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24 IN THE UNITED STATES DISTRICT COURT
 25 CENTRAL DISTRICT OF CALIFORNIA

26	U.S. COMMODITY FUTURES)	
27	TRADING COMMISSION)	Case No. 14-cv-06542-R-MRW
28)	
29	Plaintiff,)	CONSENT ORDER FOR
30)	PERMANENT INJUNCTION,
31	v.)	CIVIL MONETARY PENALTY,
32)	AND OTHER EQUITABLE
33	RALPH METTERS, aka MALACHAI)	RELIEF
34	“MOE” LEVY,)	
35)	
36	Defendant.)	Hon. Manuel L. Real
37)	
38)	

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I. INTRODUCTION

On August 20, 2014, Plaintiff Commodity Futures Trading Commission (“CFTC” or “Commission”) filed a Complaint for Injunctive and Other Equitable Relief and Penalties Under the Commodity Exchange Act (“Complaint”) against Defendant Ralph Metters, aka Malachai “Moe” Levy 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.* (2012). The Court entered a Consent Order for preliminary Injunction against the Defendant on January 2, 2014. On May 16, 2016, in a related criminal action, entitled *United States of America v. Malachai Levy, aka Ralph Maurice Metters*, No. 14-cr-00635-JFW, (C.D. Cal.), a federal district court ordered that the Defendant pay restitution in connection with the same conduct at issue in this action.

II. CONSENTS AND AGREEMENTS

To effect settlement of all charges alleged in the Complaint against the Defendant without a trial on the merits of any further judicial proceedings, Defendant Ralph Metters, aka Malachai “Moe” Levy:

1. Consents to the entry of this Consent Order for Permanent Injunction, Civil Monetary Penalty and other Equitable 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

1 made by the Commission or any member, officer, agent, or representative thereof,
2 or by any other person, to induce consent to this Consent Order;

3
4 3. Acknowledges service of the summons and Complaint;

5 4. Admits the jurisdiction of this Court over him and the subject matter
6 of this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012);
7

8 5. Admits the jurisdiction of the Commission over the conduct and
9 transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1 *et seq.* (2012);

10 6. Admits that venue properly lies with this Court pursuant to Section
11 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012);
12

13 7. Waives:

14 a. Any and all claims that he may possess under the Equal Access to
15 Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012),
16 and/or the rules promulgated by the Commission in conformity
17 therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.*
18 (2014), relating to, or arising from, this action;
19

20
21 b. Any and all claims that he may possess under the Small Business
22 Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121,
23 §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L.
24 No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or
25 arising from, this action;
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- 1 c. Any claim of Double jeopardy based upon the institution of this action
2 or the entry of any order imposing a civil monetary penalty or any
3 other relief, including this Consent Order; and
4
5 d. Any and all rights of appeal from this action;

6 8. Consents to the continued jurisdiction of this Court over him for the
7 purpose of implementing and enforcing the terms and conditions of this Consent
8 order and for any other purpose relevant to this action, even if Defendant not or in
9 the future resides outside the jurisdiction of this Court;
10

11 9. Agrees that he will not oppose enforcement of this Consent Order on
12 the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal
13 Rules of Civil Procedure and hereby waives any objection based thereon;
14

15 10. Agrees that neither he nor any of his agents or employees under his
16 authority or control shall take any action or make any public statement denying,
17 directly or indirectly, any allegation in the Complaint or the Findings of Fact or
18 Conclusions of Law in this Consent Order, or creating or tending to create the
19 impression that the Complaint and/or this Consent Order is without a factual basis;
20 provided, however, that nothing in this provision shall effect his: (a) testimonial
21 obligations, or (b) right to take legal positions in other proceedings to which the
22 Commission is not a party. Defendant shall undertake all steps necessary to ensure
23 that all of his agents and/or employees under his authority or control understand
24 and comply with this agreement;
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1 **THE PARTIES AGREE AND THE COURT HEREBY FINDS:**

2 **A. Findings of Fact**

3 **The Parties to this Consent Order**

4
5 14. Plaintiff Commodity Futures Trading Commission is an independent
6 federal regulatory agency that is charged by Congress with administering and
7 enforcing the Act, 7 U.S.C. §§ 1-26 (2012), and the Regulations promulgated
8 thereunder, 17 C.F.R. §§ 1.1 – 190.10 (2014).

9
10 15. Ralph Metters, aka Malachai “Moe” Levy, resides in Los Angeles,
11 California. Metters has never been registered with the Commission in any
12 capacity.
13

14 **Defendant’s Activities**

15
16 16. Beginning in or before 2011, and continuing through at least October,
17 2014, there was an agreement between more than two persons to commit wire
18 fraud. Defendant became a member of the conspiracy knowing of its object and
19 intending to help accomplish it.
20

21 17. In furtherance of the conspiracy, Defendant falsely represented to
22 investors that he would use their money to engage in foreign currency investments,
23 and their money would be kept in escrow until they authorized its use. Victims
24 accordingly invested at least \$745,000, which Defendant took out of the escrow
25 accounts without their permission. Interstate wires used to advance the foreign
26 currency investment fraud include the wire transfer of \$500,000 from a victim’s
27
28

1 (M.B.) business account in Ooltewah, Tennessee to Haven View Escrow's account
2 in Los Angeles, California on October 21, 2013.
3

4 **B. Conclusions of Law**

5 **Jurisdiction and Venue**

6
7 18. The Court has jurisdiction over this action pursuant to Section 6c of
8 the Act, 7 U.S.C. § 13a-1 (2012), which provides that whenever it shall appear to
9 the Commission that any person has engaged, is engaging, or is about to engage in
10 any act or practice constituting a violation of any provision of the Act or any rule,
11 regulation, or order promulgated thereunder, the Commission may bring an action
12 in the proper district court of the United States against any such person to enjoin
13 such act or practice, or to enforce compliance with the Act, or any rule, regulation,
14 or order thereunder.
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17 19. Venue properly lies with this Court pursuant to Section 6c(e) of the
18 Act, 7 U.S.C. § 13a-1(e) (2012), because the Defendant resides in this jurisdiction
19 and the acts and practices in violation of the Act occurred within this District.
20

21 **Fraud by Misappropriation, Misrepresentation, and Omission**

22
23 20. By the conduct described in paragraphs 1 through 17 above, the
24 Defendant cheated and defrauded, or attempted to cheat and defraud, and willfully
25 deceived, or attempted to deceive, his client by, among other things, knowingly
26 (a) misappropriating funds provided by M.B.; and (b) making material
27 misrepresentations including, but not limited to, guaranteeing trading profits and
28

1 telling M.B. that his funds would be used for generate a line of credit that would be
2 used for forex trading, when the Defendant knew that the funds would in fact be
3 misappropriated, in violation of Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C.
4 § 6b(a)(2)(A), (C) (2012).
5

6 21. Unless restrained and enjoined by this Court, there is a reasonable
7 likelihood that the Defendant will continue to engage in the acts and practices
8 alleged in the Complaint and in similar acts and practices in violation of the Act.
9

10 **IV. PERMANENT INJUNCTION**

11 **IT IS HEREBY ORDERED THAT:**

12 22. Based upon and in connection with the foregoing conduct, pursuant to
13 Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), the Defendant is permanently
14 restrained, enjoined, and prohibited from directly or indirectly cheating or
15 defrauding, or attempting to cheat or defraud, other persons in or in connection
16 with any order to make, or the making of, any contract of sale of any commodity
17 for future delivery, or other agreement, contract, or transaction subject to
18 paragraphs (1) and (2) of Section 5a(g), that is made, or to be made, for or on
19 behalf of, or with, any other person in violation of Section 4b(a)(2)(A) and (C) of
20 the Act, 7 U.S.C. § 6b(a)(2)(A), (C) (2012).
21

22 23. The Defendant is also permanently restrained, enjoined, and
23 prohibited from directly or indirectly:
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- 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 terms is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2014) 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) (2014); and/or
- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2014)), agent, or any other officer or employee of any person or entity registered, exempted from registration or required

1 to be registered with the Commission, except as provided for in
2 Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2014).
3

4 **V. RESTITUTION, DISGORGEMENT, AND CIVIL MONETARY**
5 **PENALTY**

6 **A. Restitution**

7 24. Defendant's violations of the Act and Regulations merit the award of
8 restitution. However, this Court recognizes that the court in a related criminal
9 action, entitled *United States of America v. Malachai Levy, aka Ralph Maurice*
10 *Metters*, No. 14-cr-00635-JFW, (C.D. Cal., May 16, 2016) has ordered that the
11 Defendant pay restitution in the amount of \$500,000 (Five Hundred Thousand
12 Dollars) to defrauded investor MB of the Defendant, in connection with the same
13 conduct at issue in this action. Accordingly, restitution is not ordered in this
14 action.
15
16

17 **B. Disgorgement**

18 25. Defendant shall pay disgorgement in the amount of five hundred
19 thousand dollars (\$500,000) ("Disgorgement Obligation"), plus post-judgment
20 interest. Post judgment interest shall accrue on the Disgorgement Obligation
21 beginning on the date of entry of this Consent Order and shall be determined by
22 using the Treasury Bill rate prevailing on the date of entry of this Consent Order
23 pursuant to 28 U.S.C. § 1961 (2012).
24
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27 26. Defendant shall pay his Disgorgement Obligation by electronic funds
28 transfer, U.S. postal money order, certified check, bank cashier's check, or bank

1 money order. If payment is to be made other than by electronic funds transfer,
2 then the payment shall be made payable to the Commodity Futures Trading
3
4 Commission and sent to the address below:

5 Commodity Futures Trading Commission
6 Division of Enforcement
7 ATTN: Accounts Receivables
8 DOT/FAA/MMAC/AMZ-341
9 CFTC/CPSC/SEC
10 6500 S. MacArthur Blvd.
11 Oklahoma City, OK 73169
12 (405) 954-7262 office
13 (405) 954-1620 fax
14 nikki.gibson@faa.gov

15 If payment by electronic funds transfer is chosen, Defendant shall contact Nikki
16 Gibson or her successor at the address above to receive payment instructions and
17 shall fully comply with those instructions. Defendant shall accompany payment of
18 the Disgorgement Obligation with a cover letter that identifies Defendant's and the
19 name and docket number of this proceeding. Defendant shall simultaneously
20 transmit copies of the cover letter and the form of payment to the Chief Financial
21 Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155
22 21st Street, NW, Washington, D.C. 20581.

23 **C. Civil Monetary Penalty**

24 27. Defendant shall pay a civil monetary penalty in the amount of five
25 hundred thousand (\$500,000) ("CMP Obligation"), plus post-judgment interest.
26 Post-judgment interest shall accrue on the CMP Obligation beginning on the date
27 of entry of this Consent Order and shall be determined by using the Treasury Bill
28

1 rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C.
2 § 1961 (2012).
3

4 28. Defendant shall pay his CMP Obligation by electronic funds transfer,
5 U.S. postal money order, certified check, bank cashier's check, or bank money
6 order. If payment is to be made other than by electronic funds transfer, then the
7 payment shall be made payable to the Commodity Futures Trading Commission
8 and sent to the address below:
9

10 Commodity Futures Trading Commission
11 Division of Enforcement
12 ATTN: Accounts Receivables
13 DOT/FAA/MMAC/AMZ-341
14 CFTC/CPSC/SEC
15 6500 S. MacArthur Blvd.
16 Oklahoma City, OK 73169
17 (405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

18 If payment by electronic funds transfer is chosen, Defendant shall contact Nikki
19 Gibson or her successor at the address above to receive payment instructions and
20 shall fully comply with those instructions. Defendants shall accompany payment
21 of the CMP Obligation with a cover letter that identifies Defendant and the name
22 and docket number of this proceeding. Defendant shall simultaneously transmit
23 copies of the cover letter and the form of payment to the Chief Financial Officer,
24 Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st
25 Street, NW, Washington, D.C. 20581.
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1 **D. Provisions Related to Monetary Sanctions**

2 29. Partial Satisfaction: Acceptance by the Commission/CFTC or the
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4 Monitor of any partial payment of Disgorgement Obligation, or CMP Obligation
5 shall not be deemed a waiver of his obligation to make further payments pursuant
6 to this Consent Order, or a waiver of the Commission/CFTC’s right to seek to
7
8 compel payment of any remaining balance.

9 30. Asset Freeze: On August 27, 2014 the Court entered an asset freeze
10 order prohibiting the transfer, removal, dissipation, and disposal of Defendant’s
11
12 assets (“Asset Freeze Order”). The Court hereby lifts the Asset Freeze Order.

13 **VI. MISCELLANEOUS PROVISIONS**

14 31. Notice: All notices required to be given by any provision in this
15
16 Consent Order shall be sent certified mail, return receipt requested, as follows:

17 Notice to Commission:

18 Regional Counsel, Division of Enforcement
19 U.S. Commodity Futures Trading Commission
20 525 West Monroe Street, Suite 1100
21 Chicago, Illinois 60661

22 Notice to Defendant:

23 Malachai Levy (also known as Ralph Maurice Metters)
24 c/o Federal Bureau of Prisons

25 All such notices to the Commission shall reference the name and docket number of
26
27 this action.

1 32. Change of Address/Phone: Until such time as Defendant satisfies in
2 full his Restitution Obligation, Disgorgement Obligation, and CMP Obligation as
3 set forth in this Consent Order, Defendant shall provide written notice to the
4 Commission by certified mail of any change to his telephone number and mailing
5 address within ten (10) calendar days of the change.
6
7

8 33. Entire Agreement and Amendments: This Consent Order incorporates
9 all of the terms and conditions of the settlement among the parties hereto to date.
10 Nothing shall serve to amend or modify this Consent Order in any respect
11 whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and
12 (c) approved by order of this Court.
13

14 34. Invalidation: If any provision of this Consent Order or if the
15 application of any provision or circumstance is held invalid, then the remainder of
16 this Consent Order and the application of the provision to any other person or
17 circumstance shall not be affected by the holding.
18

19 35. Waiver: The failure of any party to this Consent Order or of any
20 customer at any time to require performance of any provision of this Consent
21 Order shall in no manner affect the right of the party or customer at a later time to
22 enforce the same or any other provision of this Consent Order. No waiver in one
23 or more instances of the breach of any provision contained in this Consent Order
24 shall be deemed to be or construed as a further or continuing waiver of such breach
25 or waiver of the breach of any other provision of this Consent Order.
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1 36. Continuing Jurisdiction of this Court: This Court shall retain
2 jurisdiction of this action to ensure compliance with this Consent Order and for all
3 other purposes related to this action, including any motion by Defendant to modify
4 or for relief from the terms of this Consent Order.
5

6 37. Injunctive and Equitable Relief Provisions: The injunctive and
7 equitable relief provisions of this Consent Order shall be binding upon Defendant,
8 upon any person under his authority or control, and upon any person who receives
9 actual notice of this Consent Order, by personal service, e-mail, facsimile or
10 otherwise insofar as he or she is acting in active concert or participation with
11 Defendant.
12

13 38. Counterparts and Facsimile Execution: This Consent Order may be
14 executed in two or more counterparts, all of which shall be considered one and the
15 same agreement and shall become effective when one or more counterparts have
16 been signed by each of the parties hereto and delivered (by facsimile, e-mail, or
17 otherwise) to the other party, it being understood that all parties need not sign the
18 same counterpart. Any counterpart or other signature to this Consent Order that is
19 delivered by any means shall be deemed for all purposes as constituting good and
20 valid execution and delivery by such party of this Consent Order.
21

22 39. Contempt: Defendant understands that the terms of the Consent
23 Order are enforceable through contempt proceedings, and that, in any such
24 proceedings he may not challenge the validity of this Consent Order.
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1 40. Agreements and Undertakings: Defendant shall comply with all of
2 the undertakings and agreements set forth in this Consent Order.


3
4 There being no just reason for delay, the Clerk of the Court is hereby
5 ordered to enter this *Consent Order for Permanent Injunction, Civil Monetary*
6 *Penalty, and Other Equitable Relief* forthwith and without further notice.
7

8
9 **IT IS SO ORDERED** on this 8th day of August 2016.


10
11 

12
13 _____
14 UNITED STATES DISTRICT JUDGE


15 CONSENTED TO AND APPROVED
16 BY:

17 
18 _____
19 Ralph Metters, individually

20 Date: 6/29/16

21 
22 _____
23 Jennifer E. Smiley
24 Commodity Futures Trading
25 Commission
26 525 W. Monroe, Suite 1100
27 Chicago, IL 60661
28 312-596-0530
312-596-0714 (facsimile)
jsmiley@cftc.gov

24 Approved as to form:

25 
26 _____
27 Adam H. Braun
28 Braun & Braun LLP
10250 Constellation Blvd. Ste. 1020
Los Angeles, CA 90067

29 Date: 6/29/16