

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-60297-CIV-COHN/SELTZER

U.S. COMMODITY FUTURES TRADING	)
COMMISSION,	)
	)
Plaintiff,	)
	)
v.	)
	)
VISION FINANCIAL PARTNERS, LLC,	)
AND NEIL PECKER,	)
	)
Defendants,	)
AND	)
	)
PROMETHEUS ENTERPRISES, INC.,	)
WESTWARD INTERNATIONAL LTD.,	)
COUCARIN HOLDINGS LTD., AND	)
GDCM TRUST,	)
	)
Relief Defendants.	)

**CONSENT ORDER OF PERMANENT INJUNCTION,  
CIVIL MONETARY PENALTY, AND OTHER EQUITABLE RELIEF  
AGAINST DEFENDANTS VISION FINANCIAL PARTNERS, LLC,  
AND NEIL PECKER, AND CONSENT ORDER OF DISGORGEMENT AGAINST  
RELIEF DEFENDANTS PROMETHEUS ENTERPRISES, INC., AND GDCM TRUST**

I. INTRODUCTION

On February 16, 2016, Plaintiff U.S. Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Vision Financial Partners, LLC (“Vision”) and Neil Pecker (“Pecker”) (collectively “Defendants”), and Prometheus Enterprises, Inc. (“Prometheus”), Westward International Ltd., Coucarin Holdings Ltd., and GDCM Trust (“GDCM”) (collectively, “Relief Defendants”), seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for alleged violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1 *et seq.* (2012) and Commission Regulations (“Regulations”), 17 C.F.R. §§ 1.1 *et seq.* (2016). [DE #1]. The Court entered the *Sealed Order Granting Plaintiff’s Ex Parte*

*Motion for a Statutory Injunction and Related Motions* [DE #9] on February 19, 2016.

## II. CONSENTS AND AGREEMENTS

To effect settlement of all counts alleged in the Complaint against Defendants without a trial on the merits or any further judicial proceedings, Defendants and Relief Defendants Prometheus and GDCM (Prometheus and GDCM are, collectively, the “Settling Relief Defendants”):

1. Consent to the entry of this *Consent Order of Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Defendants Vision Financial Partners LLC and Neil Pecker, and Consent Order of Disgorgement Against Relief Defendants Prometheus Enterprises, Inc., and GDCM Trust* (“Consent Order”);

2. Affirm that they have 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. Acknowledge service of the summons and Complaint;

4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to 7 U.S.C. § 13a-1 (2012);

5. Admit 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.* (2012);

6. Admit that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e) (2012);

7. Waive:

(a) Any and all claims that they may possess under the Equal Access to Justice Act, U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the CFTC in

conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2016), relating to, or arising from, this action;

(b) 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 action;

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

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

8. Consent to the continued jurisdiction of this Court over them for the purpose of implementing and enforcing the terms and conditions of this Consent Order, even if Defendants now or in the future reside outside the jurisdiction of this Court;

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

10. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the allegations set forth in the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect their: (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the CFTC is not a party. Defendants and the Settling Relief Defendants 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;

11. By consenting to the entry of this Consent Order, Defendants and the Settling Relief Defendants neither admit nor deny the allegations of the Complaint or the allegations set forth in the Findings of Fact and Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which they admit. Further, Defendants and the Settling Relief Defendants agree and intend that the allegations contained in the Complaint and the allegations set forth in the Findings of Fact and Conclusions of Law 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 Defendants or the Settling Relief Defendants; (b) any proceeding pursuant to 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1-3.75 (2016), against Defendants or the Settling Relief Defendants; and/or (c) any proceeding brought by the Commission to enforce the terms of this Consent Order. Defendants and the Settling Relief Defendants do not consent to the use of this Consent Order, or the Findings of Fact and Conclusions of Law in this Consent Order, as the sole basis for any other proceeding brought by the CFTC or any other governmental entity;

12. Agree to provide immediate notice to this Court and the CFTC by certified mail, in the manner required by Paragraph 66 of Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against Defendants, whether inside or outside the United States; and

13. Agree 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 Defendants in any other proceeding.

### **III. FINDINGS AND CONCLUSIONS**

The Court, being fully advised in the premises, finds that there is good cause for the entry

of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, permanent injunction, and equitable relief pursuant to 7 U.S.C. § 13a-1 (2012), as set forth herein.

**THE COURT HEREBY FINDS:**

**A. Findings of Fact**

14. Plaintiff U.S. Commodity Futures Trading Commission is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act and the Regulations promulgated thereunder.

15. Defendant Vision Financial Partners, LLC is a Florida limited liability company that Pecker formed in April 2012. Its principal place of business is in Deerfield Beach, Florida. Vision has never been registered with the Commission as a CTA or in any capacity.

16. Defendant Neil Pecker is an individual with a last-known address in Longwood, Florida. Pecker is the sole owner, manager, operator, and registered agent of Vision, and is the owner, director and president of LMC Asset Management, Inc. ("LMC"). Pecker initially registered with the Commission and was approved by the National Futures Association ("NFA") for Associate Member and Associated Person ("AP") status with Securities America Inc., Rothchild Financial Group Inc., and Brookstreet Securities Corporation. Pecker held these registrations and membership statuses between October 2006 and April 2012. Pecker's most recent application to register as a Principal, AP, and NFA Associate Member of Blackrock Trading Advisors, Inc., is currently pending with the Commission. Pecker has not registered with the Commission to be an AP with Vision.

17. Relief Defendant Prometheus Enterprises, Incorporated is a Florida corporation with its principal place of business in Deerfield Beach, Florida. Pecker incorporated Prometheus in January 2014. Pecker is the sole officer and director of Prometheus. Prometheus has never

been registered with the Commission in any capacity.

18. Relief Defendant GDCM Trust is a trust located in Las Vegas, Nevada. Upon information and belief, Pecker's brother is the trustee of the GDCM. Pecker's brother's last-known address is in Hallandale Beach, Florida. Neither GDCM nor Pecker's brother have ever been registered with the Commission in any capacity.

19. From at least October 12, 2012 through at least the filing of the Complaint ("Relevant Period"), Defendants solicited clients to send funds to Vision in order to trade off-exchange binary options on electronic platforms operated by Banc de Binary Ltd. ("Banc de Binary"), SpotOption, and Binex Markets ("Binex") (herein collectively referred to as "off-shore trading firms"). Binary options are options with discontinuous payoffs, either paying nothing or a considerable amount depending on the satisfaction of some condition. The binary options offered by these platforms permitted clients to predict whether a particular asset, such as the price of oil, gold, or silver, would go up or down on a certain date and time.

20. Banc de Binary, SpotOption, and Binex are located in Israel, Cyprus, and the United Kingdom, respectively. SpotOption offers an electronic platform that offers for purchase off-exchange binary options for contracts in oil, gold, silver, and other commodities. SpotOption offers a "white label" program, which provides its brands to run off of SpotOption's trading platform. According to its website, SpotOption has more than 200 "white label" brands, including Banc de Binary. Binex is a binary options firm that offers similar trading options as Banc de Binary and SpotOption.

21. Binary options fall within the definition of "options" that are subject to the Commission's authority pursuant to the Act and Regulations. Moreover, options are a type of swap regulated by the CFTC.

22. Prior to creating Vision, Pecker was the sole director, president, and registered



agent of LMC. LMC is a Florida company that Pecker incorporated on or about October 18, 2005. On July 18, 2012, the Commission entered an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, as Amended, Making Findings and Imposing Remedial Sanctions (“LMC Consent Order”) against LMC.

23. From at least October 18, 2010 to at least October 21, 2011, LMC solicited and accepted orders from clients who were not Eligible Contract Participants (“ECPs”)<sup>1</sup> to engage in retail, leveraged foreign currency (“forex”) transactions without being registered with the Commission. The LMC Consent Order held that LMC violated provisions of the Act, made findings of fact, and imposed a civil monetary penalty (“CMP”) in the amount of \$140,000.

24. Pecker, on behalf of LMC, failed to pay the full amount of the CMP. Instead, subsequent to the date of the LMC Consent Order, Pecker transferred approximately \$157,600 of LMC’s funds to Vision’s bank accounts. Pecker incorporated Vision in April 2012, during the Commission’s investigation into the activities of LMC.

25. Beginning at least in October 2012, rather than solicit members of the public to trade forex, Pecker and his new company, Vision, began soliciting existing LMC clients and prospective Vision clients by telephone and email to trade off-exchange binary options. Defendants opened accounts for former LMC clients and new Vision clients to trade binary options with the off-shore trading firms.

26. The solicited clients were not ECPs because the aggregate amount that each of these clients respectively invested on a discretionary basis was less than \$10 million.

27. Defendants made various misrepresentations to clients regarding their likelihood of making money if they traded binary options through Defendants. Defendants also misrepresented that Pecker was very successful in trading derivatives. Defendants reinforced the

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<sup>1</sup> As defined in 7 U.S.C. § 1a(18)(xi) (2012).

misrepresentation that they were highly successful by guaranteeing a return on prospective clients' investments.

28. Defendants made a wide assortment of misrepresentations to prospective clients regarding their registration status and trading experience. Defendants told some clients that Pecker was a licensed broker who was registered with the Securities and Exchange Commission and CFTC, and that Pecker had been trading binary options for 12 years.

29. In addition to their misleading and false representations, Defendants failed to disclose material facts to prospective clients. For example, Defendants failed to inform multiple clients that trading would occur in foreign or off-shore firms and that their funds would be held overseas.

30. Defendants failed to tell prospective clients that they would be signing up for the off-shore trading firms' "bonus" programs, where the trading firm claimed it would provide a matching deposit amounting to a specified percentage of client funds, providing the client "extra trading leverage." The terms and conditions for this "deposit match" provided that clients were prohibited from withdrawing funds from their trading account, including their own funds initially invested, unless and until the client traded at least 20 times the value of his or her trading account.

31. Defendants failed to disclose to clients that the off-shore trading firms were not registered with the Commission in any capacity and that the binary options offered on the off-shore trading firms were impermissible off-exchange options.

32. Defendants sent prospective clients documents to open accounts with the off-shore trading firms. Defendants' misrepresentations and omissions, as described above, prompted clients to sign Limited Power of Authority ("LPOAs"), thereby allowing Defendants the discretionary authority to trade their binary options accounts with the off-shore trading firms.

33. Defendants directed clients to send their funds directly to bank accounts in the name



of Vision via wire transfer or check. Alternatively, the client account application provided the option to send funds directly to the off-shore trading firm via credit or debit card transfer.

34. Clients were given the ability to check their accounts online with the off-shore trading firms, but found the account statements difficult to understand or had difficulties accessing their accounts online.

35. Defendants knowingly and willfully made multiple material misrepresentations and omissions in their solicitation of existing and prospective clients. In making their investment decisions, existing and prospective clients relied on Defendants' material misrepresentations and omissions including statements regarding Defendants' trading prowess, purported profits earned from that trading, and manner in which clients' funds would be used.

36. As a result of these misrepresentations, and omissions of material facts, at least 120 clients located in the United States and Canada sent approximately \$3 million to trade binary options through Vision. Of the approximately \$3 million clients sent to Vision that were intended for trading binary options, Defendants misappropriated approximately \$1,974,900.

37. In addition, during the Relevant Period, Defendants channeled client money through and between Prometheus, GDCM, other Relief Defendants, the off-shore trading accounts, and Pecker's personal accounts.

38. Pecker was the sole signatory on the Prometheus bank accounts, and used those accounts, in addition to the Vision bank accounts, as his personal bank accounts. Defendants and Relief Defendants used client funds to pay for Pecker's personal expenses, such as food, shopping and casino expenses, as well as numerous cash withdrawals.

39. As a result of this money movement, Prometheus received \$214,660 while GDCM received \$878,700. Neither Prometheus nor GDCM provided any legitimate services for Defendants' clients nor has any legitimate interest in or entitlement to client funds. Accordingly,

Prometheus and GDCM received ill-gotten gains from Defendants and must disgorge those funds.

40. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

**B. Conclusions of Law**

41. This Court has jurisdiction over this action pursuant to 7 U.S.C. § 13a-1 (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.

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

43. By virtue of Defendants' conduct described above and in the Complaint, Defendants violated 7 U.S.C. §§ 6c(b), 6o(1), and 9(1)(2012), and 17 C.F.R. § 180.1(a) (2016). Vision did not register as a CTA in violation of 7 U.S.C. § 6m(1) (2012), and accepted client funds in violation of 17 C.F.R. § 4.30(a) (2016). Pecker did not register as a AP in violation of 7 U.S.C. § 6k(3) (2012) and 17 C.F.R. § 3.12(a) (2016).

44. Pursuant to 7 U.S.C. § 13c(b) (2012), Neil Pecker controlled Vision, directly or indirectly, and is liable for Vision's violations of 7 U.S.C. §§ 6c(b), 6k(3), 6o(1), and 9(1) (2012), and 17 C.F.R. §§ 3.12(a), 32.4(a) and (c) (2016).

45. The foregoing acts, omissions, and failures of Neil Pecker occurred within the scope of his employment, office, or agency with Vision; therefore, pursuant to 7 U.S.C. §§ 2(a)(1)(B) (2012), Vision is liable for Neil Pecker's acts, omissions, and failures in violation of 7 U.S.C. §§

2(a)(1)(B), 6c(b), 6k(3), 6m(1), 6o(1), and 9(1) (2012), and 17 C.F.R. §§ 3.12(a), 4.30, 32.4(a) and (c), and 180.1(a) (2016).

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

#### IV. PERMANENT INJUNCTION

47. Based upon and in connection with the foregoing conduct, pursuant to 7 U.S.C § 13a-1 (2012), Defendants are permanently restrained, enjoined and prohibited from directly or indirectly:

- a. cheating or defrauding, or attempting to cheat or defraud, other persons; willfully making, or causing to be made, any false report or statement to other persons, or willfully deceiving, or attempting to deceive, other persons, in connection with any offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction, in violation of 7 U.S.C. § 6c(b) (2012), and 17 C.F.R. § 32.4(a) and (c) (2016);
- b. using or employing, or attempting to use or employ, any manipulative device, scheme, or artifice to defraud; making or attempting to make, any untrue or misleading statement of a material fact or omitting to state a material fact necessary in order to make the statements made not untrue or misleading; or engaging, or attempting to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit on any other person, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, in violation of 7 U.S.C. § 9(1) (2012), and 17 C.F.R. § 180.1(a)(2016);



- c. using the mails or any means or instrumentality of interstate commerce, directly or indirectly to employ any device, scheme, or artifice to defraud any client or prospective client or to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client in violation of 7 U.S.C. § 6o(1)(2012);
  - d. acting as a commodity trading advisor without the benefit of registration with the Commission in violation of 7 U.S.C. § 6m(1)(2012);
  - e. acting as an associated person of a commodity trading advisor without the benefit of registration with the Commission, in violation of 7 U.S.C. § 6k(3) and 17 C.F.R. §§ 3.12(a) (2016); and
  - f. soliciting, accepting, or receiving funds from existing or prospective clients as a commodity trading advisor in violation of 17 C.F.R. § 4.30(a) (2016).
48. Defendants are 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 their own personal account or for any account in which they have a direct or indirect interest;
  - c. having any commodity interests traded on their 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) (2016).

## **V. RESTITUTION, DISGORGEMENT, AND CIVIL MONETARY PENALTY**

### **A. Restitution and Disgorgement**

49. Defendants shall pay, jointly and severally, restitution in the amount of two million seven hundred seventy seven thousand one hundred thirty dollars (\$2,777,130) (“Restitution Obligation”), plus post-judgment interest. Post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

50. Prometheus shall disgorge the amount of two hundred fourteen thousand six hundred sixty dollars (\$214,660), plus post-judgment interest (the “Prometheus Disgorgement Obligation”). GDCM shall disgorge the amount of eight hundred seventy eight thousand and seven hundred dollars (\$878,700), plus post-judgment interest (the “GDCM Disgorgement Obligation”) (the Prometheus Disgorgement Obligation and GDCM Disgorgement Obligation are referred to collectively as the “Disgorgement Obligations”). 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 (2012).

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

52. Defendants shall make Restitution Obligation payments under this Consent Order to the Monitor in the name "Vision Settlement/Restitution Fund" and shall send such Restitution Obligation payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's, or bank money order, to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under cover letter that identifies the paying Defendant and the name and docket number of this proceeding. Defendants 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, DC 20581.

53. Prometheus and GDCM shall make Disgorgement Obligations payments under this Consent Order to the Monitor in the name "Vision Settlement/Restitution Fund" and shall send such Disgorgement Obligations payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's, or bank money order, to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under cover letter that identifies the paying Relief Defendant and the name and docket number of



this proceeding. Prometheus and GDCM 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.

54. The Monitor shall oversee the Restitution Obligation and Disgorgement Obligations, and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Defendants' clients identified by the CFTC or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Restitution Obligation and Disgorgement Obligations 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 clients is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the CFTC following the instructions for civil monetary penalty payments set forth in Paragraph 63 below.

55. Any monies received by the Monitor and/or the CFTC from or on behalf of the Relief Defendants will be applied toward the Defendants' Restitution Obligation by the amount of monies received. To the extent a Relief Defendant's disgorgement obligation exceeds the outstanding Restitution Obligation owed by Defendants (taking into account any payments reducing the Restitution Obligation), a Relief Defendant shall only be responsible for payment of the lesser Restitution Obligation. To the extent Defendants' Restitution Obligation has been satisfied in full, all Relief Defendants' outstanding disgorgement obligations will be deemed satisfied.

56. Defendants shall, consistent with their cooperation obligations set forth in Paragraph 65, cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Defendants' clients to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution

Obligation payments.

57. Upon entry of this Consent Order, the Court's Order Granting Plaintiff's *Ex Parte* Motion for a Statutory Injunction and Related Motions [DE #9] (the "Injunction Order") entered on February 19, 2016, shall terminate. Within ten (10) days of the entry of this Consent Order, any repository, bank, investment, or other financial institution, wherever located, holding any of Defendants' or the Settling Relief Defendants' assets frozen pursuant to the Injunction Order shall be authorized and directed to release such assets to the Monitor in the name of the "Vision Settlement/Restitution Fund" per the instructions described above in Paragraph 52.

58. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Defendants' clients during the previous year. The Monitor shall transmit this report under a cover letter that identifies the name and docket number of this proceeding to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

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

60. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each client of Defendants who suffered a loss is explicitly made an intended third-party beneficiary of this Consent Order and may seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the restitution that has not been paid by Defendants to ensure continued compliance with any provision of this Consent Order and to hold Defendants in contempt for any violations of any provision of this Consent Order.

61. To the extent that any funds accrue to the U.S. Treasury for satisfaction of

**Defendants' Restitution Obligation and/or the Settling Relief Defendants' Disgorgement**

Obligations, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth above.

**B. Civil Monetary Penalty**

62. Defendants shall pay, jointly and severally, a civil monetary penalty in the amount of three million seven hundred and fifty thousand dollars (\$3,750,000.00) ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

63. Defendants shall pay their CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
ATTN: Accounts Receivables  
DOT/FAA/MMAC/AMZ-341  
CFTC/CPSC/SEC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-7262  
Facsimile: (405) 954-1620  
E-Mail: nikki.gibson@faa.gov

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

Defendants 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, DC 20581.

**C. Provisions Related to Monetary Sanctions**

64. Partial Satisfaction: Acceptance by the CFTC or the Monitor of any partial payment of Defendants' Restitution Obligation, the Settling Relief Defendants' Disgorgement Obligations, or CMP Obligation shall not be deemed a waiver of their 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.

**D. Cooperation**

65. Defendants shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement in this action, and in any current or future Commission investigation, civil litigation, or administrative matter related to the subject matter of this action; provided, however, that nothing in this provision or Consent Order shall waive or be construed to waive any federal or state litigation right, privilege or immunity afforded to Defendants, including, but not limited to, the attorney-client privilege, work product immunity, and any right or privilege provided under any state Constitution or the U.S. Constitution, including, but not limited to, the rights and privileges afforded under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution.

**VI. MISCELLANEOUS PROVISIONS**

66. 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:

Richard A. Glaser  
Deputy Director  
U.S. Commodity Futures Trading Commission

Division of Enforcement  
1155 21st Street, NW  
Washington, DC 20581  
Telephone: (202) 418-5000  
Facsimile: (202) 418-5531  
E-Mail: rglaser@cftc.gov

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

67. Change of Address/Phone: Until such time as Defendants satisfy in full their Restitution Obligation and CMP Obligation as set forth in this Consent Order, Defendants shall provide written notice to the CFTC by certified mail of any change to their telephone number and mailing address within ten (10) calendar days of the change.

68. 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.

69. 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.

70. Waiver: The failure of any party to this Consent Order or of any client at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or client 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.

71. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this

action to ensure compliance with this Consent Order, including any motion by Defendants or the Settling Relief Defendants to modify or seek relief from the terms of this Consent Order.

72. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Defendants, upon any person under their 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 Defendants in violating the injunctive and equitable relief provisions of this Consent Order.

73. Authority: The signatories to this Consent Order hereby warrant that they have, respectively, the requisite authority and are duly empowered to sign and submit this Consent Order on behalf of the CFTC, Defendants, and the Settling Relief Defendants.

74. 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.

75. Contempt: Defendants and the Settling Relief Defendants understand 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.

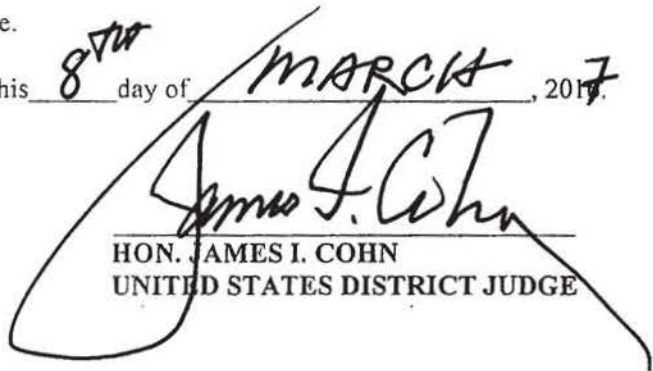
76. Agreements and Undertakings: Defendants shall comply with all of the undertakings and agreements set forth in this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this



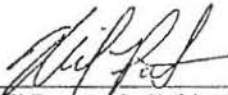
*Consent Order of Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief  
Against Defendants Vision Financial Partners LLC and Neil Pecker, and Consent Order of  
Disgorgement Against Relief Defendants Prometheus Enterprises, Inc., and GDCM Trust*  
forthwith and without further notice.

IT IS SO ORDERED on this 8<sup>th</sup> day of MARCH, 2017.

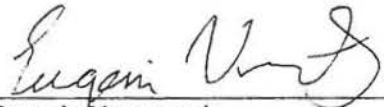


HON. JAMES I. COHN  
UNITED STATES DISTRICT JUDGE

CONSENTED TO:

  
\_\_\_\_\_  
Neil Pecker, individually

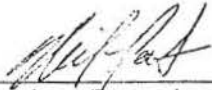
Dated: 10/31/16

  
\_\_\_\_\_  
Eugenia Vroustouris  
Senior Trial Attorney  
U.S. Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

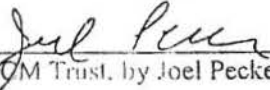
Dated: 8 March 2017

  
\_\_\_\_\_  
Vision Financial Partners, LLC, by  
Neil Pecker, Managing Member

Dated: 10/31/16

  
\_\_\_\_\_  
Prometheus Enterprises, Inc., by  
Neil Pecker, President

Dated: 10/31/16

  
\_\_\_\_\_  
GDCM Trust, by Joel Pecker, Trustee

Dated: 10/31/16

APPROVED AS TO FORM ONLY:

/s/Peter W. Homer  
\_\_\_\_\_  
Peter W. Homer, Counsel for  
Defendants Neil Pecker and Vision Financial Partners, LLC  
and Relief Defendants Prometheus Enterprises, Inc., and GDCM Trust

Homer Bonner Jacobs  
1200 Four Seasons Tower 1441 Brickell Avenue  
Miami, Florida 33131

Dated: 10/31/16