obligations; or (ii) rights to take legal, factual or equitable positions in other proceedings to which the Commission is not a party. Salinas shall take all necessary steps to ensure that all of his agents and employees understand and comply with this agreement.

8. Consents 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 case.

III. FINDINGS of FACT and CONCLUSIONS of LAW

The Court, being fully advised of the facts, 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, and a permanent injunction and ancillary equitable relief pursuant to § 6c of the Act, 7 U.S.C. § 13 a-1 (2002), as set forth herein.

A. Findings of Fact

1. The Commission is an independent federal regulatory agency charged with the responsibility of administering and enforcing the provisions of the Act and Regulations promulgated thereunder.
2. Salinas has never been registered with the Commission in any capacity.
3. Salinas was employed by Madison Deane, a foreign currency trading entity from 2002 until November 2003.
4. Madison Deane and its affiliates began operating from a number of locations throughout New York City and they solicited the retail public to open managed foreign currency accounts. Customers were directed to send their money to Madison Deane and its affiliates. Madison Deane and its affiliates were the counterparties for all of their customers' purported foreign currency transactions.
5. Salinas worked in the back office of Madison Deane and his duties consisted of operating, maintaining and entering trades on behalf of customers into its computerized currency trading system.

6. At the direction of his co-conspirators, Salinas knowingly entered fabricated customer trades into the computerized currency trading system. Salinas knew and understood that customers were financially harmed as a result of these fabricated trades.

7. Salinas received a total of \$14,000 in cash from Madison Deane during his employment.

8. The foreign currency contracts that Madison Deane and its affiliates purported to offer and sell were for future delivery of foreign currencies that were cash settled in U.S. dollars. The prices or pricing formulas were established at the time the contracts were initiated and were settled through offset, cancellation, cash settlement or other means calculated to avoid delivery.

9. Madison Deane and its affiliates marketed their foreign currency trading accounts to individuals who had assets totaling less than \$5 million and had no business, personal or other need to take or make delivery in foreign currency or to hedge against movements in the foreign currency markets. Instead, investors entered into these transactions to speculate and profit from anticipated price fluctuations in the markets for these currencies. Investors did not anticipate taking – and did not take – delivery of the foreign currencies they purchased as a consequence of these investments. Madison Deane and its affiliates did not require investors to set up banking relationships in order to facilitate delivery of the foreign currencies.

Madison Deane was not a financial institution, broker or dealer, or associated person or affiliate of a broker dealer. Madison Deane was never a futures commission merchant (“FCM”) or affiliate of a FCM. Madison Deane did not conduct its transactions on a facility designated as a contract market or registered as a derivatives transaction execution facility. Also, Madison Deane did not conduct its foreign currency futures transactions on or subject to the rules of a

board of trade that had been designated by the Commission as a contract market, nor were its transactions executed or consummated by or through a member of such contract market.

B. Conclusions of Law

1. With the aforementioned practices, Salinas violated Sections 4b(a)(2)(C)(i), (ii) and (iii) of the Act, 7 U.S.C. § 6b(a)(c)(i), (ii) and (iii) (2002) and Commission Regulation 1.1(b)(i), (ii) and (iii), 17 C.F.R. § 1.1(b)(1), (2) and (3) (2001).

2. This Court has subject matter jurisdiction over this action and the allegations in the Complaint pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

3. This Court has personal jurisdiction over Salinas pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

4. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

5. The foreign currency contracts offered and sold by Madison Deane and its affiliates were futures contracts. The contracts involved the purchase and sale of foreign currency for future -- as opposed to immediate or deferred -- delivery. The contracts provided for delivery of a specific type of foreign currency at an unspecified point in the future at a price or pricing formula that was determined at the time the contract is entered. Madison Deane has never been a proper counterparty or an affiliate of a proper counterparty authorized under the Act or Regulations to engage in foreign currency future transactions with retail customers.

6. There is good cause for entry of an order permanently enjoining Salinas from engaging in future violations of the Act, requiring Defendant Salinas to disgorge his ill-gotten gains in the amount of \$14,000 and pay a civil monetary penalty in the amount of \$42,000, and for the other equitable relief stated in this Order.

IV. ORDER FOR PERMANENT INJUNCTION

IT IS THEREFORE ORDERED THAT:

1. Salinas is permanently restrained, enjoined and prohibited from directly or indirectly:
 - A. Cheating or defrauding or attempting to cheat or defraud other persons, or willfully making or causing to be made to another person any false report or statement thereof, or willfully entering or causing to be entered for another person any false record thereof, or willfully deceiving or attempting to deceive another person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed with respect to any order or contract for another person, 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 any other person if such contract for future delivery is or may be used for:
 - (1) hedging any transaction in interstate commerce in a commodity or the products or byproducts thereof;
 - (2) determining the price basis of any transaction in interstate commerce in such commodity; or
 - (3) delivering any commodity sold, shipped, or received in interstate commerce for the fulfillment thereofin violation of Section 4b(a)(2) of the Act , 7 U.S.C. § 6b(a)(2) (2002) and Section 1.1(b) of the Regulations promulgated thereunder ("Regulations"), 17 C.F.R. §1.1(b) (2001); or
2. Salinas is further permanently restrained, enjoined and prohibited from directly or indirectly:
 - A. Trading on or subject to the rules of any registered entity;
 - B. Soliciting funds for, engaging in, controlling or directing the trading for any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise; and
 - C. Applying for registration or seeking exemption from registration with the Commission in any capacity or engaging in any activity requiring registration or exemption from registration, except as provided for in Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9), and acting, directly or indirectly, as a principal, officer, director, supervisor, agent or employee of any person registered, required

to be registered or exempted from registration, unless such exemption is pursuant to Commission 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 or soliciting prospective customers related to the purchase or sale of any commodity futures, or options, except as provided for in Commission Regulation 4.14(a)(9).

V. ORDER FOR DISGORGEMENT, CIVIL MONETARY PENALTY, AND OTHER EQUITABLE RELIEF

IT IS FURTHER ORDERED THAT:

1. Disgorgement: as of the date of this Order, Defendant shall disgorge all benefits received, directly or indirectly, from acts or practices that constitute violations of the Act and Regulations as described. Defendant therefore shall disgorge his ill-gotten gains in the amount of \$14,000 plus pre-judgment interest and post-judgment interest. Pre-judgment interest from April 1, 2003, to the date of this Order shall be determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(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 this Order pursuant to 28 U.S.C. § 1961.

Defendant's disgorgement obligation under this Paragraph ("Civil Disgorgement Obligation") coincides with Salinas' criminal judgment obligation entered against Salinas on March 15, 2006, by the U.S. District Court for the Southern District of New York in *U.S. v. Napoletano, et al.*, S.D.N.Y. Docket No. 04 Cr. 156 ("Criminal Judgment Obligation"). Accordingly, satisfaction or discharge of any part of Salinas' Criminal Judgment Obligation shall simultaneously result in satisfaction or discharge of Salinas' Civil Disgorgement Obligation to the same extent.

Defendant shall pay such disgorgement to Brian Rosner, Esq., the Court-appointed Receiver, Rosner, Moscow & Napierala, LLP, 26 Broadway, 22nd floor, New York, NY 10004-24424 by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check or bank money order, under cover of a letter that identifies Defendant and the name and docket number of the proceeding; Defendant shall simultaneously transmit a copy of the cover letter and the form of payment to Joseph Rosenberg, counsel of record for the plaintiff U.S. Commodity Futures Trading Commission and to the Director and the Office of Cooperative Enforcement, Division of Enforcement, U.S. Commodity Futures Trading Commission, at the following address: Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and to the Regional Counsel, U.S. Commodity Futures Trading Commission, Eastern Regional Office, at the following address: 140 Broadway, 19th floor, New York, NY 10005.

All disgorgement payments made pursuant to this Order by Defendant shall be made payable to the investors pursuant to a plan that will be determined by the Court.

2. Civil Monetary Penalty: Salinas shall pay a civil monetary penalty of \$42,000 plus post-judgment interest, representing three times Salinas' monetary gain from his illegal conduct ("Civil Monetary Penalty"). All payments made by Salinas pursuant to this Consent Order shall be applied first to satisfy Salinas's Civil Disgorgement Obligation and, upon satisfaction of such Obligation, shall thereafter be applied to satisfy the Civil Monetary Penalty. 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 this Order pursuant to 28 U.S.C. § 1961. Salinas shall pay such Civil Monetary Penalty 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 U.S. Commodity Futures Trading Commission and sent to Dennese Posey, or her

successor, Division of Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Salinas and the name and docket number of the proceeding. Salinas shall simultaneously transmit copies of the cover letters and the form of payments to the Director, Division of Enforcement, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, D.C. 20581 and to the Regional Counsel, U.S. Commodity Futures Trading Commission, Division of Enforcement, Eastern Regional Office, 140 Broadway, 19th Floor, New York, NY 10005.

3. Cooperation: Salinas shall fully cooperate with and assist the Receiver and the Commission in this proceeding and in any related inquiry, investigation, or legal proceeding. Such cooperation shall include, but not be limited to (1) responding promptly, completely, and truthfully to any inquiries or requests for information; (2) authenticating documents; (3) testifying completely and truthfully; (4) not asserting privileges under the Fifth Amendment of the United States Constitution; (5) transferring or repatriating Salinas's funds; and (6) producing any password required to access any electronic files in any medium under control of Salinas.

4. Freeze Orders Dissolved: All prior freeze orders or orders limiting the amount that Salinas can spend on a monthly basis are dissolved.

5. Scope of Injunctive Relief: The injunctive provisions of this Order shall be binding on Salinas, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Salinas, and upon any person who receives actual notice of this Order by personal service, facsimile or otherwise insofar as he or she is acting in active concert or participation with Salinas.

6. Prohibition on Transfer of Funds: Defendant shall not transfer or cause others to transfer funds or other property to the custody, possession or control of any other person for the purpose of concealing such funds or property from the Court, the Plaintiff, or any officer that may be appointed by the Court.

7. Permanent Receiver: Brian Rosner, Esq., Rosner, Moscow & Napierala, LLP, 26 Broadway, 22nd floor, New York, NY 10004-24424 (the "Receiver") is appointed as a permanent equity receiver to take into his or her immediate custody, control, and possession all cash, cashier's checks, funds, assets, and property of Defendant, including funds or property of investors wherever found, whether held in the name of Defendant or otherwise, including, but not limited to, all books and records of account and original entry, electronically stored data, tape recordings, all funds, securities, contents of safety deposit boxes, metals, currencies, coins, real or personal property, commodity futures trading accounts, bank and trust accounts, mutual fund accounts, credit card line-of-credit accounts and other assets, of whatever kind and nature and wherever situated, and authorizing, empowering and directing such receiver to collect and take charge of and to hold and administer the same subject to further order of the Court, in order to prevent irreparable loss, damage and injury to investors, to conserve and prevent the dissipation of funds, to prevent further evasions and violations of the federal commodity laws by the Defendant and to satisfy Defendant's Civil Disgorgement Obligation and pay Defendant's Civil Monetary Penalty.

The Receiver shall report the status of collections and distributions of disgorgement to the Office of Cooperative Enforcement, Division of Enforcement, U.S. Commodity Futures Trading Commission, at the following address: Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581. The Receiver shall make such reports within ten days of receipt from

Defendant of any disgorgement payment. Such reports shall specify: the amount of funds received from Defendant; the total amount of funds received from Defendant since entry of the Order; and the total amount of disgorgement paid by the Receiver to victims of the Defendant's violations.

8. Notices: 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 Commission:

Regional Counsel
Division of Enforcement – Eastern Regional Office
U.S. Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005

Notice to Defendants:

Michael Bachner, Esq.
Counsel to Vito Napoletano
26 Broadway, Suite 2310
New York, NY 10004

Matthew Salinas (*Pro-Se*)
2824 West 12th Street
Apartment 20 K
Brooklyn, NY 11224

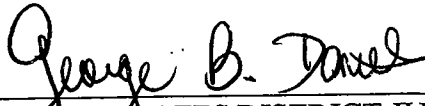
Joseph Sorrentino, Esq.
Law Offices of Joseph Sorrentino, Esq.
Counsel to Leonard Basman
404 Manor Rd.
Staten Island, NY 10314,

9. Entire Agreement and Amendments: This Order incorporates all of the terms and conditions of the settlement between the Commission and Defendant Salinas. 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.

10. This Order shall remain in effect until further order of the Court and the Court shall retain jurisdiction over this action to ensure compliance with this Order and for all other purposes related to this action.

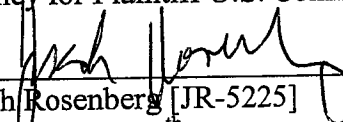
IT IS SO ORDERED.

Dated: NOV 06 2008

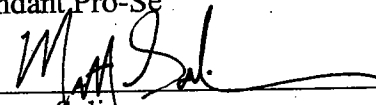

UNITED STATES DISTRICT JUDGE
HON. GEORGE B. DANIELS

CONSENTED TO AND APPROVED BY:

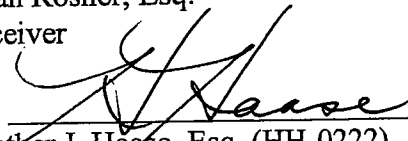
U.S. COMMODITY FUTURES TRADING COMMISSION
Attorney for Plaintiff U.S. Commodity Futures Trading Commission

By: 
Joseph Rosenberg [JR-5225]
140 Broadway, 19th Floor
New York, New York 10005

MATTHEW SALINAS
Defendant Pro-Se

By: 
Matthew Salinas
Brooklyn, NY 11224

Brian Rosner, Esq.
Receiver

By: 
Heather J. Haase, Esq. (HH-0222)
Counsel for Brian Rosner, Receiver
Rosner, Moscow & Napierala, LLP
Three New York Plaza, 14th Floor
New York, NY 10004