

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

SUMMIT TRADING & CAPITAL LLC, a
dissolved Illinois Limited Liability Company,
BRANT L. RUSHTON, an individual, and
MELISSA C. RUSHTON, an individual,

Defendants.

Case No. 1:11-cv-01436-JES-JAG

CONSENT ORDER
FOR PERMANENT INJUNCTION,
CIVIL MONETARY PENALTY,
AND OTHER EQUITABLE
RELIEF AGAINST MELISSA C.
RUSHTON

I. INTRODUCTION

On November 29, 2011, Plaintiff Commodity Futures Trading Commission (“Commission”) filed a Complaint [1] against Defendant Melissa C. Rushton (“M. Rushton”) 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.*, and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. § 1.1 *et seq.*, allegedly committed by M. Rushton from at least June 2005 and continuing to November 2011 (the “Relevant Period”). The Court entered an *ex parte* Statutory Restraining Order [6] against M. Rushton on November 29, 2011 and a Consent Order of Preliminary Injunction [8] against M. Rushton on January 18, 2012. Plaintiff’s motion for summary judgment on all counts [23] was granted against Defendants Brant Rushton (“B. Rushton”) and Summit Trading & Capital LLC (“Summit”) on January 31, 2013 [30].

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief (“Consent Order”);
2. Affirms that she 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 Complaint;
4. Admits the jurisdiction of this Court over her and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (Supp. IV. 2011);
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) (2006);
7. Waives:
 - (a) any and all claims that she 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 she 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 her 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 M. Rushton now or in the future resides outside the jurisdiction of this Court;

9. Agrees that she 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 she nor any of her agents or employees under her authority or control shall take any action or make any public statement denying, directly or indirectly, 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 her: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. M. Rushton shall undertake all steps necessary to ensure that all of her agents and/or employees under her authority or control understand and comply with this agreement; and

11. By consenting to the entry of this Consent Order, neither admits nor denies the allegations of the Complaint, admits the Findings of Fact and Conclusions of Law in this

Consent Order, and agrees and intends that 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 M. Rushton; (b) any proceeding pursuant to Section 8a of the Act, 7 U.S.C. § 12a (Supp. IV 2011), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3 *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 Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against her, whether inside or outside the United States, and

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 M. Rushton in any other proceeding.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 Section 6c of the Act, 7 U.S.C. § 13a-1 (Supp. IV 2011), as set forth herein.

A. Findings of Fact

i. The Parties

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

15. Defendant **Summit Trading & Capital LLC** was a manager-managed Illinois Limited Liability Company formed on January 12, 2007 with its last principal place of business listed as 2755 NW Champion Circle, Bend, Oregon 97701. Summit was formed by B. Rushton and M. Rushton in Illinois on January 12, 2007 and engaged in a business that purported to operate one or more commodity pools and offered interests in these pools to members of the general public. Summit was involuntarily dissolved by the Illinois Secretary of State on July 9, 2010. Summit has never been registered with the Commission in any capacity.

16. Defendant **Brant L. Rushton** is an individual who, during the Relevant Period, resided in or around Champaign, Illinois and Bend, Oregon. B. Rushton is (and was during the Relevant Period) a founder, principal, manager, and/or officer of Summit. B. Rushton has never been registered with the Commission in any capacity.

17. Defendant **Melissa C. Rushton** is an individual and spouse of B. Rushton who, during the Relevant Period, resided in or around Champaign, Illinois and Bend, Oregon. M. Rushton is (and was during the Relevant Period) listed as a manager of Summit in corporate filings with the Illinois Secretary of State.

ii. The Operation of Summit

18. During the Relevant Period, B. Rushton and M. Rushton were the sole Managers of Summit.

19. Summit's January 15, 2007 Operating Agreement provided that Summit "shall be managed exclusively by the Managers" who are responsible for "all decisions relating to the management and control of the conduct of the business of the Company."

20. During the Relevant Period, B. Rushton solicited members of the general public to invest in one or more commodity pools to be operated by Summit in exchange for a pro rata

share of the profits, and he did so both orally and through distribution of prospectuses pertaining to the purported pools.

21. For example, Brant told at least one prospective investor in 2006 that he (B. Rushton) was averaging monthly profits of four (4) percent in his futures trading.

22. The written prospectuses provided to investors by B. Rushton claimed that the purported "Swing" pool had earned an 86.98 percent net return since 2007 with positive gains in every quarter, that the "S&P 500" pool had earned profits between 46 and 92 percent since as early as 2006 with "an average of 11 profitable months per year," and that the "Dow-Mini" pool had earned a 181.5 percent net return since 2004 "with no down quarters."

23. B. Rushton also told at least one prospective investor that up to \$50,000 of her first investment into the "S&P 500" and "Dow-Mini" pools would be guaranteed by Summit against risk of loss.

24. All of B. Rushton's representations in ¶¶ 21-23 were false as demonstrated by his actual trading results discussed below.

25. In addition, the prospectuses as well as Summit's website (www.tradethesummit.com) falsely claimed that Summit was formed in January 2004 when in fact the company was not formed until January 2007.

26. As a result of these false representations, during the Relevant Period, at least 17 investors provided Summit a total of at least \$1,990,568 for investment in the purported pools.

27. Some of these funds were accepted by Summit in Summit's name rather than in the name of the pools and consequently were commingled with funds held in accounts that were not in the name of the pools.

28. Rather than opening futures trading accounts in the names of the purported pools, B. Rushton opened a single futures trading account in his and M. Rushton's names at Velocity Futures, LP ("Velocity"), a registered domestic Futures Commission Merchant ("FCM"), in December 2005, nearly seven months after receiving funds from at least one investor.

29. Neither B. Rushton nor M. Rushton ever opened a futures trading account at any domestic FCM in the name of Summit or any of the purported pools during the Relevant Period.

30. Between December 2005 and September 2011, B. Rushton made 45 separate deposits into the Velocity trading account with funds that originated from bank accounts held in the names of B. Rushton, B. Rushton and M. Rushton, or Summit at three different banks.

31. During this period, B. Rushton traded the Dow-mini and e-mini S&P 500 futures contracts in the Velocity trading account resulting in cumulative net losses, including commissions and fees, of approximately \$403,545 and incurring net trading losses in 63 out of 69 months of trading between January 2006 and September 2011, never earning a monthly profit higher than \$2,275.74.

32. Between December 2005 and September 2011, B. Rushton initiated 275 withdrawals from the Velocity trading account ranging in size from \$100 to \$60,200, and these funds were transferred to bank accounts held in the name of B. Rushton individually or B. Rushton and M. Rushton jointly at four different banks.

33. During the Relevant Period, M. Rushton had weekly to monthly conversations with B. Rushton about his trading. B. Rushton did not discuss the trading in any detail beyond telling M. Rushton that it was going well.

34. During the Relevant Period, Summit distributed monthly account statements to pool investors via e-mail, U.S. mail, and a website.

35. Almost all of the statements provided to pool investors reported false profits purportedly earned in the investors' accounts as a result of B. Rushton's trading and overstated the balance in each investor's account, when in fact B. Rushton's trading resulted in losses virtually every single month.

36. For example, monthly account statements sent to one pool investor for 2009 reported cumulative net profits every single month ranging from .39 percent to 2.99 percent, however, B. Rushton's actual futures trading in the Velocity account in 2009 resulted in losses every single month.

37. In addition to monthly account statements, Summit sent IRS 1099 forms to pool investors showing annual profits purportedly earned by the investors when in fact, as described above, B. Rushton's actual trading resulted in net losses each year.

38. In early 2010, M. Rushton became aware that Summit was not performing as well as she previously thought, that one or more pool investor accounts were experiencing "problems," that statements sent to one or more pool investors may have contained inaccurate information, and that one pool investor was having a problem withdrawing his funds from Summit. Nevertheless, Summit continued to operate until November 2011.

39. In or about March 2011, one investor requested that Summit redeem a portion of his account, at that time valued at more than \$800,000 according to statements provided by Summit.

40. After not receiving his funds for several weeks, this investor contacted B. Rushton who claimed the payment had been sent. The investor never received the payment.

41. On May 3, 2011, the investor, B. Rushton, and M. Rushton participated in a telephone conference during which the investor expressed concerns about his investment with Summit.

42. During the May 3, 2011 telephone conference, B. Rushton told the investor that only approximately \$70,000 of all of the investors' funds remained, and when the investor questioned B. Rushton about the account statements he had received during the course of his investment, B. Rushton admitted that the investor's account was never worth the approximately \$800,000 represented in the March 2011 statement and that in fact the statements sent over the preceding two years contained false information.

43. During this telephone conference, B. Rushton also admitted that some of the investors' funds were used to pay B. Rushton's and Summit's expenses and that some of the investor's funds were used to pay off other investors, and B. Rushton agreed to formulate a plan to pay back the investor, however the investor received no funds back from Summit.

44. Another investor, having not received her funds more than two and a half months after requesting B. Rushton to close her accounts at Summit, sent an e-mail to M. Rushton expressing her concerns about B. Rushton's lack of response. M. Rushton never responded to the investor's email but instead forwarded it to B. Rushton.

45. On or about July 6, 2011, two investors received a letter from an attorney representing B. Rushton and Summit proposing a settlement of these investors' claims against B. Rushton and Summit regarding the balance of their investments.

46. The letter proposed, *inter alia*, that B. Rushton and Summit would issue the investors amended IRS Form 1099s reflecting *losses*, rather than the profits previously reported,

and would return approximately \$25,000 and \$107,000, respectively, to be paid in 60 monthly installments; however neither of these investors accepted the offer.

47. At the time, M. Rushton understood that the settlement offer was part of B. Rushton's efforts to resolve problems with these two investors' accounts.

48. On September 19, 2011, the Velocity trading account was closed and B. Rushton transferred the remaining \$4,797.02 in the account to a bank account in the names of B. Rushton and M. Rushton.

49. On September 20, 2011, B. Rushton attempted to open new trading accounts at a different FCM, Amp Global Clearing, LLC. The FCM declined B. Rushton's applications.

50. On September 21, 2011, B. Rushton opened a trading account at Open E Cry, LLC ("OEC"), a registered FCM, and between October and November 2011, B. Rushton made three deposits into the OEC account.

51. B. Rushton traded the Dow-mini futures contracts in the OEC trading account and incurred net trading losses in 1 out of 2 months of trading, resulting in cumulative net losses, including commissions and fees, of approximately \$1,795.

52. In sum, of the \$1,990,568 received by Summit from investors for trading in the pools, approximately \$405,340 was lost in trading (including broker commissions and fees), approximately \$363,811 was returned to investors, approximately \$39,626 is frozen, pursuant to the Statutory Restraining Order [6], in accounts at Open E Cry LLC and Umpqua Bank¹, and the

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Location	Account No.	Name(s) on Account	Current Balance
Open E Cry LLC	XXX230	B. Rushton	\$31,905
Umpqua Bank	XXXXX6601	B. Rushton ABN Summit Trading	\$4,509.23
Umpqua Bank	XXXXX1577	B. Rushton and M. Rushton	\$2,582.29
Umpqua Bank	XXXXX1445	M. Rushton Ark Tails	\$629.00

remaining approximately \$1,181,791 has not been returned to the pool investors despite their repeated demands.

53. Most if not all of these remaining funds were used by B. Rushton and Summit to pay personal expenses or for other illegitimate purposes.

B. Conclusions of Law

i. Jurisdiction and Venue

54. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (Supp. IV 2011). Section 6c(a) of the Act authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such 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.

55. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), because M. Rushton resides in this jurisdiction and the acts and practices in violation of the Act and Regulations occurred within this District.

ii. M. Rushton's Liability as Controlling Person for B. Rushton's and Summit's Violations of the Act and Regulations

56. By virtue of the conduct described in Section III.A above, B. Rushton and Summit (based on B. Rushton's actions/omissions as its agent) violated Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1) and 6m(1) (2006 and Supp. II 2009), and Regulation 4.20, 17 C.F.R. § 4.20 (2011). *See* this Court's January 31, 2013 Order [30].

57. Under Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), "[a]ny person who, directly or indirectly, controls any person who has violated any provision of the Act . . . may be held liable . . . [if that controlling person] did not act in good faith or knowingly induced, directly

or indirectly, the act or acts constituting the violation.” Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006). Control person liability attaches where such a person “possessed the power or ability to control the specific transaction or activity upon which the primary violation was predicated, even if such power was not exercised.” *Monieson v. CFTC*, 996 F.2d 852, 859 (7th Cir. 1993) (quoting *Donohoe v. Consolidated Operating & Production Corp.*, 982 F.2d 1130, 1138 (7th Cir. 1992)).

58. “A controlling person is said to fail to act in good faith if he ‘did not maintain a reasonably adequate system of internal supervision and control over the [employee] or did not enforce with any reasonable diligence such system.’” *CFTC v. Johnson*, 408 F. Supp. 2d 259, 269 (S.D. Tex. 2005) (quoting *Harrison v. Dean Witter Reynolds, Inc.*, 974 F.2d 873, 881 (7th Cir. 1992)). Furthermore, recklessness is sufficient to establish control person liability. *See G.A. Thompson & Co., Inc. v. Partridge*, 636 F.2d 945, 959 (5th Cir. 1981) (“the question [for control person liability] is whether the defendant acted recklessly in failing to do what he could have done to prevent the violation”).

59. To establish the “knowing inducement” element of the controlling person violation, the Commission must show that the “the controlling person had actual or constructive knowledge of the core activities that constitute the violation at issue and allowed them to continue.” *Johnson*, 408 F.Supp.2d at 269 (quoting *In re JCC, Inc.*, 63 F.3d 1557, 1568 (11th Cir. 1995)).

60. As described above and pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), M. Rushton is liable as a controlling person for B. Rushton’s and Summit’s violations of Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1), and 6m(1) (2006 and Supp. II 2009), and Regulation 4.20, 17 C.F.R. § 4.20 (2011).

iii. Need for Permanent Injunction

61. Unless restrained and enjoined by this Court, there is a reasonable likelihood that M. Rushton will continue to engage in acts and practices in violation of the Act and Regulations.

IV. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

62. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (Supp. IV 2011), M. Rushton is permanently restrained, enjoined and prohibited from directly or indirectly as a controlling person:

a. Cheating or defrauding, or attempting to cheat or defraud, other persons, willfully making or causing to be made to the other person any false report or statement or willfully entering or causing to be entered for the other person any false record, or willfully deceiving or attempting to deceive such other person by any means whatsoever 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 Sections 4b(a)(1)(A)-(C), 7 U.S.C. §§ 6b(a)(1)(A)-(C) (Supp. IV 2011);

b. Using the mails or any other means of interstate commerce as a CPO to employ any device, scheme or artifice to defraud any client or participant or prospective client or participant or to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or participant or prospective participant, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006);

c. Making use of the mails or any means or instrumentality of interstate commerce in connection with the business of a CPO without proper registration in violation of Section 4m(1) of the Act, 7 U.S.C § 6m(1) (2006);

d. Operating a commodity pool as an entity that is not legally cognizable from the CPO and receiving funds in the name of a commodity pool and commingling those funds with the funds of any other person in violation of Regulation 4.20, 17 C.F.R. § 4.20 (2012); and

63. M. Rushton is also permanently restrained, enjoined, and prohibited from directly or indirectly:

a. 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 (as that term is defined in Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2012)) (“commodity options”), swaps (as that term is defined in Section 1a(47) of the Act, 7 U.S.C. § 1a(47) (Supp. IV 2011), and as further defined by Regulation 1.3, 17 C.F.R. § 1.3 (2012)), security futures products, and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (Supp. IV 2011)) (“forex contracts”);

b. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, swaps, security futures products and/or forex contracts;

c. 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

d. 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 Section 1a of the Act, 7 U.S.C. § 1a (Supp. IV 2011)) 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

64. M. Rushton shall immediately pay a civil monetary penalty in the amount of \$50,000 ("CMP Obligation").

65. M. Rushton shall pay her 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 – 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

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

67. The funds currently frozen in the accounts referenced below shall be immediately released and applied directly to payment of the CMP Obligation in accordance with the terms of this Consent Order:

Bank Name	Account Name	Account No.	Funds
Umpqua Bank	Melissa Rushton Ark Tails	XXXXXX1445	\$629.00
Umpqua Bank	Brant L. Rushton and Melissa C. Rushton	XXXXXX1577	\$1,291.15 ²

68. Any acceptance by the Commission of partial payment of M. Rushton's CMP Obligation shall not be deemed a waiver of her 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.

VI. MISCELLANEOUS PROVISIONS

69. M. Rushton 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.

70. All notices required to be given by any provision in this Consent Order shall be sent by certified mail as follows:

Notice to Commission:

Rick Glaser
Associate Director
Division of Enforcement
1155 21st Street, N.W.
Washington, DC 20581

² This amount represents 50 percent of the funds currently frozen in the account.

Notice to Defendant:

Melissa C. Rushton
118 Hillcrest Street
Gridley, IL 61744

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

71. Until such time as M. Rushton satisfies in full her CMP Obligation as set forth in this Consent Order, M. Rushton shall provide written notice to the Commission by certified mail of any change to her telephone number and mailing address within ten (10) calendar days of the change.

72. 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.

73. 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.

74. The failure of any party to this Consent Order at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party 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.

75. Upon being served with a copy of this Consent Order after entry by the Court, M. Rushton shall sign an acknowledgement of such service and serve such acknowledgement on the Court and the Commission within 10 calendar days.

76. This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by M. Rushton to modify or for relief from the terms of this Consent Order.

77. The injunctive and equitable relief provisions of this Consent Order shall be binding upon M. Rushton, upon any person under her 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 M. Rushton.

78. 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.

79. M. Rushton understands that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings she 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.

IT IS SO ORDERED on this 30 day of May, 2013.
s/James E. Shadid

James E. Shadid
Chief United States District Judge

CONSENTED TO AND APPROVED BY:

Defendant Melissa C. Rushton

Counsel for Plaintiff U.S. Commodity Futures Trading Commission

s/Melissa C. Rushton

s/Daniel C. Jordan

~~_____
Melissa C. Rushton
118 Hillcrest Street
Gridley, IL 61744~~

~~_____
Daniel C. Jordan
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581
Phone: (202) 418-5339
Fax: (202) 418-5937
Email: djordan@cftc.gov
Virginia Bar No. 36382~~

Dated: 4-4-13

Dated: 5/13/13

Counsel for Defendant Melissa C. Rushton
s/Daniel G. O'Day

~~_____
Daniel G. O'Day
415 Hamilton Blvd.
Peoria, Illinois 61602
Phone: (309) 637-5282
Fax: (309) 637-5788
Email: doday@cfgolaw.com
6181202~~

Dated: April 9, 2013

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