

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

RICO OMAR COX,

Defendant.

Case No: 0:22-CV-61024-RS

**ORDER OF FINAL JUDGMENT BY DEFAULT, PERMANENT INJUNCTION, CIVIL
MONETARY PENALTIES, AND OTHER STATUTORY AND EQUITABLE RELIEF**

This matter is before the Court upon the Court’s Order Granting Motion for Final Judgment Upon Default [DE 38]. Pursuant to Federal Rule of Civil Procedure 58(a), the Court hereby enters this separate final judgment.

Accordingly, it is hereby **ORDERED** that final default judgment is entered in favor of Plaintiff, Commodity Futures Trading Commission (“Commission” or “Plaintiff”), and against the Defendant, Rico Omar Cox (“Cox” or “Defendant”) as follows:

I. PERMANENT INJUNCTION

1. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 13a-1 (2012), Defendant Cox 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, or with, any other person, by making false representations and omissions and

misappropriating participant funds, in violation of Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A), (C);

- b. Willfully making or causing to be made to another person a false report or statement or willfully entered or caused to be entered for another person a false record, in violation of Section 4(b)(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B);
- c. Committing fraud by making false representations and omissions and misappropriating participant funds while acting as a Commodity Pool Operator (“CPO”), in violation of Section 4o(1)(A)-(B) of the Act, 7 U.S.C. § 6o(1)(A)-(B); and
- d. Using the mails or other means or instrumentalities of interstate commerce in connection with his business as a CPO without being registered as such, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

2. Defendant Cox 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, 17 C.F.R. § 1.3 (2022)), 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) (2022); and/or
- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2022)), agent, or any other officer or employee of any person (as that term is defined in 7 U.S.C. § 1a(38)), registered, exempted from registration, or required to be registered with the Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

II. RESTITUTION, DISGORGEMENT, AND CIVIL MONETARY PENALTY

A. Restitution

3. Defendant Cox shall pay restitution in the amount of seven-hundred ten thousand six-hundred and sixty-seven dollars (\$710,667.00) (“Restitution Obligation”). 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 Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

4. To effect payment of the Restitution Obligation and the distribution of any restitution payments to Defendant Cox’s pool participants, the Court appoints the National Futures Association (“NFA”) as monitor (“Monitor”). The Monitor shall receive restitution payments from Defendant Cox 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.

5. Defendant Cox shall make Restitution Obligation payments, and any post-judgment interest payments, under this Order to the Monitor in the name “Cox–RESTITUTION Fund” and shall send such 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 Cox and the name and docket number of this proceeding. Defendant Cox 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.

6. 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 Defendant Cox’s 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 III C. below.

7. Defendant Cox shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Defendant Cox’s pool participants to whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any Restitution Obligation payments. Defendant Cox shall execute any documents necessary to release funds that he may in any repository, bank, investment, or other financial

institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.

8. The Monitor shall provide the Commission at the beginning of each calendar year with a report detailing the disbursement of funds to Defendant Cox's 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, NW, Washington, D.C. 20581.

9. 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 Defendant Cox, 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.

10. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each pool participant of Defendant Cox 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 Defendant Cox, to ensure continued compliance with any provision of this Order, and to hold Defendant Cox in contempt for any violations of any provision of this Order.

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

B. Disgorgement

12. Defendant Cox shall pay disgorgement in the amount of three hundred thirty-nine thousand three hundred dollars (\$339,300) ("Disgorgement Obligation"), representing the gains received in connection with such violations. If the Disgorgement Obligation is not paid

immediately, then post-judgment interest shall accrue on the Disgorgement Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

13. Defendant Cox shall pay his Disgorgement 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
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

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

14. Defendant Cox shall pay a civil monetary penalty in the amount of one million seventeen thousand nine-hundred dollars (\$1,017,900) ("CMP Obligation"). If the CMP Obligation is not paid immediately, then post-judgment interest shall accrue on the CMP

Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

15. Defendant 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
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

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

D. Provisions Related to Monetary Sanctions

16. Partial Satisfaction: Acceptance by the Commission or the Monitor of any partial payment of Defendant Cox's Restitution Obligation, Disgorgement Obligation, or CMP Obligation shall not be deemed a waiver of his obligation 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.

III. Miscellaneous Provisions

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

Notice to Commission:

Robert T. Howell
Deputy Director
Commodity Futures Trading Commission
Division of Enforcement
77 W. Jackson Blvd., Suite 800
Chicago, IL 60604

Notice to Defendant:

Rico Cox
1641 Southwest 4th Avenue
Fort Lauderdale, FL 33315

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.

18. Change of Address/Phone: Until such time as Defendant Cox satisfies in full his Restitution Obligation, Disgorgement Obligation, and CMP Obligation as set forth in this Order, Defendant Cox 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.


19. 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.

20. 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 Defendant Cox to modify or for relief from the terms of this Order.

21. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Order shall be binding upon Defendant Cox, upon any person under the authority or control of the Defendant Cox, and upon any person who receives actual notice of this Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendant Cox.

22. This case is **CLOSED**.

DONE and ORDERED in Fort Lauderdale, Florida, this 20th day of June, 2023.



RODNEY SMITH
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record