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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

vs.

Case No. 6:12-cv-1095-31TBS

ALTAMONT GLOBAL PARTNERS LLC,
JOHN G. WILKINS, PHILIP LEON, and
PAUL RANGEL,

Defendants.

**CONSENT ORDER FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTY
AND OTHER EQUITABLE RELIEF AGAINST PHILIP LEON**

I. INTRODUCTION

On July 16, 2012, plaintiff Commodity Futures Trading Commission (CFTC) filed a Complaint against defendants Altamont Global Partners LLC (AGP), John G. Wilkins (Wilkins), Philip Leon (Leon) and Paul Rangel (Rangel) (collectively, 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, *et seq.* (2006 & Supp. III 2009); the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010 (Dodd-Frank)), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), 7 U.S.C. §§ 1 *et seq.* (2012) (Act, as amended) and Commission Regulations (Regulations), 17 C.F.R. §§ 1 *et seq.* (2012). The Court entered an *ex parte* statutory restraining order against Defendants on July 16, 2012 [DE #8] and a Consent Order for Preliminary Injunction against Defendants on August 17, 2012

[DE #28]. By Orders dated October 2 and 15, 2012, the Court appointed Florida attorney Mark V. Silverio as Receiver for Defendants, “as well as any d/b/a, successor, affiliate, subsidiary, or other entity owned, controlled, managed or held by, on behalf of, or for the benefit of any of the Defendants, including, but not limited to, The Matterhorn Fund LLC (Matterhorn), The McKinley Fund LLC (McKinley), Midas Management Partners LLC (MMP), and Binary Strategy One Fund, LLC (Binary) (collectively, the Receivership Entities).” [D.E. #50 & 58].

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Philip Leon (Consent Order);
2. Affirms that he 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 CFTC 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 summons and Complaint;
4. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c(a) of the Act, as amended, 7 U.S.C. § 13a-1(a) (2012);
5. Admits the jurisdiction of the CFTC over the conduct and transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1, *et seq.* (2006 & Supp. III 2009); and the Act, as Amended 7 U.S.C. §§ 1 *et seq.* (2012);

6. Admits the jurisdiction of the CFTC over the off-exchange foreign currency contracts (forex) transactions at issue in this action pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (Supp. III 2009).

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

8. Waives:

(a) any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the CFTC in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2013), relating to, or arising from, this action;

(b) any and all claims that he 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;

9. Consents to the continued jurisdiction of this Court over him 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 Leon now or in the future resides outside the jurisdiction of this Court;

10. Agrees that he will not oppose enforcement of this Consent Order by alleging that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and waives any objection based thereon;

11. 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 the Stipulated Facts or the 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 his: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the CFTC is not a party. Leon shall undertake all steps necessary to ensure that all of his agents and/or employees under his authority or control understand and comply with this agreement;

12. By consenting to the entry of this Consent Order, Leon neither admits nor denies the allegations of the Complaint or the Stipulated Facts or the Conclusions of Law in this Consent Order, except to the extent Leon admits the Stipulated Facts and/or the Conclusions of Law in any related action against Leon by, or in any agreement with, the Department of Justice or any other governmental agency or office; and except as to jurisdiction and venue, which he admits. Further, Leon agrees and intends that the allegations contained in the Complaint, the Stipulated Facts and the 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 current or subsequent bankruptcy proceeding filed by, on behalf of, or against Leon; (b) 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 *et seq.* (2013); and/or (c) any proceeding to enforce the terms of this Consent Order;

13. Agrees to provide immediate notice to this Court and the CFTC by certified mail, in the manner required by paragraph 83 of Part VII of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against Leon, whether inside or outside the United States; and

14. 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 Leon in any other proceeding.

III. STIPULATED FACTS

15. 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—without making any findings as to the Stipulated Facts and Conclusions of Law set forth herein—directs the entry of the Stipulated Facts and Conclusions of Law, permanent injunction, civil monetary penalty, and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), as set forth herein.

16. The Stipulated Facts contained in this Consent Order shall not bind any party who is not a signatory hereto.

A. Parties to This Consent Order

17. 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, *et seq.* (2006 & Supp. III 2009); the Act, as Amended 7 U.S.C. §§ 1 *et seq.* (2012); and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1, *et seq.* (2013).

18. Defendant **Philip Leon** is a resident of Altamonte Springs, Florida. At all times pertinent to the Complaint, Leon was a managing member and an owner of AGP. Leon managed the day to day business affairs of AGP and the four commodity pools AGP operated: The

Matterhorn Fund, LLC (Matterhorn), The McKinley Fund, LLC (McKinley), Midas Management Partners LLC (MMP) and Binary One Strategy Fund, LLC (Binary) (collectively, the "AGP Pools"). Leon directed the conduct of AGP's and the AGP Pools' employees. Leon executed, and/or directed others to execute, trades in, among other things, commodity futures contracts (futures), options on futures (options), and forex on behalf of the McKinley, Matterhorn, and Binary pools. Leon, either himself or through others acting at his direction, solicited prospective and existing pool participants in the AGP Pools; prepared and distributed marketing materials and other literature used to solicit prospective and existing pool participants in the APG Pools; and prepared and distributed quarterly account statements to participants in the Matterhorn and McKinley pools via U.S. mail and the internet; all of which occurred within the scope of Leon's agency, employment, or office with AGP. In addition, Leon controlled the finances of AGP and the AGP Pools, including being a signatory on AGP's and the AGPs Pools' bank accounts. Leon has never been registered with the CFTC in any capacity.

B. Other Parties in this Case

19. Defendant **Altamont Global Partners LLC** is a Florida limited liability company formed on March 30, 2009. Prior to the filing of the Complaint in this matter, AGP maintained its principal place of business at 195 Wekiva Springs Road, Suite 350, Longwood, Florida 32779. At all times relevant to the Complaint, Leon owned approximately one-third of AGP. As described in the Complaint, AGP was engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and, in connection therewith, solicited, accepted, or received from others, funds, securities, or property for the purpose of trading in commodity interests, including agreements, contracts, or transactions in forex as described in Section 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(i) (2012). AGP has been registered

with the National Futures Association (NFA) as a commodity pool operator (CPO) since November 2009. AGP has been registered with the NFA as a forex firm since November 2010.

20. Defendant **John G. Wilkins** is not a party to this Consent Order.

21. Defendant **Paul Rangel** is not a party to this Consent Order.

C. Summary of Defendants' Operations

22. AGP is a registered CPO that at all times relevant hereto was one-third owned and operated by Leon. Since March 2009 and continuing until at least June 22, 2012, Leon exercised responsibility and authority for AGP's everyday business and affairs. During this time, Leon, both acting directly and, at times, acting through AGP and the AGP Pools, solicited approximately \$18 million from approximately 241 participants in the AGP Pools.

23. The McKinley, Matterhorn and Binary pools traded, among other things, futures, options, and forex. MMP was a commodity pool that was supposed to trade, among other things, futures, options, and forex. Rather than trading pool participant funds, however, Leon diverted MMP pool participant funds to AGP, the other AGP Pools, other individuals and entities, or for personal use.

24. On June 14, 2012, NFA commenced an unannounced audit of AGP¹. During its audit, NFA discovered serious irregularities with regard to AGP's accounting and operations. Based on the NFA audit, on June 22, 2012, NFA instituted a Member Responsibility Action (MRA) against AGP and an Associate Responsibility Action (ARA) against Wilkins (collectively, MRA/ARA). The MRA/ARA found, among other things, that AGP, Leon, Rangel, and Wilkins misappropriated funds contributed by Matterhorn and McKinley pool participants, that AGP and Wilkins sent false statements to McKinley and Matterhorn pool participants

¹ NFA regulation is limited to entities and individuals registered with the CFTC. As such, the audit of AGP was limited to registrants AGP, Wilkins, Matterhorn, and McKinley. Leon, Rangel, Binary, and Midas have never been registrants.

regarding their individual account earnings and balances, and that AGP and Wilkins provided false information and documentation to NFA.

The Matterhorn and McKinley Pools

25. The Matterhorn pool was formed on March 3, 2009 and the McKinley pool was formed on January 1, 2011. Each pool was described as a “private investment vehicle for a limited number of sophisticated, long-term investors.” The Matterhorn and McKinley pools traded, among other things, futures, options, and forex.

26. From March 3, 2009 to June 22, 2012, Leon, both directly and acting through AGP, exercised responsibility and authority for the Matterhorn pool’s everyday business and affairs. From January 1, 2011 to June 22, 2012, Leon, both directly and acting through AGP, exercised responsibility and authority for the McKinley pool’s everyday business and affairs.

27. AGP was listed as the managing member of the Matterhorn and McKinley pools in both of their respective Private Offering Memorandums (POM(s)). Those POMs described Leon as the pools’ manager and falsely touted his 32 years of investment expertise and Stanford education.

28. The McKinley and Matterhorn POMs and Operating Agreements provided that AGP was entitled to certain compensation for its operation of these pools. In particular, AGP was entitled to 20% of the pools’ quarterly trading profits and to charge pool participants a 2% annual management fee.

29. AGP salespersons received a 10% commission on all pool participant contributions to the Matterhorn and McKinley pools. Pool participants were never informed that 10% of their contributions to the Matterhorn and McKinley pools were paid to AGP salespersons as commissions.

The MMP Pool

30. The MMP pool was formed on August 9, 2011. From August 2011 to June 22, 2012, Leon, both directly and acting through AGP, exercised responsibility and authority for MMP's everyday business and affairs.

31. In the MMP pool's POM, Leon is identified as one of MMP's managers. The MMP POM falsely touts Leon's Stanford education and Leon's supposedly lengthy investment career. The MMP pool was described as a "private investment vehicle for a limited number of sophisticated, long-term investors." The MMP pool required a minimum initial contribution of \$50,000.

32. AGP salespersons touted MMP to existing and prospective pool participants as another investment pool created to follow the success of the Matterhorn and McKinley pools. AGP salespersons told existing and prospective pool participants in the MMP pool that the Matterhorn and McKinley pools averaged 25% to 30% in annual returns in each of the previous three years and that the MMP pool, which would trade similarly to the Matterhorn and McKinley pools, also would generate annual returns of 25% to 30%.

33. The MMP pool's POM stated that the MMP pool would trade, among other things, futures, options, and other derivative securities. In reality, the MMP pool never opened any trading accounts and it never traded the pool participant funds it received. Rather than trading pool participant funds, Leon diverted MMP pool participant funds to AGP, the other AGP Pools, or for personal use.

34. AGP salespersons shared in commissions as high as 21% of certain MMP pool participant contributions, individually receiving up to 8% in commissions. MMP pool

participants were never informed that a percentage of their contributions were paid to AGP salespersons as commissions.

The Binary Pool

35. The Binary pool was formed on January 1, 2012. AGP was the managing member of the Binary pool.

36. From January 1, 2012 to June 22, 2012, Leon, both directly and acting through AGP, exercised responsibility and authority for the Binary pool's everyday business and affairs.

37. The Binary pool traded, among other things, options on behalf of pool participants.

D. Misappropriation of AGP Pool Funds

38. In total, Leon misappropriated \$1,598,343 of pool participant funds in the AGP Pools.

39. Between March 2009 and May 2012, AGP, by and through at least Leon, caused the AGP Pools to "loan" or "advance" funds to the individual defendants through a series of transfers noted as "receivables to general partners" in the AGP Pools' respective accounting ledgers. These "loans" and "advances" were made without disclosure to the participants in the AGP Pools, without authority under the POMs and operating agreements of the AGP Pools, and in violation of NFA regulations prohibiting such loans.

40. The "loans" and "advances" from AGP to Leon were sham transactions designed to disguise Leon's misappropriation. The loans to Leon from the AGP Pools were either made without any form of interest payment obligation or were made with an interest obligation that was not enforced, and none of the loans was ever paid back. In addition, other "loans" and "advances" were provided to AGP, which, in turn, made substantial cash or check payments to Leon.

41. The “loans” and “advances” were used, among other things, to cover AGP’s operating expenses; commission payments; travel, meals, and entertainment expenses; credit card payments for Leon’s wife; and at least one loan AGP made to Leon.

42. Some of these “loans” and “advances” were taken by Leon in the form of cash or checks directly from the AGP Pools. Nothing in the POMs permitted this.

43. To decrease its financial obligations to the AGP Pools that were created by certain of these “loans” and “advances,” AGP charged the AGP Pools bogus management and performance fees, which, in turn, were credited against the “receivables to general partners” in the AGP Pools’ respective accounting ledgers. These management and performance fees were calculated based on falsely inflated asset values of the AGP Pools and falsely inflated trading profits in the AGP Pools. In actuality, AGP was never entitled to any management or performance fees.

44. AGP, by and through at least Leon and Leon individually, engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

E. AGP Issued False Account Statements to Pool Participants

45. Since the inception of the McKinley and Matterhorn pools, AGP, by and through at least Leon, issued regular quarterly statements to McKinley and Matterhorn pool participants via U.S. mail and via the Internet through the Matterhorn and McKinley pools’ individual websites.

46. As of the quarter ending March 31, 2012, AGP, by and through at least Leon, issued quarterly statements to pool participants that, collectively, showed that the Matterhorn pool participants’ interests were approximately \$10 million and the McKinley pool participants’ interests were approximately \$6.5 million.

47. The March 31, 2012 statements that, AGP, by and through at least Leon, delivered to the Matterhorn and McKinley pool participants were false in that they significantly overstated each pool participant's interest. While the Matterhorn pool participants' collective interests purported to total \$10 million and the McKinley pool participants' interests purported to total \$6.5 million, the value of assets (in the form of cash and holdings at various brokerage firms) held by each pool as of March 31, 2012 was approximately \$1.4 million for Matterhorn and approximately \$2.4 million for McKinley.

48. In addition, the statements provided to pool participants did not disclose or otherwise reflect the impact of the purported loans and advances to AGP and Leon.

49. AGP, by and through at least Leon, misrepresented to AGP Pool participants that the Matterhorn fund had been in existence since 1980 and had generated historic returns of 27.23% for 2009, 33.80% for 2010, 20.75% for 2011, and 7.99% for January through May 2012.

50. AGP, by and through at least Leon, misrepresented to AGP Pool participants that the McKinley pool had historic returns of 23.16% for February through December 2011 and 8.04% for January through May 2012.

51. AGP, by and through at least Leon and Leon individually engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

IV. CONCLUSIONS OF LAW

A. Jurisdiction and Venue

52. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, as amended, 7 U.S.C. § 13a-1(a) (2012), which provides that whenever it shall appear to the CFTC 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 CFTC 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.

53. The CFTC has jurisdiction over the forex solicitations and transactions at issue in this action pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (Supp. III 2009).

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

1. Fraud in Connection with Futures and Forex: AGP and Leon

55. By the conduct described in paragraphs 1 through 51 above, beginning in at least March 2009 and continuing to at least June 22, 2012, AGP, by and through at least Leon, and Leon directly, violated Section 4b(a)(1) and (2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1) & (2)(A)-(C) (Supp. III 2009), with respect to conduct before July 16, 2011 and Section 4b(a)(1) and (2)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(1) & (2)(A)-(C) (2012), with respect to conduct on or after July 16, 2011 in or in connection with futures and forex contracts made for, on behalf of, or with other persons, by among other things, knowingly or recklessly misappropriating AGP Pool participant funds and by providing AGP Pool participants with false account statements that misrepresented the profitability and/or the value of pool participants' interests in the AGP Pools.

56. AGP, by and through at least Leon and Leon directly, engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

2. Fraud in Connection with Off-Exchange Forex: AGP and Leon

57. By the conduct described in paragraphs 1 through 51 above, beginning in at least March 2009 and continuing to at least June 22, 2012, AGP, by and through at least Leon, and Leon directly, solicited and received money from pool participants for the purpose of, among

other things, entering into retail forex transactions as defined in Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2012).

58. In connection with their solicitation and receipt of money from pool participants for the purpose of entering into retail forex transactions, since at least October 18, 2010, AGP, by and through at least Leon, and Leon directly, through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of U.S. mail and the Internet) have violated Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2012) by misappropriating AGP Pool participant funds and by providing AGP Pool participants with false account statements that misrepresented the profitability and/or the value of pool participants' interests in the AGP Pools.

59. AGP, by and through Leon and Leon directly, engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

3. Fraud by Commodity Pool Operator: AGP

60. By the conduct described in paragraphs 1 through 51 above, beginning in at least March 2009 and continuing to at least June 22, 2012, AGP by and through at least Leon, operated as a CPO in that it was engaged in a business that is of the nature of an investment trust, syndicate or similar form of enterprise, and in connection therewith, solicited, accepted, or received funds, securities, or property from others for the purpose of trading futures, options, and forex.

61. Beginning in at least March 2009 and continuing to at least June 22, 2012, AGP by and through at least Leon, acting as a CPO, through the use of the mails or other means or instrumentalities of interstate commerce (including through use of U.S. mail to pool participants and the Internet), has violated Section 40 of the Act, 7 U.S.C. § 60 (2006), by misappropriating

AGP Pool participant funds and by providing AGP Pool participants with false account statements that misrepresented the profitability of the AGP Pools and the value of pool participants' interests in the AGP Pools.

62. AGP, by and through at least Leon, engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

4. Controlling Person Liability

63. By the conduct described in paragraphs 1 through 51 above, Leon controlled AGP, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, AGP's acts in violation of the Act and Regulations. Accordingly, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), to the extent AGP is found to have violated any provisions of the Act or Regulations (including, but not limited to, Section 4b(a)(1) and (2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1) & (2)(A)-(C) (Supp. III 2009), with respect to conduct before July 16, 2011; Section 4b(a)(1) and (2)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(1) & (2)(A)-(C) (2012), with respect to conduct on or after July 16, 2011; Section 4o of the Act, 7 U.S.C. § 6o (2006); Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2012); and Section 9(a)(4) of the Act, 7 U.S.C. § 13(a)(4) (2012)), Leon is liable for AGP's violations. The joint and several liability of Leon for any monetary sanctions arising from any violations by AGP, however, shall be capped at the amounts of his disgorgement obligation as set forth in Section V.B of this Order.

64. Unless restrained and enjoined by this Court, there is a reasonable likelihood that Leon 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.

V. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

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

- a. cheating or defrauding, or attempting to cheat or defraud, other persons in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or any forex contract (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(B) and 2(c)(2)(C)(i) (2012) (forex contract) that is made, or to be made, for or on behalf of, or with, any other person in violation of Section 4b of the Act, 7 U.S.C. § 6b (2012);
- b. employing any device, scheme or artifice to defraud any participant or prospective participant or engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective participant in violation of Section 4g(1) of the Act, 7 U.S.C. § 6g(1) (2012);
- c. cheating or defrauding, or attempting to cheat or defraud, other persons, or willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record, or willfully to deceive or attempt to deceive any person whatsoever in or in connection with any retail forex transaction in violation of Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2013).

66. Defendant Leon 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 of the Act, 7 U.S.C. § 1a (2012));
- b. Entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3 (hh), 17 C.F.R. § 1.3(hh) (2013)) (“commodity options”), swaps (as that term is defined in Section 1a(47) of the Act, 7 U.S.C. § 1a(47) (Supp. V 2011), and as further defined by Commission Regulation 1.3(xxx), 17 C.F.R. § 1.3 (xxx) (2012)) (“swaps”), security futures products, and/or forex contracts for his own personal account or for any account in which they have a direct or indirect interest;
- c. Having any commodity futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts traded on his 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 futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts;
- e. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, swaps, security futures products, and/or forex contracts;
- f. Applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2013); and/or

- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2013)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, 7 U.S.C. § 1a) registered, exempted from registration or required to be registered with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2013).

VI. DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Return of Funds

67. Pursuant to the Court's Orders dated October 2 and 15, 2012, the Court appointed Mark V. Silverio as Receiver for the Receivership Entities. Consistent with the power granted by the Court, the Receiver has taken possession of and/or liquidated numerous assets of the Receivership Entities, including assets in the name of or otherwise attributable to the Receivership Entities. The funds derived from the sale or liquidation—now or in the future—of Leon's assets in receivership, along with any interest earned on these funds, will be returned to defrauded customers (less any court-approved fees and expenses incurred or to be incurred by the Receiver), and shall be used to satisfy, in full or in part, the Disgorgement Obligation, as defined below in Part VI. B. of this Consent Order. The Court orders that these funds be distributed to defrauded customers by the Receiver pursuant to and consistent with a distribution plan approved by this Court and that Leon's rights, if any, to these funds and/or the underlying assets be extinguished (except as may be necessary for the Receiver to carry out his duties).

B. Disgorgement

68. Leon shall pay disgorgement in the amount of \$1,598,343 (Disgorgement Obligation), plus post-judgment interest. The Disgorgement Obligation is immediately due and owing. Post-judgment interest shall accrue on the Disgorgement 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.

69. Leon's Disgorgement Obligation shall be satisfied from the assets of Leon held now or in the future, by the Receiver. To the extent the Receiver's sale or liquidation of Leon's assets is insufficient to satisfy the Disgorgement Obligation, Leon shall be responsible for the short fall.

70. Leon shall make Disgorgement Obligation payments under this Consent Order to the Court-appointed Receiver in this matter, Mark V. Silverio, in the name "AGP Fund" and shall send such Disgorgement Obligation payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's, or bank money order, to: Mark V. Silverio, Silverio & Hall, P.A., 255 Eighth Street South, Naples, Florida 34102-6123, under cover letter that identifies the paying defendant and the name and docket number of this proceeding. Leon 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.

71. Leon shall cooperate with the Receiver as appropriate to provide such information as the Receiver deems necessary and appropriate to identify pool participants to whom the Receiver may determine to include in any Court-approved plan for distribution of any Disgorgement Obligation payments.

72. Within thirty (30) days of receiving a copy of this Consent Order, any financial institution holding Leon's funds is specifically directed to liquidate and release all funds, whether the funds are held in a single or joint account, or in any other capacity, and to convey by wire transfer to an account designated by the Receiver, all funds in these accounts, less any

amounts required to cover the financial institutions' outstanding administrative or wire transfer fees. At no time during the liquidation, release, and/or wire transfer of these funds pursuant to this Consent Order shall Leon be afforded any access to, or be provided with, any funds from these accounts. Leon and all banks and financial institutions subject to this Consent Order shall cooperate fully and expeditiously with the CFTC and the Receiver in the liquidation, release, and wire of these funds.

73. To effect payment of the remaining Disgorgement Obligation after the termination of the receivership (to the extent such Disgorgement Obligation has not already been satisfied) and to effectuate the distribution of any disgorgement paid by Leon after the termination of the Receiver's duties, the Court appoints NFA as Monitor, to be effective immediately upon any order entered by this Court terminating the Receiver's duties. The Monitor shall collect disgorgement payments from Leon and make distributions as set forth below. Because the Monitor is acting as an officer of the 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.

74. To the extent the Disgorgement Obligation has not already been satisfied upon termination of the receivership, Leon shall make any remaining disgorgement payments to the Monitor in the name of "AGP Fund" and shall send such disgorgement 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 of a letter that identifies the payer, the case name, docket number, and the name of this Court. Leon shall simultaneously transmit copies of the cover letter and form of payment to: (a) the Director, Division of Enforcement, Commodity

Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; and (b) Charles Marvine, Chief Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 4900 Main Street, Suite 500, Kansas City, MO 64112.

75. The Monitor shall distribute any funds collected pursuant to paragraph 74 above to the defrauded customers identified by the Receiver in an equitable manner that is consistent with the distribution plan ultimately approved by this Court. The Monitor shall oversee the distribution of funds from the disgorgement payments by Leon shall have the discretion to defer distribution until such time as it may deem appropriate. In the event that the amount of disgorgement payments made to the Monitor by Leon are of a *de minimis* nature, such that the Monitor determines that the administrative costs of the making a distribution to defrauded customers is impractical, the Monitor may, in its discretion, treat such disgorgement payments as civil monetary penalty payments, which the Monitor shall forward to the CFTC following the instructions for the civil monetary penalty obligation as set forth below.

76. The amounts payable to each pool participant shall not limit the ability of any pool participant from proving that a greater amount is owed from Leon or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any pool participants that exist under state or common law.

77. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each pool participant of the Receivership Entities 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 Disgorgement Obligation that has not been paid by Leon to ensure continued compliance with any provision of this Consent Order and to hold Leon in contempt for any violations of any provision of this Consent Order.

78. To the extent that any funds accrue to the U.S. Treasury for satisfaction of the Disgorgement Obligation, such funds shall be transferred to the Receiver and/or Monitor, as appropriate, for disbursement in accordance with the procedures set forth above.

C. Civil Monetary Penalty

79. Leon shall pay a civil monetary penalty in the amount of \$4,000,000 (“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 (2006).

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

D. Provisions Related to Monetary Sanctions

81. Partial Satisfaction: Any acceptance by the CFTC or the Receiver of partial payment of Leon's Disgorgement Obligation, or CMP Obligation shall not be deemed a waiver of his obligation to make further payments pursuant to this Consent Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

E. Cooperation

82. Leon shall cooperate fully and expeditiously with the CFTC 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 CFTC investigation related thereto.

VII. MISCELLANEOUS PROVISIONS

83. 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 CFTC:

Division of Enforcement
U.S. Commodity Futures Trading Commission
4900 Main Street, Suite 500
Kansas City, MO 64112

Notice to Defendant Leon:

c/o Matthew Thomas Wasinger, Esq.
Wasinger Law Office
1695 Lee Road, Suite D215
Winter Park, FL 32789

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

84. Change of Address/Phone: Until such time as Leon satisfies in full his Disgorgement Obligation and CMP Obligation as set forth in this Consent Order, Leon shall

provide written notice to the CFTC by certified mail of any change to his telephone number and mailing address within ten (10) calendar days of the change.

85. 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.

86. 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.

87. Waiver: The failure of any party to this Consent Order or of any 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 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.

88. 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 Leon to modify or for relief from the terms of this Consent Order.

89. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Leon, upon any person under his 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 Leon.

90. 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.

91. Leon understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Philip Leon.*

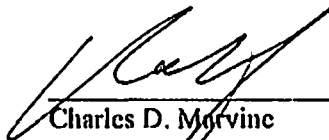
IT IS SO ORDERED on this 17 day of December, 2013.


UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:


Philip Leon

Date: Aug 22, 2013


Charles D. Marvine
Missouri Bar No. 44906
Rachel Hayes
Missouri Bar No. 48713
Peter Riggs
Missouri Bar No. 57268
U.S. Commodity Futures Trading Commission
Division of Enforcement
4900 Main Street, Suite 500
Kansas City, MO 64112
816-960-7743 (Marvine)
816-960-7741 (Hayes)
816-960-7748 (Riggs)
816-960-7754 (fax)
cmarvine@cftc.gov
rhayes@cftc.gov
priggs@cftc.gov

Dated 12-16-2013