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U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: _____
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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
CENTRAL DIVISION

U.S. Commodity Futures Trading Commission,

Plaintiff,

v.

Christopher D. Hales, Eric A. Richardson and
Bentley Equities, LLC,

Defendants.

Case No.: 12-cv-415-DB

Honorable Judge Dee Benson

_____ | **CONSENT ORDER FOR
PERMANENT INJUNCTION, CIVIL
MONETARY PENALTY,
DISGORGEMENT, AND OTHER
ANCILLARY RELIEF AGAINST
DEFENDANT ERIC A. RICHARDSON**

I. INTRODUCTION

On December 17, 2012, Plaintiff U.S. Commodity Futures Trading Commission ("Commission" or "CFTC") filed a six count Amended Complaint against Eric A. Richardson ("Richardson"), Christopher D. Hales ("Hales") and Bentley Equities, LLC ("Bentley") (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 and Supp. III 2009), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008) and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012).

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Disgorgement, Civil Monetary Penalty, and Other Ancillary Relief ("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 Commission 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 Amended 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, 7 U.S.C. § 13a-1(a);

5. Admits the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1 *et seq.*;
6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e);
7. Waives:
 - a. any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2012), 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.
8. 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 Richardson now or in the future resides outside the jurisdiction of this Court.

9. 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.

10. 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 Amended Complaint or the Findings of Fact and Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Amended 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 Commission is not a party. Richardson 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.

11. By consenting to the entry of this Consent Order, Richardson neither admits nor denies the allegations of the Amended Complaint or the Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which Richardson admits. Further, Richardson agrees and intends that the allegations contained in the Amended Complaint and all of the Findings of Fact and 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 Richardson; (b) any proceeding pursuant to Section 8a of the Act, 7 U.S.C. § 12a, and/or Part 3 of the Regulations, 17

C.F.R. §§ 3.1 *et seq.* (2012); and/or (c) any proceeding to enforce the terms of this Consent Order.

12. Agrees to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 29 of Section VI (Miscellaneous Provisions) of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States.

13. 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 Richardson in any other proceeding.

III. CONCLUSIONS

14. The Court, being fully advised in the premises, finds there is good cause for entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of Findings of Fact, Conclusions of Law and a permanent injunction and ancillary equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

THE PARTIES AGREE AND THE COURT HEREBY FINDS:

15. Plaintiff U.S. Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, as amended, 7 U.S.C. §§ 1 *et seq.*, and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012).

16. Defendant Eric A. Richardson is thirty-eight years old and resides in Cedar Hills, Utah. Richardson has never been registered with the Commission. From approximately April 9, 2009 through approximately August 2010, Richardson was an owner, manager, member,

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P. 008

director and/or agent of Bentley. Richardson was the Mayor of Cedar Hills, Utah from January 1, 2006 until June 24, 2012, when he resigned. In a criminal case related to his position with Bentley, the U.S. Attorney's Office for the District of Utah charged Richardson by indictment with one count of bank fraud. *USA v. Eric A. Richardson*, 2:12 CR 00354 (C.D. UT June 27, 2012). Richardson pled guilty to one count of bank fraud on July 23, 2012, and was sentenced to one-year and a day of prison time on November 13, 2012. He began serving his sentence in January 2013.

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

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

19. For purposes of this case and the proceedings identified in paragraph 11 only the court finds that by the conduct described in the Amended Complaint, Richardson violated Section 4b(a)(1)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A), (C), in that he cheated or defrauded, or attempted to cheat or defraud, and willfully deceived, or attempted to

deceive, commodity pool participants ("participants") by knowingly misappropriating participants' funds.

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

IV. PERMANENT INJUNCTION

IT IS THEREFORE ORDERED THAT:

21. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, Richardson is permanently restrained, enjoined and prohibited from directly or indirectly cheating or defrauding, or attempting to cheat or defraud, another person, 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, or with any other person, in violation of Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. §6b(a)(1)(A), (C).

22. Richardson 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), as amended, 7 U.S.C. § 1(a);
- 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) (2011)) ("commodity options"), security futures products, foreign currency (as described in 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) ("forex contracts")), or any swap (as that

- term is defined in section 1a(47) of the Act and as further defined by Regulation 1.3(xxx) ("swap"), for his own personal account or any account in which Richardson has a direct or indirect interest;
- c. Having any commodity futures, options on commodity futures, commodity options, security futures products, forex contracts, and/or swaps 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, security futures products, forex contracts, and/or swaps;
 - 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, security futures products, forex contracts, and/or swaps;
 - 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) (2012); and/or
 - g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent or any other officer or employee of any person (as that term is defined in 7 U.S.C. § 1a) 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) (2012).

V. CIVIL MONETARY PENALTY AND DISGORGEMENT

A. Civil Monetary Penalty

23. Richardson shall pay a civil monetary penalty of \$150,000 (one-hundred and fifty thousand dollars), plus post judgment interest (the "CMP Obligation"). 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).

24. Richardson shall pay this 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, 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 Receivable – AMZ 340
E-mail Box: 9-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd
Oklahoma, OK 73169
Telephone: (405) 954-5644

If payment by electronic transfer is chosen, Richardson shall contact Linda Zurhorst at the address above or her successor for instructions and shall fully comply with those instructions. Richardson shall accompany payment of the CMP Obligation with a cover letter that identifies Richardson and the name and case number of this proceeding. Richardson shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, U.S.

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P. 012

Commodity Futures Trading Commission, Three Lafayette Square, 1155 21st Street, NW, Washington, DC 20581 and to the Regional Counsel/Associate Director, Commodity Futures Trading Commission, Central Regional Office, 525 West Monroe, Suite 1100, Chicago, IL 60661.

B. Disgorgement

25. Richardson shall pay disgorgement in the amount of \$100,000 (one-hundred thousand dollars ("Disgorgement Obligation")), plus post-judgment interest. 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.

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

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

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

shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581 and to the Regional Counsel/Associate Director, Commodity Futures Trading Commission, Central Regional Office, 525 West Monroe, Suite 1100, Chicago, IL 60661.

C. Provisions Related to Monetary Sanctions

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

D. Cooperation

28. Richardson shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.

VI. MISCELLANEOUS PROVISIONS

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

Notice to the Commission:

Associate Director
Commodity Futures Trading Commission
Division of Enforcement
525 West Monroe Street, Suite 1100
Chicago, IL 60661
Facsimile: (312) 596-0714

Notice to Richardson:

Care of,
Rodney G. Snow
CLYDE SNOW & SESSIONS
201 South Main Street, 13th Floor
Salt Lake City, Utah 84111-2516
Telephone: 801.322.2516
Facsimile: 801.521.6280
rgs@clydesnow.com

All such notices to the Commission shall reference the name and case number of this action.

30. **Change of Address/Telephone:** Until such time as Richardson satisfies the Disgorgement Obligation and CMP Obligation as set forth in this Consent Order, Richardson shall provide written notice of his new telephone number(s) and mailing addresses within ten (10) calendar days of the change.

31. **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.

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

33. **Waiver:** The failure of any party to this Consent Order or any participant at any time or times to require performance of any provision hereof shall in no manner affect the right of such party or 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.

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

35. **Injunctive and Equitable Relief Provision:** The injunctive and equitable relief provisions of this Consent Order shall be binding upon Richardson, 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 in active concert or participation with Richardson.

36. **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.

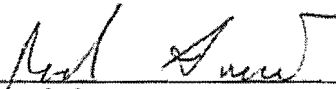
37. Richardson understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings he may not challenge the validity of this Consent Order.

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 Eric A. Richardson.


CONSENTED TO AND APPROVED BY:


Eric A. Richardson

4/10/13
Dated


Rodney G. Snow
Attorney for Defendant, Eric A. Richardson
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4/10/13
Dated


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5/20/13
Dated

IT IS SO ORDERED.

Dated: May 31, 2013


Honorable Judge Dee Benson
UNITED STATES DISTRICT JUDGE