

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

U.S. COMMODITY FUTURES TRADING COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 1:11-cv-08567
)	
v.)	Judge Joan B. Gottschall
GRACE ELIZABETH REISINGER and ROF CONSULTING, LLC)	
)	
Defendants.)	

**FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION,
DISGORGEMENT, RESTITUTION, AND CIVIL MONETARY PENALTIES**

This matter is before the Court following a jury trial on the Commodity Futures Trading Commission’s (“CFTC,” “Commission” or “Plaintiff”) claims against Defendant Grace Elizabeth Reisinger (“Reisinger”). The jury rendered a verdict for the CFTC on September 13, 2016, and thereafter the Court entered a Memorandum Opinion and Order regarding the issues of restitution, disgorgement, civil monetary penalties and injunctive relief against Defendants Grace Elizabeth Reisinger and ROF Consulting, LLC (“ROF”) (collectively, “Defendants”) (ECF No. 230). Previously, the Court entered a default against ROF on November 7, 2012 (ECF No. 47), and subsequently entered a permanent injunction barring ROF from future violations of the Commodity Exchange Act (“Act”) and of the CFTC’s Regulations (“Regulations”), from acting in any capacity that requires registration with the CFTC, and from trading any commodity interests on its own or others’ behalf (ECF No. 102).

Accordingly, the Court directs the entry of a permanent injunction and trading ban against Reisinger, and imposes an order for disgorgement and civil monetary penalties against Reisinger and ROF and an order for restitution against Reisinger, as follows:

I. PERMANENT INJUNCTION AND TRADING BAN AGAINST REISINGER

A. Prohibition on Violations of the Act

1. Based upon and in connection with this Court's September 19, 2017

Memorandum Opinion and Order (ECF No. 230), and pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendant Reisinger 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 that is made, or to be made, for or on behalf of any other person in violation of Section 4b(a)(1)(A) of the Act, 7 U.S.C. § 6b(a)(1)(A) (2012);
- b. Willfully deceiving or attempting to deceive other persons by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract in violation of Section 4b(a)(1)(C) of the Act, 7 U.S.C. § 6b(a)(1)(C) (2012);
- c. Cheating or defrauding or attempting to cheat or defraud, or deceiving or attempting to deceive, any other person by any means whatsoever in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), and Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c) (2017);
- d. While acting as a commodity pool operator or associated person of a commodity pool operator, engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant in violation of Section 4o(1)(B) of the Act, 7 U.S.C. § 6o(1)(B) (2012);
- e. Making use of the mails or any means or instrumentality of interstate commerce in connection with a business as a commodity pool operator unless registered under the Act in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012);
- f. Filing a notice of exemption from the requirement to register as a commodity pool operator subsequent to the time that the pool operator delivers subscription agreements for the pool to prospective pool participants in violation of Regulation 4.13(b)(2), 17 C.F.R. § 4.13(b)(2)(2017);
- g. Failing to amend a claimed exemption notice from the requirement to register as a commodity pool operator in the event that any of the information contained or representations made in the notice becomes inaccurate or incomplete within 15 business

days after the pool operator becomes aware of the occurrence of such event in violation of Regulation 4.13(b)(5), 17 C.F.R. § 4.13(b)(5) (2017); and

h. Failing to provide pool participants with annual reports and/or account statements in violation of Section 4n(4) of the Act, 7 U.S.C. § 6n(4) (2012), and Regulation 4.22, 17 C.F.R. § 4.22 (2017).

B. Prohibition on Any Activity Related to Trading in Any Commodity Interest

2. Reisinger is also permanently restrained, enjoined and prohibited from directly or indirectly:

a. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));

b. Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2017)), for her own personal account or for any account in which she has a direct or indirect interest;

c. Having any commodity interests traded on her behalf;

d. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;

e. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;

f. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017); and/or

g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2017)), agent or any other officer or employee of any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)) registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017).

II. DISGORGEMENT AGAINST REISINGER AND ROF

3. Reisinger shall pay disgorgement in the amount of \$153,355.04, plus prejudgment interest of \$34,731.91, for a total of \$188,086.95 (“Reisinger Disgorgement Obligation”). The

Reisinger Disgorgement Obligation shall commence immediately upon entry of this Order.

Prejudgment interest was determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2) (2012) from July 1, 2011 to September 30, 2017 (*see Prejudgment Interest Calculation for Reisinger's Disgorgement*, attached as Exhibit 1).¹

4. ROF shall pay disgorgement in the amount of \$344,108.30, plus prejudgment interest of \$77,933.78, for a total of \$422,042.08 ("ROF Disgorgement Obligation"). The ROF Disgorgement Obligation shall commence immediately upon entry of this Order. Prejudgment interest was determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2) (2012) from July 1, 2011 to September 30, 2017 (*see Prejudgment Interest Calculation for ROF's Disgorgement*, attached as Exhibit 2).

5. Reisinger was the controlling person of ROF and therefore is jointly liable for ROF's Disgorgement Obligation.

6. Reisinger and ROF shall pay their respective Disgorgement Obligations 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

¹ As provided for in the attached Exhibits 1-5, the CFTC has calculated prejudgment interest for Reisinger's and ROF's respective disgorgement, restitution and civil monetary penalties, in accordance with the delinquent tax rate as established by the Internal Revenue Service, 26 U.S.C. § 6621(a)(2), and assessed on a quarterly basis, from July 1, 2011 (the closest date following the filing of the Complaint on June 29, 2011) to September 30, 2017 (the closest date prior to the judgment herein).

6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, 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 respective Disgorgement Obligations with a cover letter that identifies Defendants 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, N.W., Washington, D.C. 20581.

III. RESTITUTION AGAINST REISINGER

7. Reisinger shall pay restitution in the amount of \$497,893.88, plus prejudgment interest of \$112,763.19, for a total of \$610,657.07 (“Reisinger Restitution Obligation”). The Reisinger Restitution Obligation shall commence immediately upon entry of this Order. Prejudgment interest was determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2) (2012) from July 1, 2011 to September 30, 2017 (*see Prejudgment Interest Calculation for Reisinger’s Restitution*, attached as Exhibit 3).

8. To effect payment of the Restitution Obligation and the distribution of any restitution payments to Defendants’ pool participants, the Court appoints the National Futures Association (“NFA”) as Monitor (“Monitor”).² The Monitor shall receive restitution payments

² NFA is a registered futures association with the CFTC and is the industry-wide, independent, self-regulatory organization for the U.S. futures industry. NFA routinely serves as a monitor in CFTC enforcement actions. Specifically, as a monitor appointed by federal district court order in CFTC enforcement litigation, or by CFTC

from Reisinger 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.

9. Reisinger shall make Restitution Obligation payments under this Order to the Monitor in the name "Grace Elizabeth Reisinger/ROF 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 check, 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. Reisinger 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, N.W., Washington, D.C. 20581.

10. The Monitor shall oversee the Restitution Obligation and shall have the discretion to determine the manner of distribution of such funds in an equitable fashion to Defendants' pool participants identified by the Commission or may defer distribution until such time as the Monitor deems appropriate. In the event that the amount of Restitution Obligation payments to the Monitor are of a de minimis nature such that the Monitor determines that the administrative cost of making a distribution to eligible pool participants is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part IV below.

order in administrative enforcement litigation, NFA processes and administers post-judgment restitution payments that respondents, defendants or relief defendants make pursuant to the relevant order.

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

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

13. 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 Defendants or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any pool participant that exist under state or common law.

14. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each pool participant of Defendants 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 restitution that has not been paid by Reisinger to ensure continued compliance with any provision of this Order and to hold Reisinger in contempt for any violations of any provision of this Order.

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

IV. CIVIL MONETARY PENALTIES AGAINST REISINGER AND ROF

16. Reisinger shall pay a civil monetary penalty in the amount of \$64,124.00, plus pre-judgment interest of \$14,522.83, for a total of \$78,646.83 ("Reisinger CMP Obligation").

The Reisinger CMP Obligation shall commence immediately upon entry of this Order.

Prejudgment interest was determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2) (2012) from July 1, 2011 to September 30, 2017 (*see Prejudgment Interest Calculation for Reisinger's Civil Monetary Penalty*, attached as Exhibit 4).

17. ROF shall pay a civil monetary penalty in the amount of \$1,041,793.02, plus pre-judgment interest of \$235,945.67, for a total of \$1,277,738.69 ("ROF CMP Obligation"). The ROF CMP Obligation shall commence immediately upon entry of this Order. Prejudgment interest was determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2) (2012) from July 1, 2011 to September 30, 2017 (*see Prejudgment Interest Calculation for ROF's Civil Monetary Penalty*, attached as Exhibit 5).

18. Reisinger was the controlling person of ROF and therefore is jointly liable for ROF's CMP Obligation.

19. Reisinger and ROF shall pay their respective CMP Obligations by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money

order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

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

20. 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 respective CMP Obligations with a cover letter that identifies Defendants 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, N.W., Washington, D.C. 20581.

V. PROVISIONS RELATED TO MONETARY SANCTIONS

21. Partial Satisfaction: Acceptance by the Commission or the Monitor of any partial payment of Reisinger's Restitution Obligation, Reisinger's and ROF's Disgorgement Obligations, or Reisinger's and ROF's CMP Obligations, shall not be deemed a waiver of their obligations 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.

VI. MISCELLANEOUS PROVISIONS

22. 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:

James McDonald, Director
Division of Enforcement
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Notice to NFA:

Daniel Driscoll, Executive Vice President, COO
National Futures Association
300 S. Riverside Plaza, Suite 1800
Chicago, IL 60606-3447

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

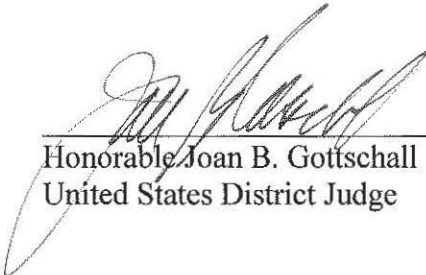
23. Change of Address/Phone: Until such time as Defendants satisfy in full their Restitution, Disgorgement and CMP Obligations as set forth in this Order, Defendants shall provide written notice to the Commission by certified mail of any change to their telephone number and mailing address within ten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

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

25. 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 Defendants to modify or for relief from the terms of this Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this Final Judgment and Order of Permanent Injunction, Disgorgement, Restitution, and Civil Monetary Penalties.

IT IS SO ORDERED on this 4th day of October 2017.



Honorable Joan B. Gottschall
United States District Judge