

ACE

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

<p>U.S. COMMODITY FUTURES TRADING COMMISSION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>JOSEPH A. DAWSON and DAWSON TRADING LLC,</p> <p>Defendants.</p>	<p>Civil Action No. 10-cv-04510</p> <p>Judge: Virginia M. Kendall</p> <p>Magistrate Judge: Jeffrey Cole</p>
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**[PROPOSED] SUPPLEMENTAL CONSENT ORDER IMPOSING A CIVIL
MONETARY PENALTY AGAINST DEFENDANT JOSEPH A. DAWSON**

I. BACKGROUND

On April 26, 2011, this Court entered a Consent Order for Permanent Injunction and Other Ancillary Relief Against Defendant Joseph A. Dawson ("Permanent Injunction Order") finding, *inter alia*, that Defendants Joseph A. Dawson ("Dawson") and Dawson Trading LLC ("DT") (collectively, "Defendants") misappropriated approximately \$2.1 million of DT participant funds. The Permanent Injunction Order found that by this conduct and the additional conduct in which he was found to have engaged, Dawson violated provisions of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1 *et seq.* (2006), and the Act as amended by the Food, Conservation and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 1 *et seq.* The Permanent Injunction Order resolved all outstanding issues against Dawson except the issues of restitution and a civil monetary penalty, which it reserved for further determination.

II. CONSENTS AND AGREEMENTS

To effect settlement of the remaining relief sought in the Complaint against Dawson without a trial on the merits or any further judicial proceedings, Dawson:

1. Consents to the entry of this Supplemental Consent Order Imposing a Civil Monetary Penalty against Defendant Joseph A. Dawson ("Supplemental Order");
2. Affirms that his consent is entered into voluntarily and that no promise or threat has been made by the CFTC or any member, officer, agent, or representative thereof to induce him to consent to this Supplemental Order, other than as specifically contained herein;
3. Waives:
 - A. any and all claims he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2010), relating to, or arising from, this action;
 - B. any and all claims he may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121, §§ 201-253, 110 Stat. 857, 857-868 (1996), as amended by Pub. L. 110-28, § 8302, 121 Stat. 204-205 (2007), relating to, or arising from, this action;
 - C. any and all claims of Double Jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing restitution, a civil monetary penalty, or any other relief; and
 - D. all rights of appeal from this action;
4. Consents to the continued jurisdiction of this Court to implement and carry out the terms of this Supplemental Order and the Permanent Injunction Order, to ensure compliance with this Supplemental Order and the Permanent Injunction Order, for any suitable application or motion for additional relief within the jurisdiction of this Court, and for any other purposes relevant to this action, even if Dawson now or in the future resides outside this District;
5. Agrees that neither he nor any of his agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any

allegation in the complaint or findings or conclusions in this Supplemental Order, or creating, or tending to create, the impression that the Complaint or this Supplemental Order is without a factual basis; provided, however, that nothing in this provision shall affect Dawson's (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Dawson shall take all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement;

6. Agrees that no provision of this Supplemental Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against him in any other proceeding, including any current or subsequent bankruptcy. Furthermore, the allegations made in the Complaint and the findings contained in this Supplemental Order and the Permanent Injunction Order shall be taken as true and correct and be given preclusive effect, without further proof, for the purpose of: (a) any Commission registration proceeding relating to him; (b) any proceeding to enforce the terms of this Supplemental Order or the Permanent Injunction Order; and/or (c) any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States; and

7. Agrees to provide immediate notice to this Court and the CFTC in the manner required by Part V of this Supplemental Order and Part VII of the Permanent Injunction Order of any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States.

IT IS HEREBY ORDERED THAT:

III. RESTITUTION

1. On March 8, 2011, Dawson was sentenced in the matter captioned *United States of America v. Joseph A. Dawson*, No. 09-cr-1037 (N.D. Ill.), and his judgment in that matter included an order of restitution in the amount of \$3,330,874. No further restitution is ordered.

IV. CIVIL MONETARY PENALTY

IT IS FURTHER ORDERED THAT:

2. Section 6c(d) of the Act, 7 U.S.C. § 13a-1(d) (2006), permits the imposition of a civil monetary penalty on any person found to have committed a violation of the Act of up to three times the monetary gain to that person for each violation.

3. Upon the date of entry of this Supplemental Order, Dawson is hereby liable for, and a judgment is entered against him to pay, a civil monetary penalty in the amount of \$2.1 million (\$2,100,000) plus post-judgment interest ("CMP obligation").

4. Post-judgment interest shall accrue on the civil monetary penalty beginning on the date of entry of this Supplemental Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Order pursuant to 28 U.S.C. § 1961.

5. Dawson shall pay the CMP obligation 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, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the following address:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-6569

If payment by electronic funds transfer is chosen, Dawson shall contact Marie Bateman or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Dawson shall accompany payment of the CMP obligation with a cover letter that identifies Dawson and the name and docket number of this proceeding. Dawson shall

simultaneously transmit a copy of the cover letter and the form of payment to: (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; and (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures Trading Commission, at the same address.

6. Any acceptance of the CFTC of partial payment of the CMP obligation shall not be deemed a waiver of Dawson's requirement to make further payments pursuant to this Supplemental Order or a waiver of the CFTC's right to seek to compel Dawson's payment of any remaining balance.

V. NOTICES

IT IS FURTHER ORDERED THAT:

7. All notices required to be given by this Supplemental Order shall be sent via certified mail, return receipt requested, as follows:

Notice to Plaintiff Commission:
Director of the Division of Enforcement
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, D.C. 20581

Notice to Defendant Dawson:
Joseph A. Dawson
28036 North Lakeview Circle
McHenry, IL 60051-7240

VI. CONTINUING JURISDICTION OF THIS COURT

IT IS FURTHER ORDERED THAT:

8. This Court shall retain jurisdiction over this action to implement and carry out the terms of this Supplemental Order and the Permanent Injunction Order, to ensure compliance with this Supplemental Order and the Permanent Injunction Order, for any suitable application or

motion for additional relief within the jurisdiction of this Court, and for any other purposes relevant to this action, even if Dawson now or in the future resides outside this District.

VII. MISCELLANEOUS PROVISIONS

IT IS FURTHER ORDERED THAT:

A. Entire Agreement and Amendments

9. This Supplemental Order and the Permanent Injunction Order incorporate all of the terms and conditions of the settlement between the Commission and Dawson. Nothing shall serve to amend or modify this Supplemental Order and/or the Permanent Injunction Order in any respect whatsoever, unless it is: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

B. Invalidation

10. If any provision of this Supplemental Order or the application of any provision to any persons or circumstances is held to be invalid, the remainder of this Supplemental Order and the application of the provision to any other persons or circumstances shall not be affected by such holding.

C. Waiver

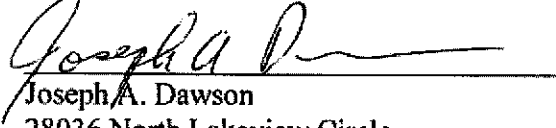
11. The failure of any party hereto at any time to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this Supplemental Order. No waiver in one or more instances of the breach of any provision contained in this Supplemental 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 Supplemental Order.


IT IS SO ORDERED.

Date: 7-5-, 2011


Virginia M. Kendall
United States District Judge

CONSENTED TO AND APPROVED BY:


Joseph A. Dawson
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McHenry, IL 60051-7240


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Senior Trial Attorney
Division of Enforcement
Commodity Futures Trading Commission
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Dated May 19, 2011

Dated May 16, 2011