

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

Case No: 6:11-cv-1584-Orl-31DAB

**ALPHA TRADE GROUP, S.A., JOSE
CECILIO MARTINEZ BELTRAN,
WELINTON BAUTISTA CASTILLO,
MARIA ALVAREZ GUTIERREZ,
YEHODIZ PADUA VALENTIN, and
MARIA ASELA RODRIGUEZ**

Defendants.

AMENDED ORDER¹

This cause comes before the Court on Plaintiff's Motions for Judgments (Doc. Nos. 107 and 108) against Defendants, filed February 1, 2013.

On March 27, 2013, the United States Magistrate Judge issued a report (Doc. No. 109) recommending that the motions be granted. No objections have been filed. The Court has considered carefully the Motion for Default Judgments (Doc. No. 107), the Complaint -- the allegations of which are well-pleaded and hereby taken as true for the purposes of the Motion for Default Judgments -- and the exhibits in support thereof, and being fully advised in the premises, finds that there is good cause for the entry of the relief requested and that there is no just reason for delay. Therefore, it is

ORDERED as follows:

¹ This order amends the order previously entered on April 16, 2013 (Doc. No. 110).

1. The Report and Recommendation is **CONFIRMED** and **ADOPTED** as part of this Order.

2. The Motions for Judgment (Doc. Nos. 107 and 108) are **GRANTED**.

3. **Restitution:** Defendants Alpha Trade Group, S.A. (“ATG”), Cecilio Martinez Beltran (“Martinez”) and Welinton Bautista Gutierrez (“Bautista”) shall pay restitution, jointly and severally, of \$1,461,500 plus post-judgment interest within ten days of the date of entry of this Amended Order. Defendant Maria Alvarez Gutierrez (“Gutierrez”) shall pay restitution of \$82,750 plus post-judgment interest within ten days of the date of entry of this Amended Order. Defendant Maria Asela Rodriguez (“Rodriguez”) shall pay restitution of \$49,079.37 plus post-judgment interest within ten days of the date of entry of this Amended Order. Defendant Yehodiz Padua Valentin (“Padua”) shall pay restitution of \$10,383 plus post-judgment interest within ten days of the date of entry of this Amended Order. The interest rate shall be equal to the Treasury Bill rate prevailing on the date of this Amended Order. **The Clerk is directed** to enter judgment in favor of Plaintiff and against Defendants in these amounts.

4. The Court appoints the National Futures Association (“NFA” or “Monitor”) to collect restitution payments from these Defendants and to make distributions as set forth below. Because the NFA is acting as an officer of the Court in performing these services, it shall not be liable for any action or inaction arising from its appointment as Monitor, other than actions involving fraud.

5. Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall make their restitution payments to the Monitor in the name “Alpha Trade Group, S.A. *et al* – Restitution Fund” and shall send such payments by EFT, U.S. Postal money order, certified check, bank cashier’s, or bank money order to the Office of Administration, National Futures Association, 300

South Riverside Plaza, Suite 1800, Chicago Illinois, 60606 under cover letter that identifies the paying Defendant and the name and docket number of this proceeding. They shall also simultaneously transmit copies of the cover letter and form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, D.C. 20581.

6. The Monitor shall oversee the restitution obligations and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Defendants' pool participants identified by the Commission or may defer distribution until such time as the Monitor deems appropriate. If the Monitor determines that the administrative cost of making a distribution to pool participants is impractical, the Monitor may treat the restitution payment as a civil monetary payment and forward it to the Commission.

7. Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall cooperate with the Monitor to identify Defendants' pool participants and shall execute any documents necessary to release funds in any repository, bank, investment or other financial institution to make payment toward their restitution obligations.

8. At the beginning of each calendar year, the Monitor shall provide the Commission with a report detailing the disbursement of funds to Alpha Trade Group, S.A. *et al* Restitution Fund pool participants during the previous year. The Monitor shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, D.C. 20581.

9. The amounts payable to each pool participant shall not limit the ability of any pool participant to prove that a greater amount is owed from or to any participant or entity and shall

nothing herein shall be construed in any way to limit or abridge the rights of any pool participant that exist under state or common law.

10. To the extent that any funds accrue to the U.S. Treasury for satisfaction of the restitution obligations of Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and/or Padua, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

11. **Injunction:** Based upon and in connection with the conduct described in the Motion for Default Judgment, the Complaint, and the exhibits attached thereto, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (Supp. IV 2011), the Commission has shown and the Court finds that:

a. ATG, Martinez, Bautista and Padua engaged in fraudulent sales solicitations and issued false statements to pool participants in connection with futures and off-exchange forex trading, in violation of Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. §6b(a)(1)(A)-(C) (Supp. II 2009), and 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (Supp. II 2009);

b. ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua misappropriated pool participants' funds in connection with futures and off-exchange forex trading, in violation of Section 4b(a)(1)(A), (C) of the Act, 7 U.S.C. § 6b(a)(1)(A), (C) (Supp. II 2009), and 4b(a)(2)(A), (C) of the Act, 7 U.S.C. § 6b(a)(2)(A), (C) (Supp. II 2009);

c. ATG, Martinez, Bautista and Padua, as APs of ATG, engaged in commodity pool fraud in violation of Section 4o(1) of the Act, 7 U.S.C. § 4o1 (2006);

d. ATG engaged in false and misleading advertising in violation of Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011); and Martinez and Bautista are responsible for ATG's

violations as ATG's control persons pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006);

e. ATG, as a CPO, used the mails or instrumentalities of interstate commerce in connection with a commodity pool while failing to register as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006); and Martinez and Bautista are responsible for ATG's failure to register as ATG's control persons pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006);

f. Martinez, Bautista and Padua failed to register as APs of ATG, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006), and Regulation 3.12, 17 C.F.R. § 3.12 (2011); and

g. ATG permitted Martinez, Bautista and Padua to remain associated with ATG notwithstanding that ATG knew that they were required to be registered as APs, and thus ATG also violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006), and Regulation 3.12 (2011), 17 C.F.R. § 3.12 (2011).

12. The totality of the circumstances establish that unless restrained and enjoined by this Court, there is a reasonable likelihood that ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez will continue to engage in the acts and practices detailed in the Complaint and the Motion for Default Judgments and in similar acts and practices in violation of the Act, the Act as amended and the Regulations. Accordingly, Defendants, as described below, are permanently restrained, enjoined, and prohibited from directly or indirectly:

a. Engaging in conduct that violates Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C) (Supp. II 2009) (as to ATG, Martinez, Bautista and Padua);

b. Engaging in conduct that violates Section 4b(a)(2)(A), (C) of the Act, 7 U.S.C. §§ 6b(a)(2)(A),(C) (Supp. II 2009) (Misappropriation) (as to ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua);

c. Engaging in conduct that violates Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006) and Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011) (as to ATG, Martinez, Bautista and Padua);

d. Engaging in conduct that violates Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006), and Regulation 3.12, 17 C.F.R. § 3.12 (2011) (as to Martinez, Bautista and Padua);

e. Engaging in conduct that violates Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006), (as to ATG, Martinez and Bautista);

f. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, 7 U.S.C. § 1a) (Supp. IV 2011) (as to ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez);

g. Entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3 (hh), 17 C.F.R. § 1.3(hh) (2011) (“commodity options”), security futures products, swaps (as that term is defined in Section 1a(47) of the Act, as amended, and as further defined by Commission Regulation 1.3(xxx), 17 C.F.R. § 1.3(xxx)), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(C)(i) (“forex contracts”) for their own personal account or for any account in which they have direct or indirect interest (as to ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez);

h. Having any commodity futures, options on commodity futures, commodity options, security futures products, swaps and/or forex contracts traded on their behalf (as to ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez);

i. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving futures, options on commodity futures, commodity options, security futures products, swaps and/or forex contract (as to ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez);

j. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, security futures products, swaps and/or forex contracts (as to ATG, Martinez, Bautista, Gutierrez, Rodriguez, and Padua);

k. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011) (as to ATG, Martinez, Bautista, Padua, Gutierrez, and Rodriguez); and

l. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a) registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9) (2011) (as to ATG, Martinez, Bautista, Padua, Gutierrez and Rodriguez).

13. **Monetary Penalties: The Clerk is directed** to enter judgment in favor of Plaintiff and against Defendant Alpha Trade Group, S.A. in the amount of \$980,000.00, against Defendant Jose Cecilio Martinez Beltran in the amount of \$980,000.00, against Defendant Welinton Bautista Castillo in the amount of \$980,000.00, against Defendant Yehodiz Padua Valentin in the amount of \$840,000.00, against Defendant Maria Alvarez Gutierrez in the amount of 248,250.00, and against Defendant Maria Asela Rodriguez in the amount of \$147,238.11.

14. Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall pay their respective CMP Obligations 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, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

15. If payment by electronic funds transfer is chosen, Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall accompany payment of the CMP Obligations with a cover letter that identifies the Defendant and the name and docket number of this proceeding. Defendants ATG, Martinez, Bautista, Gutierrez, Rodriguez and Padua shall simultaneously transmit copies of the cover letter and the form of payment to the Chief

Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

16. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment on any of the Defendants' restitution obligations or CMP Obligations shall not be deemed a waiver of his/her/their obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

17. After entry of Judgment, the Clerk is directed to close this file.

DONE and **ORDERED** in Orlando, Florida on June 3, 2013.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties