

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

)	
COMMODITY FUTURES TRADING)	
COMMISSION,)	
)	Case No. 2:20-cv-00503-JES-NPM
Plaintiff,)	
)	
v.)	
)	
THE ALISTA GROUP, LLC, MARVIN W.)	
COURSON III, CHRISTOPHER A.)	
KERTATOS, AND LUIS M. PINEDA)	
PALACIOS, a/k/a LUIS PINEDA,)	
)	
Defendants.)	
)	

**CONSENT ORDER FOR PERMANENT INJUNCTION, RESTITUTION, CIVIL
MONETARY PENALTY, AND OTHER EQUITABLE RELIEF AGAINST
DEFENDANT MARVIN W. COURSON III**

I. INTRODUCTION

On July 16, 2020, Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint against Defendants The Alista Group LLC (“Alista”), Marvin W. Courson III (“Courson”), Christopher A. Kertatos (“Kertatos”), and Luis M. Pineda Palacios, a/k/a Luis Pineda (“Pineda”), seeking injunctive and other equitable relief, as well as the imposition of restitution and civil monetary penalties, for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1-26 (2018).

II. CONSENTS AND AGREEMENTS

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

1. Consents to the entry of this Consent Order for Permanent Injunction, Restitution, Civil Monetary Penalty, and Other Equitable Relief Against Defendant Marvin W. Courson III (“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 Complaint;

4. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2018), and pursuant to 28 U.S.C. §§ 1331 and 1345 (2018);

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. §§ 1-26 (2018);

6. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2018);

7. Waives:

(a) Any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2018) and 28 U.S.C. § 2412 (2018), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2021), 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, tit. II, §§ 201-253, 110 Stat. 847,

857-74 (1996) (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), 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 Courson now or in the future resides outside the jurisdiction of this Court;

9. Agrees that he 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 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 Complaint, 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 his: (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party;

11. Agrees that he shall comply with this Consent Order and 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 Consent Order;

12. Consents to the entry of this Consent Order, without admitting or denying the allegations of the Complaint or the Findings of Fact and Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which he admits;

13. Consents to the use of the findings and conclusions in this Consent Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof;

14. Does not consent, however, to the use of this Consent Order, or the findings and conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party, other than a proceeding in bankruptcy or receivership, or a proceeding to enforce the terms of this Order;

15. Agrees to provide immediate notice to this Court and the Commission by certified mail, in the manner required by Paragraph 666 of Part VI of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against him, whether inside or outside the United States; and

16. 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 Courson 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 Section 6c of the Act, 7 U.S.C. § 13a-1 (2018), as set forth herein. The findings and conclusions in this Consent Order are not binding on any other party to this action.

THE COURT HEREBY FINDS:

A. FINDINGS OF FACT

The Parties to This Consent Order

17. **Plaintiff Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act and the Regulations.

18. **Defendant Marvin W. Courson III** is an individual who resides in Punta Gorda, Florida. Courson has never been registered with the CFTC.

Background

19. Courson registered Alista as a domestic limited liability company in the state of Georgia on July 7, 2016. Alista's articles of incorporation list Courson as the company's organizer. The articles of incorporation list Alista's principal business address as 100 Bull Street, Savannah, Georgia; however, Alista also operated at various times during the Relevant Period out of offices in Fort Myers, Florida and Orlando, Florida.

20. During the Relevant Period, Alista, by and through Courson and others, solicited customers through an internet website and telephone calls to engage in leveraged precious metals transactions.

21. At least some, if not all, of the customers solicited by Courson and others on behalf of Alista were non-Eligible Contract Participants ("ECP"s).

22. During the Relevant Period, Alista, by and through Courson and others, solicited and accepted at least \$890,500 from at least nineteen customers. Of this amount, \$639,500 was sent by customers through checks or wire transfers directly to Alista's bank accounts ("Alista Accounts") and \$77,500 was sent by customers to a bank account under the personal control of

another Alista employee. In addition, at least one customer sent Alista numismatic coins as payment for his transactions. These coins were sent to Alista with the intention that they would be sold by Alista on behalf of the customer and the proceeds of such sale would be used to purchase leveraged precious metals for the customer's account. These coins were sold for \$173,500.

23. With the exception of two fully-paid precious metals transactions which are not the subject of this action, no precious metals were ever purchased in the names of Alista's customers. Instead, Courson and other Alista employees misappropriated Alista customer funds, using them to speculate in leveraged precious metals for Alista's own account, to pay for Alista's business expenses and their own personal expenses, and to make Ponzi-style payments to customers.

Courson and Others Used Alista Customer Funds to Speculate for Alista's Own Account

24. For the first nine months of its operation, Alista signed up only one customer, who engaged in two fully-paid precious metals transactions through an arrangement Alista had with a Cayman Islands-based precious metals dealer ("Cayman Precious Metals Dealer").

25. Sometime in or around April 2017, Alista, by and through Courson and others, began cold-calling customers to solicit them to engage in leveraged precious metals transactions. From April to October 2017, Alista, by and through Courson and others, acquired eighteen new customers. In addition, in April 2017, the one customer whom Alista had introduced to the Cayman Precious Metals Dealer was convinced to sell his fully-paid precious metals and to use the proceeds of this sale, along with additional funds, to engage in leveraged precious metals transactions.

26. Neither Alista nor Courson ever opened any leveraged precious metals accounts in the names of Alista's customers; nor did they ever purchase any precious metals on a leveraged basis in the names of Alista's customers, deliver any precious metals to Alista's customers, or store any precious metals on behalf of Alista's customers. Rather, in May 2017, Courson opened a

trading account in Alista's name at a California-based precious metals dealer ("U.S. Precious Metals Dealer"). In the account application to the U.S. Precious Metals Dealer, Courson did not disclose that Alista was a precious metals broker dealer. Between May and July 2017, Courson and others took \$239,300 of Alista's customers' funds and used those funds to speculate in leveraged precious metals for Alista's own account. Customer funds were also used to pay interest charges and fees in connection with Alista's account. These funds came from Alista Accounts over which Courson and another Alista employee had signatory authority.

27. Between June and September 2017, Alista, by and through Courson and others, sold some of the holdings from its U.S. Precious Metals Dealer account. A small amount of the proceeds of these sales was used to pay a customer who had requested a withdrawal from her account and the rest was used by Courson and others to pay for business, personal, and other expenses.

28. In late September 2017, the U.S. Precious Metals Dealer became aware that Alista was a precious metals broker dealer. When Courson was confronted with this information by the U.S. Precious Metals Dealer, he denied it; however, on the advice of its legal department, the U.S. Precious Metals Dealer thereafter refused to accept any new buy orders from Alista for its account.

29. Unable to make further purchases through its U.S. Precious Metals Dealer account, Alista, by and through Courson and another Alista employee, turned back to the Cayman Precious Metals Dealer in late October 2017. Because of the Cayman Precious Metals Dealer's restrictions on engaging in leveraged precious metals transactions on behalf of U.S. clients, however, a leveraged precious metals trading account could not be opened in Alista's name. Instead, a straw account was opened in the name of an individual who was an associate of the other Alista employee. This individual is a French citizen and used his French address on the account

application. Alista was named in the account application as the broker agent and legal representative with discretionary control over all activities with regard to this account.

30. The individual in whose name the account was opened was never an Alista customer and never put any of his own money into this account. Rather, Courson and the other Alista employee took \$67,000 of Alista customer funds and used those funds to speculate in leveraged precious metals through this account. These funds came from an Alista Account over which Courson had sole signatory authority and from a personal account controlled by the other Alista employee into which Alista customer funds had been deposited.

31. Beginning in December 2017, Alista began to receive margin calls from the U.S. Precious Metals Dealer with regard to its account. At the time of these margin calls, Alista owed the U.S. Precious Metals Dealer over \$480,000 for the leveraged precious metals purchased for its account and it had less than \$10,000 in its bank accounts. In response to these calls, Courson told the U.S. Precious Metals Dealer that “his ‘partners’ had embezzled money from him.” Ultimately, these margin calls forced Alista to sell all of its remaining holdings in its U.S. Precious Metals Dealer account. Alista never returned any of the proceeds of these sales to its customers.

Courson and Others Used Customer Funds to Pay for Business and Personal Expenses and to Make Ponzi-Style Payments to Customers

32. In addition to using customer money to speculate for Alista’s own account, Courson and others also misappropriated customer money to pay for Alista’s business expenses, expenses related to travel, food, shopping, and entertainment, and to make Ponzi-style payments to customers who sought to cash out some of their purported holdings. For example:

- At least \$158,670 was withdrawn from the Alista Accounts in checks made out to cash, cash withdrawals, and ATM withdrawals. The checks for cash and the cash

withdrawals were signed at various times by both Courson and another Alista employee.

- At least \$104,590 was paid in checks drawn on the Alista Accounts and made out to Courson, and other Alista employees. These checks were signed at various times by both Courson and another Alista employee.
- At least \$17,950 was drawn on the Alista Accounts to cover other business-related expenses such as rent, communications expenses (phone and internet), and state fees. Checks for these expenses were signed at various times by both Courson and another Alista employee.
- At least \$14,290 was drawn on the Alista Accounts to cover expenses related to travel, food, shopping, entertainment, and other expenses.
- At least \$149,632 was paid to four customers who sought to cash out some of their purported holdings. In one instance, Alista paid one customer \$55,232.25 within three days of receiving \$67,500 from two other customers.

An Alista Employee Used Bank Accounts Under His Personal Control to Misappropriate Customer Funds

33. An Alista employee used two bank accounts under his personal control to misappropriate at least \$205,000 in Alista customer funds.

34. During the Relevant Period, this employee received a net total of \$67,500 of customer funds directly from Alista into a bank account in the name of a company of which the employee was the incorporator and President. Most, if not all, of this money was either withdrawn by the employee via ATM withdrawals or used by the employee to make payments to Alista employees and to pay personal expenses, including payments for travel, hotels, and restaurants.

35. During the Relevant Period, the employee also took certain coins which had been sent to Alista by a customer for the purpose of purchasing leveraged precious metals and sold them to a coin and jewelry exchange for \$173,500. Of this amount, the employee sent only \$36,000 to Alista. The remainder was deposited either into the employee's corporate bank account or into a personal bank account in his name, from which it then was either withdrawn by the employee via ATM withdrawals or used by the employee to pay personal expenses, to make payments to a second employee, and to speculate in leveraged precious metals through the straw account established at the Cayman Precious Metals Dealer.

A Second Alista Employee Used a Bank Account Under His Personal Control to Misappropriate Customer Funds

36. A second Alista employee used a bank account under his personal control to misappropriate at least \$77,500 in Alista customer funds.

37. During the Relevant Period, at least two Alista customers sent funds totaling at least \$77,500 directly to the second Alista employee's personal checking account in connection with their leveraged precious metals transactions. None of this money was used by the second Alista employee to purchase leveraged precious metals on behalf of these customers. Rather, the second Alista employee either withdrew the money via ATM withdrawals or used it to pay his personal expenses, including food, travel, and entertainment.

Courson Acted as a Controlling Person of Alista

38. At all times during the Relevant Period, Courson acted as a controlling person of Alista. Courson registered Alista with the State of Georgia and is listed in Alista's incorporation papers as the company's organizer. Courson was the Manager and sole Member of Alista, and at various times he held himself out as Alista's "Owner with Control of Entity." As the Manager and Sole Member of Alista, Courson had authority to hire and fire employees and to set policies and

procedures for Alista. Courson opened Alista's bank accounts and was a signatory on all of them. Courson also opened Alista's leveraged precious metals trading account at the U.S. Precious Metals Dealer.

B. CONCLUSIONS OF LAW

Jurisdiction and Venue

39. The Court possesses jurisdiction pursuant to 28 U.S.C. § 1331 (2018) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2018) (providing that U.S. district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). The Commission has jurisdiction over the transactions at issue in this case pursuant to Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D) (2018).

40. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2018), because Courson resides in this jurisdiction and certain transactions, acts, and practices alleged in the Complaint occurred, are occurring, and/or are about to occur within this District.

Violations of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2018)

41. Section 4(a) of the Act, 7 U.S.C. § 6(a) (2018), provides in relevant part, that it is unlawful:

[F]or any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future . . . unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity;

(2) such contract is executed or consummated by or through a contract market . . .

42. During the Relevant Period, the retail commodity transactions described in this Complaint were offered and entered into by Alista: (a) on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis, (b) with persons who are not ECPs as defined by the Act, and (c) not made or conducted on, or subject to, the rules of any board of trade, exchange, or contract market.

43. The leveraged precious metals that are the subject of the retail commodity transactions discussed in this Complaint are commodities as defined by Section 1a(9) of the Act, 7 U.S.C. § 1a(9) (2018).

44. The retail commodity transactions did not result in actual delivery within 28 days. In fact, there was no actual delivery of precious metals.

45. Pursuant to Section 2(c)(2)(D)(iii) of the Act, 7 U.S. C. § 2(c)(2)(D)(iii) (2018), the retail commodity transactions alleged herein are subject to Section 4(a) of the Act, 7 U.S.C. § 6(a) (2018), as if they are contracts of sale for future delivery.

46. In an Opinion and Order dated March 2, 2021 (Dkt. #31), the Court entered a judgment against Alista on, among other things, the charge of violating 7 U.S.C. § 6(a). Courson directly or indirectly controlled Alista and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Alista's violations of 7 U.S.C. § 6(a), as committed by Alista's employees and agents. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2018), Courson is liable as a controlling person of Alista for each of Alista's violations of 7 U.S.C. § 6(a).

Violations of Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and (C) (2018)

47. Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and (C) (2018), provides, in relevant part, that it is unlawful:

[F]or any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

(A) to cheat or defraud or attempt to cheat or defraud the other person . . . or...

(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person . . .

48. Pursuant to Section 2(c)(2)(D)(iii) of the Act, 7 U.S.C. § 2(c)(2)(D)(iii) (2018), the leveraged precious metals transactions engaged in by Alista are subject to 7 U.S.C. § 6b(a)(2)(A) and (C) (2018) as if they are contracts of sale of a commodity for future delivery.

49. By the conduct described above, Courson cheated and defrauded, or attempted to cheat and defraud, and/or willfully deceived, or attempted to deceive, customers by misappropriating their funds in connection with retail commodity transactions in violation of 7 U.S.C. § 6b(a)(2)(A) and (C).

50. In an Opinion and Order dated March 2, 2021 (Dkt. #31), the Court entered a judgment against Alista on, among other things, the charge of violating 7 U.S.C. § 6b(a)(2)(A) and (C). Courson directly or indirectly controlled Alista and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting the Alista's violations of 7 U.S.C. § 6b(a)(2)(A) and (C), as committed by Alista's employees and agents. Therefore, pursuant to

Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2018), Courson is liable as a controlling person for each of Alista's violations of 7 U.S.C. § 6b(a)(2)(A) and (C).

Need for Injunction

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

IV. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

52. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2018), Courson is permanently restrained, enjoined, and prohibited from directly or indirectly:

- (a) offering to enter into, entering into, executing, confirming the execution of, or conducting any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2018); and
- (b) in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market, (1) cheating or defrauding or attempting to cheat or defraud the other person; or (2) willfully deceiving or attempting to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person, in violation of Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and (C) (2018).

53. Courson 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) (2018));
- (b) Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2021)), for his own personal account or for any account in which he has a direct or indirect interest;
- (c) Having any commodity interests 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 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) (2021); and/or
- (g) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2021)), 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) (2018)), 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) (2021).

V. RESTITUTION AND CIVIL MONETARY PENALTY

A. Restitution

54. Courson shall pay restitution in the amount of five hundred sixty thousand, one hundred fifty-two dollars and sixty cents (\$560,152.60) (“Restitution Obligation”), representing the Alista customer losses caused by the violations cited above, plus post-judgment interest. If the Restitution Obligation is not paid immediately, 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 (2018). Courson's Restitution Obligation shall be joint and several with the restitution order imposed on Alista by this Court's Opinion and Order of March 2, 2021 (Dkt. #31).

55. To effect payment of the Restitution Obligation and the distribution of any restitution payments to Alista customers by Courson, the Court appoints the National Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall receive restitution payments from Courson 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.

56. Courson shall make Restitution Obligation payments, and any post-judgment interest payments, under this Consent Order to the Monitor in the name "Marvin W. Courson III 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. Courson 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.

57. 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 Alista customers 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 customers 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 V. B. below.

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

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

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

61. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each Alista customer 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 Courson to ensure continued compliance with any

provision of this Consent Order and to hold Courson in contempt for any violations of any provision of this Consent Order.

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

B. Civil Monetary Penalty

63. Courson shall pay a civil monetary penalty in the amount of five hundred sixty thousand, one hundred fifty-two dollars and sixty cents (\$560,152.60) ("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 (2018).

64. Courson shall pay his CMP Obligation and any post-judgment interest 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:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
9-AMC-AR-CFTC@faa.gov

If payment by electronic funds transfer is chosen, Courson shall contact 9-AMC-AR-CFTC@faa.gov at the address above to receive payment instructions and shall fully comply with those instructions. Courson shall accompany payment of the CMP Obligation with a cover letter that identifies Courson and the name and docket number of this proceeding. Courson 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.

C. Provisions Related to Monetary Sanctions

65. Partial Satisfaction: Acceptance by the Commission or the Monitor of any partial payment of Courson's Restitution Obligation or CMP Obligation shall not be deemed a waiver of his 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

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 Commission:

Rick Glaser
Deputy Director
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Notice to Defendant Marvin W. Courson III:

Marvin W. Courson III
506 La Caruna Court
Punta Gorda, Florida 33950

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

67. Change of Address/Phone: Until such time as Courson satisfies in full his Restitution Obligation and CMP Obligation as set forth in this Consent Order, Courson shall provide written notice to the Commission by certified mail of any change to his telephone number and mailing address within ten 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 customer at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or customer 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. Waiver of Service, and Acknowledgement: Courson waives service of this Consent Order and agrees that entry of this Consent Order by the Court and filing with the Clerk of the Court will constitute notice to Courson of its terms and conditions. Courson further agrees to provide counsel for the Commission, within thirty (30) days after this Consent Order is filed with the Clerk of Court, with an affidavit or declaration stating that he has received and read a copy of this Consent Order.

72. Continuing Jurisdiction of this Court: 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 Courson to modify or for relief from the terms of this Consent Order.

73. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Courson, 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 acting in active concert or participation with Courson.

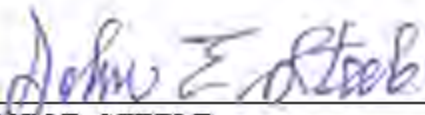
74. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, 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: Courson 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.

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

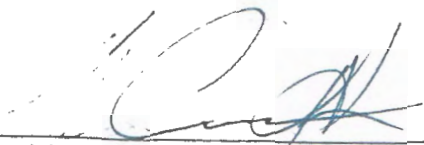
There being no just reason for delay, the Clerk of the Court is hereby ordered to enter Judgment by attaching this *Consent Order for Permanent Injunction, Restitution, Civil Monetary Penalty, and Other Equitable Relief Against Defendant Marvin W. Courson III* as the Judgment without further notice.

IT IS SO ORDERED on this 1st day of March 2022.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:



Marvin W. Courson III
Pro se

Date: 12-8-21



Alan Edelman
Senior Trial Attorney
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581
Telephone: (202) 418-5000
Facsimile: (202) 418-5523

Date 2/28/22