

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

-against-

4X SOLUTIONS, INC. and WHILEON CHAY,

Defendants.
-----X

13 Civ. 2287 (RMB) (FM)

ORDER

I. Background

The substantive and procedural background of this case are set forth in the comprehensive report and recommendation of Magistrate Judge Frank Maas, dated December 28, 2015 (“Report”).

In summary, 4X Solutions, Inc. and its president, Whileon Chay (collectively, “Defendants”) failed to appear or otherwise respond to the Complaint, dated April 8, 2013, filed by the U.S. Commodity Futures Trading Commission (the “CFTC” or “Plaintiff”). Consequently, on April 17, 2015, Court entered the Final Judgment Order in favor of the CFTC, and referred the case to Magistrate Judge Frank Maas for an inquest concerning the disgorgement amount and civil monetary penalty sought by the CFTC. (Default Judgement, dated April 17, 2015, at 20.) “[T]he CFTC timely served and filed its submission [to Judge Maas], (see ECF Nos. 56-57), but, as in prior stages of this lawsuit, the Defendants failed to respond.” (Report at 2.)

Following the inquest, Judge Maas recommended that a money judgment should be entered against the Defendants, jointly and severally, “in the amount of \$10,980,904, consisting of disgorgement in the amount of \$2,745,226 and a CMP in the amount of \$8,235,678.” (*Id.* at 9.) Judge Maas also recommended that the CFTC be awarded post-judgment interest pursuant to 28 U.S.C. § 1961. (*Id.*)

The Report advised that the “parties shall have fourteen days from the service of this Report and Recommendation to file written objections,” and that “[t]he failure to file these timely objections will result in a waiver of those objections for purposes of appeal.” (Id. at 9-10.) To date, no party has filed objections to the Report.

For the reasons set forth below, the Report is adopted in its entirety.

II. Legal Standard

The Court may adopt those portions of a magistrate judge’s report and recommendation to which no objections have been made and which are not clearly erroneous. See Fed. R. Civ. P. 72(b); DeLeon v. Strack, 234 F.3d 84, 86-87 (2d Cir. 2000); Santana v. United States, 476 F. Supp. 2d 300, 302 (S.D.N.Y. 2007).

III. Analysis

Having conducted a review of the Report, and appropriate authorities, the Court concludes that the Report is not clearly erroneous and appears to be in conformity with the law in all respects.

IV. Conclusion & Order

For the reasons stated herein and in the Report, the Court adopts the Report [#59] in all respects. The Clerk of Court is respectfully requested to enter judgment in favor of Plaintiff and against Defendants, jointly and severally, in the total amount of \$10,980,904, which includes disgorgement in the amount of \$2,745,226 and a civil monetary penalty in the amount of \$8,235,678. Plaintiff is also entitled to post-judgment interest pursuant to 28 U.S.C. § 1961.

The Clerk of Court is further requested to close this case.

Dated: New York, New York
January 29, 2016



RICHARD M. BERMAN, U.S.D.J.