

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 16--80055-CV-DIMITROULEAS

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

vs.

OAKMONT FINANCIAL, INC. and
JOSEPH CHARLES DiCRISCI,

Defendant.

DEFAULT JUDGMENT AGAINST DEFENDANT OAKMONT FINANCIAL, INC.

THIS CAUSE is before the Court on the Court's Order Granting Motion for Entry of Default Judgment Against Oakmont Financial, Inc., which the Court entered today by separate Order. Pursuant to Federal Rule of Civil Procedure 58(a), the Court enters this separate final judgment.

Accordingly, it is **ORDERED AND ADJUDGED** that Final Default Judgment is hereby entered in favor of the Plaintiff United States Commodity Futures Trading Commission, and against Defendant Oakmont Financial, Inc. ("Oakmont") as follows:

A. Permanent injunction

1. Pursuant to 7 U.S.C. § 13a-1, Oakmont is permanently restrained, enjoined and prohibited from directly or indirectly:
 - a. Offering to enter into, executing, confirming the execution of, or conducting 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, a contract for the purchase or sale of a commodity for future delivery 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 in violation of 7 U.S.C. § 6(a); or

- b. Acting as an FCM without being so registered with the Commission as a Futures Commission Merchant (“FCM”) in violation of 7 U.S.C. § 6d(a).

2. Oakmont 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 7 U.S.C. § 1a(40) (2012));
- b. Entering into any transactions involving “commodity interests” (as that term is defined in 17 C.F.R. § 1.3(yy) (2016) for its own 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 17 C.F.R. § 4.14(a)(9) (2016); and/or

- g. Acting as a principal (as that term is defined in 17 C.F.R. § 3.1(a)) (2016), agent, or any other officer or employee of any person (as that term is defined in 7 U.S.C. § 1a(38) (2012) registered, exempted from registration, or required to be registered with the Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

V. DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Disgorgement

3. Oakmont shall pay disgorgement in the amount of \$735,329 within ten (10) days of entry of this Order (“Disgorgement Obligation”), and post-judgment interest on the Disgorgement Obligation shall accrue commencing on the date of the entry of this Order and shall be determined using the Treasury Bill rate prevailing on the date of the entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

4. To effect payment of the Disgorgement Obligation and the distribution of any disgorgement payments to Oakmont’s customers, the Court appoints Melanie Damian, Esq., as Monitor (the “Monitor”).¹ The Monitor shall collect disgorgement payments from Oakmont and make distributions as set forth below. In a related action also filed in the Southern District of Florida, Oakmont was ordered to pay the amount of \$1,148,174.63. Default Final Judgment, *Damian v. Oakmont Financial, Inc. et al.*, Case No. 9:15-cv-81112-DMM (S.D. Fla. May 23, 2016). For any

¹ On December 5, 2012, the Commission filed a civil enforcement action in the U.S. District Court for the Southern District of Florida against Hunter Wise and various other entities and individuals. See *CFTC v. Hunter Wise Commodities, LLC*, Case No. 9:12-cv-81311-DMM (S.D. Fla.) (the “Hunter Wise Litigation”). On February 22, 2013, the Southern District of Florida appointed Ms. Damian as the Special Monitor and Corporate Manager in the Hunter Wise Litigation. See Order Temporarily Appointing Special Corporate Manager. [DE 77]. On May 16, 2014, the Court appointed Ms. Damian Equity Receiver for the Hunter Wise entity defendants. See Order of Final Judgment, Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief. [DE 306]. In connection with her duties in that matter, Ms. Damian has implemented a Claims Administration Process and Distribution Plan for all customers and creditors of Hunter Wise, among other entities.

amount that Oakmont disburses to the Receiver in that action, Oakmont shall receive dollar-for-dollar credit against the Disgorgement Obligation. This Order does not, in any way, impair the Monitor's rights under the Default Final Judgment entered against Oakmont in that action.

5. Oakmont shall make payments of the Disgorgement Obligation to the Monitor and the Monitor shall collect disgorgement payments from Oakmont and make distributions as set forth below. Because the Monitor is acting as an officer of this Court in performing these services, the Monitor shall not be liable for any action or inaction arising from the Monitor's appointment, other than actions involving fraud.

6. Oakmont shall make Disgorgement Obligation payments under this Order to the Monitor in the name "Oakmont Financial, Inc. Fund" and shall send such Disgorgement Obligation payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, to the Monitor, at the office of Damian & Valori LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida 33131, under a cover letter that identifies Oakmont and the name and docket number of this proceeding. Oakmont shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

7. The Monitor shall oversee the Disgorgement Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Oakmont's customers through the Claims Administration Process and Distribution Plan approved and implemented in the Hunter Wise Litigation or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Disgorgement 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 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 Commission following the instructions for civil monetary penalty payments set forth below.

8. Oakmont shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Oakmont's customers to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Disgorgement Obligation payments. Oakmont 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 Disgorgement Obligation.

9. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Oakmont customers 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, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

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

11. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each customer of Oakmont who suffered a loss is explicitly made an intended third-party beneficiary of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the Disgorgement Obligation that has not been paid by Oakmont, to ensure continued compliance with

any provision of this Order, and to hold Oakmont in contempt for any violations of any provision of this Order.

12. To the extent that any funds accrue to the U.S. Treasury for satisfaction of Oakmont's Disgorgement Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

B. Civil Monetary Penalty

13. Oakmont shall pay a civil monetary penalty of Two Million and Two Hundred and Five Thousand and Nine Hundred and Eighty-Seven dollars (\$2,205,987) within ten (10) days of the date of entry of this Order ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on 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.

14. Oakmont 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 U.S.

Commodity Futures Trading Commission and sent to the address below:

U.S. 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
Telephone: (405) 954-7262
Fax: (405) 954-1620
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, Oakmont shall contact Nikki Gibson or her

successor at the address above to receive payment instructions and shall fully comply with those instructions. Oakmont shall accompany payment of its CMP Obligation with a cover letter that identifies Oakmont and the name and docket number of this proceeding. Oakmont shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

C. Provisions Relating to Monetary Sanctions

15. Partial Satisfaction: Any acceptance by the Commission or the Monitor of partial payment of Oakmont's Disgorgement Obligation or CMP Obligation shall not be deemed a waiver of Oakmont's 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.

16. Any payments received from Oakmont pursuant to this Order shall be applied first to satisfy its Disgorgement Obligation.

D. Miscellaneous Provisions

17. Notice: All notices required to be given by any provision in this Order shall be sent by certified mail, return receipt requested as follows:

Notice to Commission:
Aitan Goelman, Director
Division of Enforcement
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, D.C. 20581

Notice to Monitor:
Melanie Damian, Esq.
Damian & Valori LLP
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131

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

18. **Change of Address/Phone:** Until such time as Oakmont satisfies in full its Disgorgement and CMP Obligations as set forth in this Order, Oakmont shall provide the Commission and the Monitor with written notice by certified mail of any change to its telephone number(s) and/or mailing address(es) within ten (10) calendar days of the change.

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

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

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


22. **Copies of this Order may be served by any means, including U.S. Mail, facsimile transmission, e-mail, United Parcel Service, and Federal Express, upon Oakmont and any other entity or person that may be subject to any provision of this Order.**

23. **There being no just cause for delay, the Clerk of the Court is hereby DIRECTED to ENTER this Order of Final Judgment by Default, Permanent Injunction, Civil Monetary Penalties, and Other Statutory and Equitable Relief Against Defendant Oakmont Financial, Inc. forthwith and without further notice.**

This case remains pending as to the remaining Defendant Joseph Charles DiCrisci.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this

8th day of November, 2016.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Counsel of record

Joseph Charles DiCrisci, *pro se*
24 Via Bel Canto #611
Henderson, NV 89011

Joseph Charles DiCrisci, *pro se*
503 Live Oak Lane
Boynton Beach, FL 33436

Joseph Charles DiCrisci, *pro se*
80 Luce Del Sole, Unit 2
Henderson, NV 89011

Oakmont Financial, Inc.
c/o Registered Agent Barbara J. Levine
7710 Blairwood Circle South
Lake Worth, FL 33463