

Commodity Exchange Act, as Amended, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledge service of this Order.¹

III.

The Commission finds the following:

A. SUMMARY

Since July 16, 2011, all Retail Commodity Transactions must be conducted on, or subject to, the rules of a board of trade that has been designated or registered by the Commission as a contract market or derivatives transaction execution facility in compliance with Section 4(a) of the Act, pursuant to Section 2(c)(2)(D)(iii) of the Act, 7 U.S.C. § 2(c)(2)(D)(iii). From July 16, 2011, until at least June 20, 2012, the Respondents offered and entered into off-exchange Retail Commodity Transactions in violation of Section 4(a) of the Act. They also violated Section 4b of the Act by misrepresenting the potential profits and past performance of these transactions and failing to disclose the commissions and fees to their customers as well as the fact that over 95% of customers lost money on their investments.

B. RESPONDENTS

Joseph Glenn Commodities LLC (“Joseph Glenn”) is a Florida corporation that offered to enter into, entered into, and conducted an office or business for the purpose of offering and entering Retail Commodity Transactions. Joseph Glenn was located at 7700 Congress Avenue, Suite 3202, Boca Raton, FL 33487. It has never been registered with the Commission.

JGCF LLC (“JGCF”) is a Florida corporation that purportedly provided financing to Joseph Glenn customers in connection with Joseph Glenn’s Retail Commodity Transactions. JGCF was located at 48 Lariat Circle, Boca Raton, FL, 33487. It has never been registered with the Commission.

Scott Newcom (“Newcom”) and **Anthony Pulieri** (“Pulieri”) are the sole owners and principals of Joseph Glenn and JGCF. Pulieri has never been registered with the Commission and Newcom was registered as a floor broker from 1998 to 2003.

C. OTHER RELEVANT PARTY

Hunter Wise Commodities LLC (“Hunter Wise”) is a Nevada company that holds itself out on its website as “a physical commodity trading company, wholesaler, market maker, back-

¹ Respondents consent to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondents do not consent to the use of the Offer, or the findings or conclusions in this Order consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor do Respondents consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

office support provider, and finance company.” Hunter Wise offers, enters into, and confirms the execution of Retail Commodity Transactions involving gold, silver, platinum, palladium and copper throughout the United States using a network of telemarketing solicitors such as Joseph Glenn that it refers to as “dealers.”

D. **FACTS**

In November of 2010, Joseph Glenn Commodities LLC, Newcom, and Pulieri entered into an agreement with Hunter Wise to act as one of Hunter Wise’s dealers. Subsequently, the Respondents solicited retail customers, generally by telephone or through their website, to enter into Retail Commodity Transactions as part of a “leveraged program.” Respondents represented to prospective customers that: (1) the customer could purchase physical commodities, including gold, silver, copper, platinum, or palladium, by paying as little as 20% of the purchase price; (2) customers would receive a loan for the remaining portion of the purchase price on which the customer would be charged interest; and (3) upon confirmation of the customer’s purchase, the physical commodity the customer purchased would be stored at an independent depository on the customer’s behalf in an account in the customer’s name. These representations were based upon representations Hunter Wise made to Respondents about Hunter Wise’s operations. However, when retail customers placed orders to enter into Retail Commodity Transactions, the Respondents did not purchase physical commodities on the customers’ behalf, provide loans to customers for the remaining portion of the purchase price, or store any physical commodities for customers. Instead, the Respondents simply passed all the details of the purchase, customer payments, and financing on to Hunter Wise, whose existence the Respondents did not disclose to retail customers.

Similarly, Hunter Wise did not purchase or sell physical commodities, arrange for or provide loans, or store physical commodities in independent depositories in connection with Respondents’ customers’ Retail Commodity Transactions. Instead, when Hunter Wise received a customer order from Respondents, Hunter Wise made a book entry in its electronic database reflecting the transaction details, including the amount of the purported loan to the customer. Hunter Wise aggregated the customer payments received from Respondents with funds received from other similar dealers, and deposited those funds into bank accounts in Hunter Wise’s name. Hunter Wise then typically transferred a portion of those funds to margin trading accounts held in the name of Hunter Wise. Hunter Wise did not purchase or store physical commodities through these margin trading accounts, and neither Respondents nor their retail customers had any direct interest in these accounts.

The Respondents’ retail customers never owned, possessed, or received title to the physical commodities that they believed they purchased, no funds were expended by Respondents or Hunter Wise to purchase physical commodities for the customers, and no physical commodities were stored for the customers.

The Respondents misrepresented the potential profits and past performance of the Retail Commodity Transactions. Respondents informed potential customers that they would achieve rates of return “far beyond” what they had ever seen before and that Respondents had always made money for their clients in the past, despite the fact that a majority of their customers lost money.

The Respondents also failed to disclose the commissions, service, and interest fees to potential customers. They also failed to inform potential customers that over 95% of their previous customers lost money after the assessment of commission, service, and interest fees, which sometimes totaled as much as 33% of the customers' initial investments.

The Respondents terminated their business relationship with Hunter Wise in early summer 2012. Upon liquidating the customer accounts, Hunter Wise returned the existing customer balances to the Respondents, which represented the total of the existing customers' account balances at liquidation. However, as of the date of this Order, Respondents had not, in turn, returned \$331,308.53 of these funds to certain customers.

IV.

LEGAL DISCUSSION

A. Relevant Statutory Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, 124 Stat. 1376 (2010) (“the Dodd-Frank Act”) amended the Commodity Exchange Act to add, among other things, new authority over certain leveraged, margined or financed Retail Commodity Transactions, including authority to prohibit fraud in connection with such transactions in interstate commerce.

Section 742(a) of the Dodd Frank Act added Section 2(c)(2)(D) to the Act.² Section 2(c)(2)(D) broadly applies to any agreement, contract, or transaction in any commodity that is entered into with, or offered to (even if not entered into with), a non-eligible contract participant (“ECP”)³ or non-eligible commercial entity on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis. 7 U.S.C. § 2(c)(2)(D)(i). Section 2(c)(2)(D) further provides that such an agreement, contract, or transaction shall be subject to sections 4(a), 4(b), and 4b of the Act “as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery.” 7 U.S.C. § 2(c)(2)(D)(iii).

Section 2(c)(2)(D)(ii) of the Act excepts certain transactions from Section 2(c)(2)(D). Section 2(c)(2)(D)(ii)(III)(aa) excepts a contract of sale that “results in actual delivery within 28 days or such other longer period as the Commission may determine by rule or regulation based

² Section 2(c)(2)(D) of the Act became effective July 16, 2011.

³ As is relevant to this matter, Section 1a(18)(xi) of the Act defines an eligible contract participant as an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 and who enters into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.

upon the typical commercial practice in cash or spot markets for the commodity involved.”⁴ Section 2(c)(2)(D)(ii)(III)(bb) excepts a contract of sale that creates an enforceable obligation to deliver between a seller and a buyer that have the ability to deliver and accept delivery, respectively in connection with the line of business of the seller and buyer.

The Commission has stated that it is the view of the Commission that the determination of whether “actual delivery” has occurred within the meaning of Section 2(c)(2)(D)(ii)(III)(aa) requires a consideration of evidence beyond the four corners of the contract documents. This interpretation of the statutory language is based on Congress’s use of the word “actual” to modify “delivery” and on the legislative history of Section 2(c)(2)(D)(ii)(III)(aa). Consistent with this interpretation, in determining whether actual delivery has occurred within 28 days, the Commission will employ a functional approach and examine how the agreement, contract, or transaction is marketed, managed, and performed, instead of relying solely on language used by the parties in the agreement, contract, or transaction.⁵ Further, it is the view of the Commission that unless the Commission provides otherwise, the 28 days for actual delivery is 28 days from the date the agreement, contract, or transaction is confirmed to the buyer or seller, typically, a retail customer.

Other than these exceptions, Congress did not express any intent to limit the reach of Section 2(c)(2)(D). Rather, in enacting the statute Congress expressed its intent that Section 2(c)(2)(D) should be applicable to a broad range of agreements, contracts and transactions.

The Commission intends to give the fullest possible expression to the words used by Congress in enacting Section 2(c)(2)(D) of the Act and apply the statute to all agreements, contracts and transactions entered into with, or offered to, non-ECPs on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis, as those terms are commonly used in the industry. Nowhere did Congress express an intent to limit Section 2(c)(2)(D)’s application to any previously defined contract or transaction. Specifically, nowhere did Congress express an intent to limit the applicability of Section 2(c)(2)(D) to contracts or transactions previously described as “leverage transactions” in Commission Regulation 31.4(w), 17 C.F.R. § 31.4(w) (2012).

B. The Commission Has Jurisdiction Over the Respondents’ Transactions

In the Respondents’ transactions, customers pay 20% of the purchase price and Respondents purport to provide financing for the remainder of the purchase. Thus, the transactions are clearly “entered into with, or offered to (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.”

⁴ The Commission has not adopted any regulations permitting a longer actual delivery period for any commodity pursuant to new CEA section 2(c)(2)(D)(ii)(III)(aa). Consequently, the 28-day actual delivery period set forth in this provision remains applicable to all commodities.

⁵ See, *Retail Commodity Transactions Under Commodity Exchange Act*, 77670 Fed. Reg. Vol. 76 No. 240 (Dec. 14, 2011).

The Respondents' retail customers have not invested amounts on a discretionary basis, the aggregate of which are in excess of \$5,000,000 and or entered into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred. Accordingly, the Respondents' retail customers are non-ECPs and the Respondents are offering and entering into off-exchange agreements, contracts, or transactions in leveraged, margined, or financed commodities involving precious metals with persons who are not ECPs.

Consequently, it is clear that the Respondents' transactions fall squarely within Section 2(c)(2)(D) of the Act as agreements, contracts or transactions in leveraged, margined, or financed commodities involving precious metals with persons who are not ECPs as defined by the Act.

It is also clear that the Respondents' transactions do not fall under either of the exceptions provided in Section 2(c)(2)(D)(ii)(III) of the Act. A careful examination of the manner in which the Respondents' Retail Commodity Transactions were marketed, managed, and performed reveals that the Respondents did not "actually deliver" any commodities in connection with their customers' Retail Commodity Transactions: Neither the Respondents nor Hunter Wise purchased, sold, owned, or stored physical metals, nor did they possess or transfer title to any physical metals, in connection with their Retail Commodity Transactions. Accordingly, the Respondents' Retail Commodity Transactions did not result in actual delivery of any commodities, and the exception contained in Section 2(c)(2)(D)(ii)(III)(aa) of the Act does not apply.

The Respondents' transactions do not fall within the exception contained in Section 2(c)(2)(D)(ii)(III)(bb) of the Act either. The Respondents' transactions are not in connection with any line of business of the Respondents' retail customers. Section 2(c)(2)(D)(ii)(III)(bb) is thus inapplicable.

C. Joseph Glenn and JGCF, acting directly and through their Agents and Employees, and Newcom and Pulieri Violated Section 4(a) of the Act

Pursuant to Section 2(c)(2)(D)(iii) of the Act, the Respondents' Retail Commodity Transactions are subject to Section 4(a) of the Act. Section 4(a) of the Act, in relevant part, makes it illegal for any person to offer to enter into, enter into, execute, confirm the execution of, or conduct any office or business anywhere in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, commodity futures, unless the transaction is conducted on, or subject to, the rules of a board of trade that has been designated or registered by the Commission as a contract market or derivatives transaction execution facility.

The Respondents offered to enter into the transactions, entered into transactions and confirmed the execution of transactions that were not conducted on, or subject to, the rules of a board of trade that has been designated or registered by the Commission as a contract market or derivatives transaction execution facility. In addition, the Respondents conducted an office or business in the United States for the purpose of soliciting and accepting orders from customers for these transactions. Accordingly, Joseph Glenn and JGCF, acting through their agents and employees, and Newcom and Pulieri violated Section 4(a) of the Act.

D. Joseph Glenn and JGCF, acting directly and through their Agents and Employees, and Newcom and Pulieri Violated Section 4b of the Act

Pursuant to Section 2(c)(2)(D)(iii) of the Act, the Respondents' Retail Commodity Transactions are subject to Section 4b of the Act. Section 4b(a)(2)(A,C) of the Act, in relevant part, makes it illegal for any person to cheat or defraud or attempt to cheat or defraud another person in connection with any contract of sale of any commodity in interstate commerce.

Fraudulent solicitation of prospective customers violates Section 4b(a) of the Act. To establish solicitation fraud, the Commission must prove that; (1) a misrepresentation has occurred; (2) with scienter; and (3) the misrepresentation was material. *CFTC v. R.J. Fitzgerald & Co.*, 310 F.3d 1321, 1328-29 (11th Cir. 2002) *cert. denied*, 543 U.S. 1034 (2004). "Whether a misrepresentation has been made depends on the overall message and the common understanding of the information conveyed." *R.J. Fitzgerald & Co.*, 310 F.3d at 1328 (internal quotation marks and citation omitted). A statement or omission is material if "a reasonable customer would consider it important in deciding whether to make an investment." *Id.* at 1328-29. "Scienter requires proof that an individual committed the alleged wrongful acts intentionally or with reckless disregard for his duties under the Act." *CFTC v. Rolando*, 589 F. Supp. 2d 159, 169-170 (D. Conn. 2008) (*citing Lawrence v. CFTC*, 759 F.2d 767, 773 (9th Cir. 1985) and *Drexel Burnham Lambert, Inc. v. CFTC*, 850 F.2d 742, 748 (D.C. Cir. 1988); *Do v. Lind-Waldock & Co.* [1994-1996 Transfer Binder] *Comm. Fut. L. Rep. (CCH)* ¶ 26, 516, 1995 CFTC LEXIS 247, at *4 (CFTC Sept. 27, 1995) (determining that a reckless act is one that "departs so far from the standards of ordinary care that it is very difficult to believe the [actor] was not aware of what he was doing") (*quoting Drexel Burnham Lambert*, 850 F.2d at 848); *see also CFTC v. Noble Metals Int'l, Inc.*, 67 F.3d 766, 774 (9th Cir. 1995) ("Mere negligence, mistake, or inadvertence fails to meet Section 4b's scienter requirement.").

In their solicitations of the Joseph Glenn customers, Respondents represented to potential customers that they would earn greater returns than they had ever earned before and that investments by existing customers had been profitable, knowing that over 95% of existing customers had lost money. Respondents also failed to disclose commissions, service, and interest fees to customers. A reasonable customer would consider the profitability of the investment and related fees material to their decision to invest with Respondents. Accordingly, Joseph Glenn and JGCF, acting through their agents and employees, and Newcom and Pulieri engaged in fraudulent solicitation in violation of Section 4b(a)(2)(A,C).

E. Respondents Newcom and Pulieri were Controlling Persons of Joseph Glenn and JGCF and Knowingly Induced, Directly or Indirectly, Joseph Glenn and JGCF's Violations

Section 13(b), 7 U.S.C. § 13c(b), provides that: "Any person who, directly or indirectly, controls any person who has violated any provision of this Act, or any of the rules, regulations or orders issued pursuant to this Act may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation."

A “fundamental purpose” of the statute is “to reach behind the corporate entity to the controlling individuals of the corporation and to impose liability for violations of the Act directly on such individuals as well as on the corporation itself.” *R.J. Fitzgerald & Co.*, 310 F.3d at 1334; *JCC, Inc. v. CFTC*, 63 F.3d 1557, 1567 (11th Cir. 1995). The statute is construed liberally and even indirect means of discipline or influence, short of actual direction, is sufficient to find liability as a controlling person. *Monieson v. CFTC*, 996 F. 2d 852, 859 (7th Cir. 1993) (“Control person liability will attach if a person possessed the power or ability to control the specific transaction or activity upon which the primary violation was predicated, even if such power was not exercised.”); *R.J. Fitzgerald*, 310 F.3d at 1334.

Whether a respondent possessed the requisite control over the operations in question is a determination of fact, based upon the totality of the circumstances, including an appraisal of the influence upon management and policies of a corporation by the alleged controlling person. *CFTC v. Baragosh*, 278 F.3d 319 at 330 (4th Cir. 2002) (reversing grant of summary judgment); *CFTC v. AVCO Financial Corp.*, 28 F.Supp.2d 104, 117 (SDNY 1998), *aff’d in relevant part CFTC v. Vartuli*, 228 F.3d 94 (2d Cir. 2000).

Newcom and Pulieri were the sole managers and principals of both Joseph Glenn and JGCF. They were responsible for and approved Joseph Glenn and JGCF’s operations including the Respondents’ offering to enter into the transactions, entering into the transactions and confirming the execution of the transactions. Accordingly, Newcom and Pulieri were controlling persons of Joseph Glenn and JGCF within the meaning of Section 13(b) of the Act.

There is no dispute that Newcom and Pulieri were aware of and knew Joseph Glenn and JGCF’s business including that Joseph Glenn was: (1) offering to enter into, entering into and confirming the execution of the transactions; and (2) making misrepresentations to customers. Consequently, they knowingly induced, directly or indirectly, Joseph Glenn and JGCF’s violations. See, *In the Matter of FNTC, et al.*, [1992 – 1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,142 at 41,787 (CFTC July 20, 1994), *aff’d without opinion sub nom. Pick v. CFTC*, 99 F.3d 1139 (6th Cir. 1996).

F. Respondents Joseph Glenn and JGCF are Vicariously Liable for the Violations of the Act and Regulations

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(b) (Supp. III 2009), and Regulation 1.2, 17 C.F.R. § 1.2 (2011), provide that the act, omission or failure of any official, agent or other person acting for any individual, association, partnership, corporation or trust within the scope of his employment or office shall be deemed the act, omission or failure of such individual, association, partnership, corporation or trust, as well as such official, agent or other person.

The foregoing acts, omissions, and failures of Newcom and Pulieri occurred within the scope of their employment, office, or agency with Joseph Glenn and JGCF; therefore pursuant to Section 2(a)(1)(B) of the Act, and Regulation 1.2, Joseph Glenn and JGCF are liable for Joseph Glenn and JGCF’s acts, omissions, and failures in violation of Sections 4(a) and 4b of the Act.

FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Joseph Glenn Commodities LLC, JGCF LLC, Scott Newcom, and Anthony Pulieri violated Sections 4(a) and 4b of the Act, 7 U.S.C § 6(a) and 6b.

V.

OFFER OF SETTLEMENT

Respondents have submitted an Offer in which they, without admitting or denying the findings and conclusions herein:

- A. Acknowledge receipt of service of this Order;
- B. Admit the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waive:
 - 1. the filing and service of a complaint and notice of hearing;
 - 2. a hearing;
 - 3. all post-hearing procedures;
 - 4. judicial review by any court;
 - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - 6. any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;
 - 7. any and all claims that they 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 proceeding; and
 - 8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

- D. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer;
- E. Consent, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. makes findings by the Commission that Respondents violated Sections 4(a) and 4b of the Act;
 2. orders Respondents to cease and desist from violating Sections 4(a) and 4b of the Act;
 3. orders Respondents to pay the \$331,308.53 which Hunter Wise previously returned to Joseph Glenn to those customers who had remaining liquidated balances in their accounts, as set out in Schedule A of this Order;
 4. orders Respondents, jointly and severally, to pay restitution to customers in the amount of \$635,457.44, plus post-judgment interest, as set out in Schedule A of this Order;
 5. orders Anthony Pulieri to pay a civil monetary penalty in the amount of \$100,000, plus post-judgment interest;
 6. appoints the National Futures Association ("NFA") as Monitor in this matter;
 7. orders Respondents to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondents shall cease and desist from violating Sections 4(a) and 4b of the Act, as amended, 7 U.S.C. §§ 6(a) and 6b.
- B. Respondents, jointly and severally, shall pay restitution in the amount of six hundred and thirty-five thousand, four hundred fifty seven dollars and forty-four cents (\$635,457.44) within ten (10) days of the date of entry of this Order ("Restitution Obligation"). Post-judgment interest shall accrue on the Restitution Obligation beginning ten days after entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006).

Respondents, jointly and severally, shall pay the three hundred thirty-one thousand, three hundred and eight dollars and fifty-three cents (\$331,308.53) that Hunter Wise previously returned to Joseph Glenn to customers with remaining liquidated balances in their

accounts (“Liquidated Balance Obligation”). This obligation is to be paid from funds already escrowed for this purpose.

To effect payment by Respondents and the distribution of liquidated balances and restitution to Respondents’ customers, the Commission appoints the NFA as “Monitor.” The Monitor shall collect payments of the Restitution Obligation and Liquidated Balance Obligation from Respondents and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, it shall not be liable for any action or inaction arising from its appointment as Monitor other than actions involving fraud.

Respondents shall make their payments of the Restitution and Liquidated Balance Obligations under this Order in the name of the “Joseph Glenn Commodities LLC, JGCF LLC, Scott Newcom, and Anthony Pulieri Settlement Fund” and shall send such payments by electronic funds transfer, or U.S. postal money order, certified check, bank cashier’s check, or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent 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 as well as Senior Trial Attorney Jon J. Kramer, 525 W. Monroe St., Suite 1100, Chicago, Illinois, 60661.

The Monitor shall oversee Respondents’ Liquidated Balance and Restitution Obligations and shall distribute funds paid in satisfaction of Respondents’ Liquidated Balance and Restitution Obligations consistent with Schedule A to this Order separately provided by the Commission. In the event that the amount of payments of the Restitution Obligation to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative cost of making a restitution distribution 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, as discussed below. To the extent any funds accrue to the U.S. Treasury for satisfaction of Respondents’ Liquidated Balance and Restitution Obligations, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in this Order.

- C. Anthony Pulieri shall pay a civil monetary penalty in the amount of one hundred thousand dollars (\$100,000) within ten (10) days of the date of entry of this Order (the “CMP Obligation”). Post-judgment interest shall accrue on the CMP Obligation beginning ten days after the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006). Pulieri 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, 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

If payment is to be made by electronic funds transfer, Pulieri shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Pulieri shall accompany payment of the CMP Obligation with a cover letter that identifies the name and docket number of this proceeding. Pulieri 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 and Senior Trial Attorney Jon J. Kramer, 525 W. Monroe St., Suite 1100, Chicago, Illinois, 60661.

- D. Respondents and their successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Respondents agree that neither they nor any of their successors and assignees agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondents': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondents and their successors and assigns shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.
 2. Respondents agree that, for a period of five years commencing from the date of the Commission's Order in this matter, they shall not, directly or indirectly:
 - a. control or direct the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account 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, 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)(2)(C)(i)) ("forex contracts"), and/or swaps (as that term is defined in Section 1a(47) of the Act, as amended, 7 U.S.C. § 1a(47), and as further defined by Regulation 1.3, 17 C.F.R. § 1.3 (2012)) ("swaps"), for a period of five years from the date this Order is entered;

- b. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, security futures products, forex contracts, and/or swaps for a period of five years from the date this Order is entered;
 - 3. Respondents agree that they will never again:
 - a. apply for registration or claim exemption from registration with the Commission in any capacity, and engage 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); and/or
 - b. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), 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. § 1(a)) registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012).
- E. Cooperation with Monitor: Respondents shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Respondents' customers, whom the Monitor, may determine to include in any plan for distribution of any required payments. Respondents shall execute any documents necessary to release funds that they have in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.
- F. Cooperation with the Commission: Respondents shall cooperate fully and expeditiously, including providing testimony, 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.
- G. Partial Satisfaction: Respondents understand and agree that any acceptance by the Commission or the Monitor of partial payment of Respondents' Restitution Obligation, Liquidated Balance Obligation, or CMP Obligation shall not be deemed a waiver of 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.
- H. Change of Address/Phone: Until such time as Respondents satisfy in full their Restitution Obligation, Liquidated Balance Obligation, and CMP Obligation as set forth in this Consent Order, Respondents shall provide written notice to the Commission by certified mail of any change to their telephone numbers and mailing addresses within ten (10) calendar days of the change.

The provisions of this Order shall be effective as of this date.

By the Commission.



Christopher J. Kirkpatrick
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: March 27, 2013