UNITED STATES OF AMERICA
before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:	)	
	)	
Udo Rotmistrenko	)	
	)	**CFTC Docket No. SD 04-05**
	)	
Registrant.	)	
	)	
	)	

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ORDER SUSPENDING REGISTRATION

On August 6, 2004 the Commission served on Udo Rotmistrenko, the Registrant, its *Notice of Intent to Suspend or Modify the Registration of Udo Rotmistrenko* ("*Notice of Intent*") pursuant to Section 8a(11)(A) of the Commodity Exchange Act. 7 U.S.C. § 12a(11)(A). The Registrant did not file a written response to the Notice of Intent.

On December 29, 2004, the Registrant was Ordered to Show Cause why he should not be deemed to have waived his right to a hearing and why the allegations in the *Notice of Intent* should not be deemed true. The Registrant did not respond to this Order. By Order issued January 28, 2005, the Division of Enforcement was Ordered to Show Cause why it should not be directed to file proposed findings of fact and conclusions of law based on the undisputed allegations set forth in the complaint. The Division of Enforcement moved for a default order against the Registrant on February 17, 2005, and proposed findings of fact and conclusions of law based on the deemed truth of the allegations in the *Notice of Intent*.

The unopposed Motion for Default is GRANTED. The findings of fact and conclusions of law proposed by the Division of Enforcement are well founded and are adopted, with minor modifications, and set out below.

II. FINDINGS OF FACT

A. Registrant

1. Registrant, Udo Rotmistrenko, resides at 150-28 78th Road, Kew Gardens Hills, NY 11367. He has been registered as a commodity trading advisor ("CTA") and as an associated person ("AP") of that CTA since March 15, 2000. *Notice of Intent.*

B. Proceedings to Date

2. On May 26, 2004, the U.S. Attorney for the Southern District of New York filed a criminal complaint in *United States v. Udo Rotmistrenko*, No. 04 MAG 1054 (SDNY). The complaint charged Registrant with three counts of wire fraud involving the defrauding of retail investors in connection with soliciting investments purportedly to be traded in the foreign currency markets in violation of 18 U.S.C. § 1343, each count a federal felony punishable by over one year in prison. 18 U.S.C. § 1343 (2004).

3. On August 6, 2004, the Commodity Futures Trading Commission ("Commission") served on Registrant a *Notice of Intent to Suspend or Modify* his registration as a CTA and AP. The *Notice of Intent* alleges that Registrant is subject to having his registration suspended or modified under Section 8a(11)(A) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 12a(11)(A) (2002).

4. Registrant had twenty (20) days after service of the *Notice of Intent* to submit a response. 17 C.F.R. § 3.56(b)(1) (2004).

5. Registrant did not submit a response to the *Notice of Intent.*

6. On September 30, 2004, the U.S. Attorney for the Southern District of New York filed an indictment against Registrant charging him with twelve counts of engaging in an illegal scheme to defraud retail investors by soliciting investments purportedly for the purpose of

trading in the foreign currency exchange market by means of wire communication in interstate and foreign commerce in violation of 18 U.S.C § 1343 and also charging him with twelve counts of mail fraud in violation of 18 U.S.C. § 1341, each count a federal felony punishable by over one year in prison. 18 U.S.C. §§ 1341, 1343 (2004).

7. On December 29, 2004, this Court ordered Registrant to show cause by January 21, 2005 why he should not be deemed to have waived his right to a hearing, why the allegations of the *Notice of Intent* should not be deemed to be true and conclusive, and why the relief sought therein should not be granted.

8. Registrant did not respond to the December 29, 2004 show cause order.

9. On January 28, 2005, this Court ordered the Division of Enforcement ("Division") to show cause why it should not propose findings of fact and conclusions of law based on the undisputed allegations of the Commission's *Notice of Intent*.

10. The Division moved for a default order on February 17, 2005.

C. Default

11. The Commission may at any time give written notice to a registrant under the Act that the Commission alleges and is prepared to prove that the registrant is subject to a statutory disqualification. 17 C.F.R. § 3.60(a) (2004). If a registrant does not file a timely response to this written notice, the registrant will be deemed to have waived his right to a hearing on all issues, and the facts stated in the notice shall be deemed to be true and conclusive for purposes of finding that the registrant is subject to a statutory disqualification. 17 C.F.R. § 3.60(a)(4)(i) (2004).

12. Section 3.60(g) of the Rules provides that the procedures for obtaining a default order shall follow the procedures set forth in Section 10.93 of the Rules. 17 C.F.R. § 3.60(g) (2004).

13. Section 10.93 of the Rules provides that if a respondent has failed to file an answer as provided in Section 10.23 of the Rules, 17 C.F.R. § 10.23 (2004), the Division may move the Court to enter findings and conclusions and a default order against that respondent based upon the matters set forth in the complaint, which shall be deemed to be true for purposes of this determination. 17 C.F.R. § 10.93 (2004).

14. Because Registrant failed to respond to the *Notice of Intent* and the Court's December 29, 2004 Show Cause Order, this Court finds that Registrant is in default under Sections 3.60(g) and 10.93. 17 C.F.R. §§ 3.60(g) and 10.93 (2004).

15. Accordingly, this Court deems that Registrant has waived his right to a hearing on all issues in the *Notice of Intent* and deems the matters set forth in the *Notice of Intent* to be true and conclusive for the purposes of finding that Registrant is subject to statutory disqualification.

D. Suspension of Registration

16. The Commission has served written notice upon Registrant that the Commission alleges and is prepared to prove that: (1) Registrant been charged with the commission of a crime involving a violation of a federal or state law that would reflect on his honesty or fitness to act as a fiduciary and is punishable by imprisonment for a term exceeding one year, and (2) that Registrant's continued registration poses a threat to the public interest and may threaten to impair public confidence in the markets regulated by the Commission. 17 C.F.R. § 3.56 (2004), 7 U.S.C. § 12a(11)(A) (2002).

17. If the Registrant is found to be charged with the commission of or participation in such a crime and it is found that his continued registration poses a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission, the registration of the Registrant may be suspended or modified. 17 C.F.R. § 3.56(iii) (2004).

18. This court has determined that the Registrant has been charged with the commission of or participation in such a crime and that his continued registration poses a threat to the public interest and may impair public confidence in markets regulated by the Commission. 17 C.F.R. § 3.56(ii) (2004).

19. The U.S. Attorney for the Southern District of New York has criminally charged Registrant with violations of federal law in connection with the defrauding of retail investors in connection with soliciting those investors for investments purportedly to be traded in the foreign currency markets. *United States v. Udo Rotmistrenko*, No. 04 MAG 1054 (SDNY).

20. Such alleged violations are punishable by imprisonment for a term exceeding one year and reflect adversely on the honesty of Registrant and fitness of Registrant to act as a fiduciary as the alleged violations are in connection with Registrant's solicitation of investors. *Notice of Intent.*

21. By reason of the criminal allegations against Registrant, the continued registration of Registrant as a CTA and AP may pose a threat to the public interest and may threaten to impair public confidence in the markets regulated by the Commission.

22. Registrant is subject to having his registration suspended or modified, under Section 8a(11)(A), 7 U.S.C. § 12a(11)(A) (2002).

III. CONCLUSIONS OF LAW

By failing to respond to the *Notice of Intent* and to the December 29, 2004 Show Cause Order, Registrant is in default. 17 C.F.R. § 3.60(g) (2004).

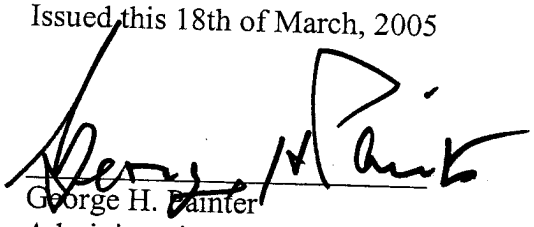
Registrant has waived his right to a hearing on all issues identified in the notice, and all the facts stated in the notice are deemed true and conclusive for purposes of finding that Registrant is subject to statutory disqualification. 17 C.F.R. § 3.60(a)(4)(i) (2004).

The Division has shown by a preponderance of the evidence: (1) that Registrant is charged with the crimes as set forth in the Notice; (2) that these violations of federal law reflect on his honesty or fitness to act as a fiduciary and are punishable by imprisonment for a term exceeding one year, and (3) that the continued registration of the Registrant poses a threat to the public interest and may impair public confidence in the markets regulated by the Commission.

ORDER

Udo Rotmistrenko's registration shall be suspended effective the date this order becomes final.

Issued this 18th of March, 2005



George H. Painter
Administrative Law Judge

Philip Hinkle, Legal Extern