
**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

U.S. Commodity Futures Trading Commission,)	
)	
Plaintiff,)	Case No. 1:14-cv-755
)	
v.)	Judge Michael R. Barrett
)	
John R. Bullar and Executive Management Advisors L.L.C.,)	
)	
Defendant(s).)	

**CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTY
AND OTHER EQUITABLE RELIEF AGAINST EXECUTIVE MANAGEMENT
ADVISORS L.L.C.**

I. INTRODUCTION

On September 23, 2014, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendant John R. Bullar (“Bullar”) and Executive Management Advisors L.L.C. (“EMA”) or (“Defendants”) seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1-26 (2012), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* (2014).

Bullar and EMA are Debtors in Chapter 7 bankruptcy proceedings pending in the United States Court for the Southern District of Ohio captioned *In re: Executive Management Advisors, et al.*, Case No. 13-14741 and *In re: John R. Bullar* Case No. 13-14740, Jointly Administered Under Case No. 13-14741 (Bankr., S.D. Ohio 2013). Both cases were filed on October 11, 2013 and ordered jointly administered on October 18, 2013 (“Bankruptcy Action”). On October 22,

2013, the Bankruptcy Court approved the appointment of Richard D. Nelson, Esq. ("Nelson") as interim Chapter 7 trustee ("Trustee"), and subsequently as permanent Trustee in the jointly administered bankruptcy cases.

On October 29, 2014, a Waiver of the Service of Summons ("Waiver") was sent to Nelson, as bankruptcy Trustee for EMA pursuant to Rule 4(d) of the Federal Rules of Civil Procedure by overnight UPS delivery. The waiver was executed by Nelson as Trustee on behalf of EMA and was filed with the Court on November 6, 2014. On December 29, 2014, EMA, through Nelson as its Trustee, filed an Answer to the Complaint.

Bullar is also a defendant in a related criminal action entitled *United States of America v. Bullar*, Case No. 1:14-cr-00086-MRB-1, United States District Court for the Southern District of Ohio, filed on August 20, 2014 ("Criminal Action"). In the Criminal Action, Bullar waived indictment and on September 23, 2014, entered a guilty plea to an Information to one count of Wire Fraud, 18 U.S.C. § 1343 and one count of Money Laundering, 18 U.S.C. § 1957.

II. CONSENTS AND AGREEMENTS

To effect settlement of all charges alleged in the Complaint against Defendant EMA without a trial on the merits or any further judicial proceedings, Defendant EMA:

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendant EMA ("Consent Order");
2. Affirms that it has read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, 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 Consent Order;

3. Acknowledges service of the Complaint and the Waiver of the Service of Summons;

4. Admits the jurisdiction of this Court over it and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);

5. Admits the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1-26 (2012);

6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012);

7. Waives:

(a) Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2014), relating to, or arising from, this action;

(b) Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this action;

(c) Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing a civil monetary penalty or any other relief, including this Consent Order; and

(d) Any and all rights of appeal from this action;

8. Consents to the continued jurisdiction of this Court over it for the purpose of implementing and enforcing the terms and conditions of this Consent Order and for any other

purpose relevant to this action, even if EMA now or in the future resides outside the jurisdiction of this Court;

9. Agrees that it will not oppose enforcement of this Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and hereby waives any objection based thereon;

10. Agrees that neither it nor any of its agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect its: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. EMA shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement;

11. By consenting to the entry of this Consent Order, neither admits nor denies the allegations of the Complaint or the Findings of Fact and Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which it admits. Further, EMA agrees and intends that the allegations contained in the Complaint and all of the Findings of Fact and Conclusions of Law contained in this Consent Order shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (a) any proceeding pursuant to Section 8a of the Act, 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 – 3.75 (2014); and/or (b) any proceeding to enforce the terms of this Consent Order. Defendant does not

consent to the use of this Consent Order, or the Findings of Fact and Conclusions of Law in this Consent Order, as the sole basis for any other proceeding brought by the Commission.

12. Agrees that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against EMA in any other proceeding.

III. FINDINGS AND CONCLUSIONS

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, permanent injunction and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), as set forth herein. The findings and conclusions in this Consent Order are not binding on any other party to this action.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

A. Findings of Fact

The Parties To This Consent Order

13. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, 7 U.S.C. §§ 1-26 (2012), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 – 190.10 (2014).

14. Defendant Executive Management Advisors L.L.C. is a limited liability company organized in Ohio on or about March 11, 2009, with a registered office in Cincinnati, Ohio. EMA has never been registered with the Commission in any capacity.

Other Related Entities

15. Executive Management of Greater Cincinnati, LTD (“EMG”) is a limited liability company organized in Ohio with a registered office in Cincinnati, Ohio. EMG has never been registered with the Commission.

16. Priapus Group LLC (“Priapus”) is a limited liability company organized in Ohio with a principal office in Cincinnati, Ohio. Priapus has never been registered with the Commission.

Facts Establishing EMA’s Violations of the Commodity Exchange Act

17. From at least March 11, 2009 through September 2013 (“Relevant Period”), EMA solicited potential investors (“EMA Pool Participants”) located mainly in Cincinnati, Ohio. EMA represented to EMA Pool Participants that their funds would be pooled for the purpose of trading commodity futures and commodity options contracts. The Pool Participants included members of a church group, friends and acquaintances.

18. EMA solicited potential EMA Pool Participants in person, by phone, email or through the mail. EMA represented to EMA Pool Participants that EMA would make the trading decisions for the pool, and EMA falsely held out its principal and/or employee as a successful and exempt commodity trading advisor (“CTA”).

19. EMA held out its principal and/or employee as a highly specialized managed futures trader that had broad experience with trading floors at the Chicago Board of Trade and the Chicago Mercantile Exchange.

20. As a result of these solicitations and representations, approximately 40 EMA Pool Participants invested at least \$8,348,604 with the EMA Pool, some of whom also entered into an EMA Managed Account Agreement (“EMA Investment Agreement”). The EMA Investment

Agreement stated that the Pool Participants “appointed EMA or its authorized agent as [the Pool Participant’s] attorney-in-fact with respect to the account to buy, sell or otherwise trade in commodities, commodity futures contracts [and] ... commodity options” The EMA Investment Agreement also provided that EMA would open accounts for the Pool Participants “through EMA” at a registered futures commission merchant (“FCM”) and that EMA would only be entitled to a monthly incentive fee based on a percentage of the Pool Participants’ trading profits. The incentive fee fluctuated depending on the agreement EMA reached with each Pool Participant. The EMA Investment Agreement did not provide for any other fees to be paid to EMA or for the benefit of its principal and/or employee.

21. EMA directed EMA Pool Participants to send their funds by check or wire into three EMA bank accounts and one EMG bank account (collectively called the “EMA-EMG Bank Accounts”) held at three financial institutions. EMA’s principal was a signatory to all EMA-EMG Bank Accounts.

22. Most of the funds received from the EMA Pool Participants and deposited in the EMA-EMG Bank Accounts for the purpose of trading commodity futures or commodity options contracts were not traded at all. Instead, \$6,209,185 of the EMA Pool Participant funds were misappropriated or embezzled by EMA.

Funds Traded

23. EMA traded a fraction of the funds solicited and obtained from Pool Participants at accounts opened and maintained at FCMs MF Global and R.J. O’Brien (“RJO”) (together, “EMA Trading Accounts”) and misappropriated and embezzled the remainder of the funds.

24. From April 2009 through November 2011, EMA opened and traded five EMA Trading Accounts at MF Global and from November 2011 through July 2013, EMA opened and traded six EMA Trading accounts at RJO.

25. The EMA Trading Accounts traded commodity futures, including indexes, soft commodities, metals, energy, notes, and on exchange currency; and in commodity options contracts, soft commodities, metals, bonds, and on exchange currency were traded.

26. EMA represented to EMA Pool Participants that their trades cleared through MF Global, RJO and Rosenthal Collins ("Rosenthal") through June 2013. Despite representing to EMA Pool Participants that EMA was trading at Rosenthal there was in fact no trading conducted at all by EMA at Rosenthal for at least five years prior to the collapse of this scheme in September 2013.

27. In total, \$786,941.21 was deposited and traded through the EMA Trading Accounts and \$230,155.53 was lost through trading activity and fees. The remaining funds in the EMA Trading Accounts were either returned to the EMA-EMG bank accounts or used for purposes other than the benefit of the EMA Pool Participants.

Material Misrepresentations and Omissions Regarding the Use of Funds

28. EMA knowingly failed to disclose to the EMA Pool Participants that all of their funds would not be invested and traded. Instead, EMA invested only a small portion of their funds and used the remaining amount for its own purposes.

29. EMA knowingly failed to disclose to the EMA Pool Participants that it was misappropriating their funds.

30. EMA provided false account statements to the EMA Pool Participants that showed fictitious profits, account balances and other false information relating to their

investments. Indeed, EMA made these misrepresentations on the account statements to conceal the misappropriation of funds and trading losses from the Pool Participants.

31. EMA knowingly failed to disclose to the EMA Pool Participants that their funds were being used to pay certain Pool Participants their fictitious trading profits and/or withdrawals of their principal.

32. EMA misrepresented to at least some EMA Pool Participants that their funds were being invested through a pool and that they would be receiving an allocation of the profits proportionate to the amount they invested in the pool. This representation was false since any funds the Pool Participants received were mostly, if not fully, paid by the funds contributed by the Pool Participants and not from trading profits. For example, from July 2009 through August 2010, EMA Trading Accounts suffered only trading losses, but EMA made payments of purported profits to at least some EMA Pool Participants from Pool Participant Funds.

33. In short, EMA intentionally or recklessly misrepresented or omitted disclosing to EMA Pool Participants the manner in which their funds were or would be used or traded.

34. Statements and omissions made by EMA set forth above were material misstatements and misrepresentations as well as fraudulent omissions.

Misappropriation and Embezzlement of the EMA Pool Participants' Funds

35. EMA solicited and received at least \$8,348,604 from Pool Participants. Only \$786,941.21 was transferred to EMA Trading Accounts for trading commodity futures and commodity options. A total of \$230,155.53 was lost through trading and fees. EMA returned \$2,334,805.38 to some EMA Pool Participants, of which \$195,385.58 was in excess of the principal the EMA Pool Participants invested. The difference between the amount fraudulently solicited and directly obtained by Bullar, \$8,348,604, and the net amount returned to customers,

\$2,139,419 (total amount returned of \$2,334,805.38 minus the amount returned in excess of EMA Pool Participants' principal, \$195,385.58), is \$6,209,185, the amount misappropriated and embezzled by EMA.

36. Most of the EMA Pool Participants' funds in the EMA-EMG Bank Accounts were used to pay for its principal's personal expenses, to make cash withdrawals, to issue checks to its principal, and to transfer money to its principal's personal accounts, or to two Priapus Accounts -- accounts controlled by EMA's principal and used to purchase property and vehicles, to pay for landscaping and other home improvements.

37. In a manner typical of a Ponzi scheme, EMA also used certain EMA Pool Participant funds to pay for other EMA Pool Participants' withdrawals of principal or fictitious profits.

False Reports of EMA's Trading Performance and the Value of EMA's Investor Accounts

38. Throughout the Relevant Period, EMA sent or caused to be sent to EMA Pool Participants an "Executive Management Advisors L.L.C. Account Statement" ("EMA Account Statement") that purported to show the beginning balance, total gross profit/loss, total deposits/withdrawals, total margin requirements, total open trade positions, and total account ending balance for each Pool Participant.

39. The EMA Account Statements always showed that "total gross profits" increased on a quarterly basis. For example, an EMA Account Statement sent to one EMA Pool Participant showed the following gross profits every quarter for 2012: Q1 2012: \$3,635.00; Q2 2012: \$4,088.00; Q3 2012: 4,387.00 and Q4 2012: \$5,130.00. These gross profits, as well as the "beginning balance" that incorporated these gross profits in the following quarter, were fictitious.

40. Similarly, the EMA Account Statements showed fictitious values for the “Total Account Ending Balance.” For example, the account statement for an EMA Pool Participant listed increases in his “Total Account Ending Balance” from \$315,643.55 in the 2011 fourth quarter to \$454,690.37 in the 2012 fourth quarter. This ending balance was false since it was more than the total amount of EMA Pooled funds in all trading accounts for this very same fourth quarter of 2012, which totaled only \$160,674.19.

41. Also, since at least 2012, EMA sent or caused to be sent to EMA Pool Participants an EMA “Deposit Form” (“EMA Deposit Form”) that purported to show the date when EMA Pool Participant funds were “received by E.M.A.” and the date when the funds were “entered into active trading.” For example, on September 20, 2013, one EMA Pool Participant sent a wire transfer in the amount of \$80,000 to EMA. The EMA Deposit Form received by this Pool Participant showed that this EMA Pool Participant’s funds were “entered into active trading” on September 20, 2013. A review of EMA Trading Accounts shows this to be false. The funds were never deposited into the EMA Trading Accounts.

42. EMA Pool Participants relied on the false information in the EMA Account Statements and as a result made decisions to deposit funds with EMA, decided not to withdraw their investments, and/or made additional investments with EMA. Further, EMA sent, or caused to be sent, the EMA Account Statements and EMA Deposit forms to Pool Participants knowing they contained false information.

Collapse of EMA

43. On March 7, 2013, an EMA Pool Participant made an \$800,000 withdrawal of his investment. To partially fund this request, \$150,000 was withdrawn from one of the EMA

Trading Accounts at RJO. This withdrawal left this EMA Trading Account with a negative total balance of (\$103,366.24).

44. On July 1, 2013, EMA, through its principal, emailed the EMA Trading Account manager at RJO stating that "\$35K" was needed from the accounts and the funds need to be wired "asap."

45. On July 3, 2013, RJO wired \$30,081.50 to one of the EMA-EMG Bank Accounts, leaving four trading accounts with a zero balance, one account with a negative (\$5.00) balance, and one remaining trading account with only \$75.

46. On September 17, 2013, EMA accepted a \$427,293.57 deposit from an EMA Pool Participant ("Participant 1") for the purpose of trading futures and commodity option contracts. Three days later, on September 20, 2013, EMA accepted an \$80,000 deposit from another EMA Pool Participant ("Participant 2"). In both instances, EMA failed to disclose to Participant 1 and Participant 2 that the EMA Trading Accounts were no longer trading. Further, EMA failed to transfer their deposits to the EMA Trading Accounts.

EMA Failed to Register as CPO and CTA

47. During the Relevant Period, without registering as a commodity pool operator ("CPO"), EMA acted as a CPO by engaging in a business that was of the nature of a commodity pool, an investment trust, syndicate, or similar form of enterprise, and, in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodities for future delivery and commodity options, and made use of the mails or any means of interstate commerce in connection with EMA's business as a CPO.

48. During the Relevant Period, without registering as a CTA, EMA also acted as a CTA by engaging in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery and advisability of trading in any commodity options for compensation or profit. Further, the mails or any means of interstate commerce were used in connection with EMA's business as a CTA.

B. Conclusions of Law

Jurisdiction and Venue

49. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), which provides that whenever it shall appear to the Commission that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order promulgated thereunder, the Commission may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

50. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because the Defendant resides in this jurisdiction and the acts and practices in violation of the Act occurred within this District.

Embezzlement, Stealing, Purloining and Converting of EMA Pool Participant' Funds in Violation of Section 9(a)(1) of the Act

51. By the conduct described in paragraphs 1 through 50 above, while required to be registered under the Act as a CPO and CTA, EMA embezzled, stole, purloined, or with criminal intent converted to its own use, money, securities, or property having a value in excess of \$100,

which was received from any customer, client, or pool participant in connection with the business of EMA in violation of Section 9(a)(1) of the Act, 7 U.S.C. § 13(a)(1) (2012).

Fraud by Omissions, Misrepresentations, False Account Statements and Misappropriation of EMA Pool Participants' Funds

52. By the conduct described in paragraphs 1 through 51 above, EMA cheated or defrauded or attempted to cheat or defraud other persons, willfully made or caused to be made to other persons any false report or statement or willfully entered or caused to be entered for the other person any false record, and willfully deceived or attempted to deceive other persons in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person by fraudulently soliciting prospective and existing EMA Pool Participants, providing them with false account statements and by misappropriating and embezzling their funds in violation of Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C) (2012).

Commodity Options Fraud

53. By the conduct described in paragraphs 1 through 52 above, EMA cheated or defrauded or attempted to cheat or defraud other persons, made or caused to be made to any other person any false report or statement thereof, or willfully deceived or attempted to deceive other persons in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction, by fraudulently soliciting prospective and existing EMA Pool Participants, providing them with false account statements and by misappropriating and embezzling their funds in violation of Section 4c(b) of the Act, 7 U.S. C. § 6c(b) (2006), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2013).

Fraud by a Commodity Pool Operator and Commodity Trading Advisor

54. By the conduct described in paragraphs 1 through 53 above, EMA, by use of the mails or other means or instrumentalities of interstate commerce, while acting as a CPO and a CTA, directly or indirectly employed a device, scheme, or artifice to defraud investors or engaged in transactions, practices, or a course of business which operated as a fraud or deceit upon EMA Pool Participants by, among other things, fraudulently soliciting prospective and existing EMA Pool Participants, providing them with false EMA Account Statements and EMA Deposit Forms, and by misappropriating and embezzling their funds in violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006).

Failure to Register as a CPO and a CTA

55. By the conduct described in paragraphs 1 through 54 above, EMA without being exempt from registering as a CPO, engaged in a business that was of the nature of a commodity pool, an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading any commodity for future delivery or commodity options authorized under Section 4c of the Act, 7 U.S. C. § 6c (2012), thus making it a CPO as defined by Section 1a(11) of the Act, 7 U.S.C. §1a(11) (2012).

56. By the conduct described in paragraphs 1 through 55 above, EMA, without being exempt from registering as a CTA, for compensation or profit, engaged in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery

or commodity options authorized under Section 4c of the Act, 7 U.S. C. § 6c (2012), thus making it a CTA as defined by Section 1a(12) of the Act, 7 U.S.C. §1a(12) (2006 & Supp. IV 2011).

57. During the Relevant Period, EMA made use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO and/or CTA, while failing to register with the Commission as a CPO and/ or CTA, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

58. Unless restrained and enjoined by this Court, there is a reasonable likelihood that EMA will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the Act and Regulations.

IV. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

59. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), EMA is permanently restrained, enjoined and prohibited from directly or indirectly:

- a. embezzling, stealing, purloining, or with criminal intent converting to its own use or to the use of another, while registered or required to be registered under the Act, money, securities, or property having a value in excess of \$100, which was received from any customer, client, or pool participant in connection with the business of EMA in violation of Section 9(a)(1) of the Act, 7 U.S.C. § 13(a)(1) (2012).
- b. cheating or defrauding or attempting to cheat or defraud other persons, willfully making or causing to be made to other persons any false report or statement or willfully entering or causing to be entered for another person any false record, or

willfully deceiving or attempting to deceive other persons in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person in violation of Sections 4b(a)(1)(A)-(C) of the Act 7 U.S.C. §§ 6b(a)(1)(A)-(C)(2012).

- c. cheating or defrauding or attempting to cheat or defraud any other person, making or causing to be made to any other person any false report or statement thereof or cause to be entered for any other person any false record thereof, or deceiving or attempting to deceive any other person by any means whatsoever in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction in violation of Section 4c(b) of the Act, 7 U.S. C. § 6c(b) (2012), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2014).
- d. by use of the mails or any means or instrumentality of interstate commerce, while acting as a CTA, associated person of a CTA, CPO or associated person of a CPO, employing a device, scheme, or artifice to defraud any client or participant or prospective client or participant or engaging in any transaction, practice, or a course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant in violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2012).
- e. making use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CTA and/ or CPO, while failing to register with

the Commission as a CTA and/ or a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

60. EMA is also permanently restrained, enjoined and prohibited from directly or indirectly:
 - a. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));
 - b. Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2014) for its own personal account or for any account in which it has a direct or indirect interest;
 - c. Having any commodity interests traded on its behalf;
 - d. 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 commodity interests;
 - e. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
 - f. 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) (2014); and/or
 - g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2014)), agent or any other officer or employee of any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)), registered,

exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2014).

V. RESTITUTION, DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Restitution

61. EMA shall pay restitution in the amount of six million two hundred nine thousand one hundred eighty five dollars (\$6,209,185) ("Restitution Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012). The redacted names of the EMA Pool Participants and the amount owed to each are attached as Exhibit A to this Consent Order, which is hereby incorporated as if fully set forth herein (the "List"). An unredacted List has also been provided to Chambers for in camera review, to the parties in this case, and to the Court Appointed Monitor. The unredacted List is also incorporated by reference as if fully set forth herein.

62. Defendant Bullar is currently the defendant in the Criminal Action and Bullar and EMA are the Debtors in the Bankruptcy Action referenced above. For amounts disbursed to the EMA Pool Participants as a result of satisfaction of any restitution ordered in the Criminal Action and/or amounts disbursed to EMA Pool Participants in the Bankruptcy Action, EMA shall receive a dollar-for-dollar credit against its Restitution Obligation only if those disbursements made in the Criminal Action and/or in the Bankruptcy Action were for amounts owed to the same EMA Pool Participants and for the Relevant Period identified in paragraph 17 of this Consent Order. Restitution payments made by Bullar for amounts owed to EMA Pool Participants prior to the Relevant Period will not receive any credit against EMA's Restitution

Obligation. Within ten (10) days of disbursement in the Criminal Action or the Bankruptcy Action to the EMA Pool Participants, EMA shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, copies of the form of payment to those pool participants.

63. To effect payment of the Restitution Obligation and the distribution of any restitution payments to EMA Pool Participants, the Court appoints the National Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall collect restitution payments from EMA and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the NFA shall not be liable for any action or inaction arising from NFA's appointment as Monitor, other than actions involving fraud.

64. EMA shall make Restitution Obligation payments under this Consent Order to the Monitor in the name "EMA SETTLEMENT/ RESTITUTION Fund" and shall send such Restitution Obligation payments by electronic funds transfer, or by 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 EMA, as payor, and the name and docket number of this proceeding. EMA 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.

65. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to EMA Pool Participants identified by the Commission or may defer distribution until such time as the

Monitor deems appropriate. In the event that the amount of Restitution Obligation payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a distribution to eligible EMA Pool Participants is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part B below.

66. EMA shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify EMA Pool Participants to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. EMA shall execute any documents necessary to release funds that it has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.

67. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to EMA 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 Centre, 1155 21st Street, NW, Washington, D.C. 20581.

68. The amounts payable to each EMA Pool Participant shall not limit the ability of any EMA Pool Participant to prove that a greater amount is owed from EMA or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any EMA Pool Participant that exist under state or common law.

69. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each EMA Pool Participant who suffered a loss is explicitly made an intended third-party beneficiary of this

Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by EMA to ensure continued compliance with any provision of this Consent Order and to hold EMA in contempt for any violations of any provision of this Consent Order.

B. Civil Monetary Penalty

70. EMA shall pay a civil monetary penalty in the amount of six million two hundred nine thousand one hundred eighty five dollars (\$6,209,185) ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

71. EMA shall pay its 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, 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
DOT/FAA/MMAC/AMZ-341
CFTC/CPSC/SEC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

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

C. Provisions Related to Monetary Sanctions

72. **Partial Satisfaction:** Acceptance by the Commission or the Monitor of any partial payment of EMA's Restitution Obligation or CMP Obligation shall not be deemed a waiver its obligation to make further payments pursuant to this Consent Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

D. Cooperation

73. EMA shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.

E. Provisions Related to the Bankruptcy Estates of Bullar and EMA

74. Notwithstanding any other provision of this Consent Order, the Trustee's administration of the bankruptcy estates of Bullar and EMA shall not be prohibited or restricted by this Consent Order, and nothing in this Consent Order is intended to limit or constrain or alter the Trustee's fulfillment of his responsibilities and duties as Trustee under the laws of the United States, the Bankruptcy Code and/or the Orders of the United States Bankruptcy Court including, but not limited to, those duties related to the maintenance, preservation, marshaling and distribution of the assets of Bullar and/or EMA in accordance with the above authority.

VI. MISCELLANEOUS PROVISIONS

75. **Notice:** 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:

**Manal M. Sultan, Deputy Director
Division of Enforcement
U.S. Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005**

All such notices to the Commission shall reference the name and docket number of this action.

Notice to Defendant EMA:

**Executive Management Advisors L.L.C.
c/o Richard D. Nelson, Bankruptcy Trustee
for Executive Management Advisors L.L.C.
Cohen, Todd, Kite & Stanford, LLC
250 East Fifth St., Suite 2350
Cincinnati, OH 45202**

76. Change of Address/Phone: Until such time as EMA satisfies in full its Restitution Obligation, and CMP Obligation as set forth in this Consent Order, EMA shall provide written notice to the Commission by certified mail of any change to the telephone number and mailing address listed above in paragraph 75 within ten (10) calendar days of the change.

77. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

78. Invalidation: If any provision of this Consent Order or if the application of any provision or circumstance is held invalid, then the remainder of this Consent Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

79. Waiver: The failure of any party to this Consent Order or of any EMA Pool Participant at any time to require performance of any provision of this Consent Order shall in no

manner affect the right of the party or the EMA Pool Participant at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent 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 Consent Order.

80. **Continuing Jurisdiction of this Court:** This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by EMA to modify or for relief from the terms of this Consent Order.

81. **Injunctive and Equitable Relief Provisions:** The injunctive and equitable relief provisions of this Consent Order shall be binding upon EMA, upon any person under its authority or control, and upon any person who receives actual notice of this Consent Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with EMA.

82. **Authority:** Richard D. Nelson hereby warrants that he is the duly appointed bankruptcy Trustee for EMA, and that this Consent Order has been duly authorized by EMA and he has been duly empowered to sign and submit this Consent Order on behalf of EMA.

83. **Counterparts and Facsimile Execution:** This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Consent

Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.

84. Contempt: EMA understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings it may not challenge the validity of this Consent Order.

85. Agreements and Undertakings: EMA shall comply with all of the undertakings and agreements set forth in this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this *Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Executive Management Advisors L.L.C.* forthwith and without further notice.

IT IS SO ORDERED on this 24th day of September, 2015.

s/ Michael R. Barrett
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:

Richard D. Nelson
By: Richard D. Nelson
Attorneys and Bankruptcy Trustee for
Executive Management Advisors L.L.C.
Cohen, Todd, Kite & Stanford, LLC
250 East Fifth St., Suite 2350
Cincinnati, OH 45202

Date: *7/27/15*

Xavier Romeu-Matta
Xavier Romeu-Matta
Trial Attorney
Steven I. Ringer
Chief Trial Attorney
Manal M. Sultan
Deputy Director
U.S. Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005
(646) 746-9700
(646) 746-9940 facsimile
Xromeu-matta@cftc.gov

Approved as to form:
Richard D. Nelson
Richard D. Nelson
Attorney for Richard D. Nelson
Bankruptcy Trustee for
Executive Management Advisors L.L.C.
Cohen, Todd, Kite & Stanford, LLC
250 East Fifth St., Suite 2350
Cincinnati, OH 45202

Dated *7/27/15* *9/17/15*

877029.1

Pool Participant Restitution Table for 2008-2013

Victim Number	Pool Participant Name	Amount Owed
1		\$63,000.00
2		\$30,000.00
3		\$69,000.00
4		\$300,000.00
5		\$700.00
6		\$181,533.99
7		\$10,000.00
8		\$0.00
9		\$0.00
10		\$96,344.00
11		\$10,000.00
12		\$63,180.00
13		\$28,236.00
14		\$0.00
15		\$427,293.57
16		\$0.00
17		\$63,500.00
18		\$0.00
19		\$100,000.00
20		\$0.00
21		\$65,000.00
22		\$13,500.00
23		\$28,676.24
24		\$200,000.00
25		\$42,774.00
26		\$0.00
27		\$215,050.00
28		\$0.00
29		\$527,915.21
30		\$395,000.00
31		\$20,000.00
32		\$20,000.00
33		\$0.00
34		\$0.00
35		\$10,000.00
36		\$102,206.01
37		\$0.00
38		\$44,000.00
39		\$0.00
40		\$3,082,276.09
TOTAL		\$6,209,185.11