

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.
SPF

Case No. 8:19-cv-00886-VMC-

OASIS INTERNATIONAL GROUP,
LIMITED, ET AL.,

Defendants,

and

MAINSTREAM FUND SERVICES,
INC., ET AL.,

Relief Defendants.

**CONSENT ORDER OF AMENDED PRELIMINARY INJUNCTION
AND OTHER EQUITABLE RELIEF AGAINST
DEFENDANT FRANCISCO "FRANK" L. DURAN**

On April 15, 2019, Plaintiff Commodity Futures Trading Commission ("CFTC" or "Commission") filed a Complaint for Injunctive Relief, Civil Monetary Penalties, Restitution, Disgorgement and Other Equitable Relief (Doc. #1) and on June 12, 2019 filed a First Amended Complaint (Doc. #110) ("Complaint") against, among others, Defendant Francisco "Frank" L. Duran ("Duran").

In the Complaint, the CFTC alleges that the Defendant Duran, along with other the other Defendants named in the Complaint ("Defendants"), engaged in a fraudulent scheme to

solicit and misappropriate money from over 700 U.S. residents for pooled investments in retail foreign currency contracts (“forex”). The CFTC alleges that Defendants participated in the scheme individually and/or as control persons of Oasis International Group, Limited. Between mid-April 2014 and the present (the “Relevant Period”), the CFTC alleges that Defendants have fraudulently solicited hundreds of members of the public (“pool participants”) to invest approximately \$75 million in two commodity pools—Oasis Global FX, Limited (“Oasis Pool 1”) and Oasis Global FX, SA (“Oasis Pool 2”) (collectively, the “Oasis Pools”)—that would purportedly trade in forex. The CFTC alleges that rather than use pool participants’ funds for forex trading, however, Defendants traded only a small portion of the Oasis Pools in forex—which incurred trading losses—and instead Defendants DaCorta, Anile, and Haas misappropriated the majority of pool participants’ funds and Defendant DaCorta issued false account statements to pool participants to conceal Defendants’ trading losses and misappropriation.

The CFTC further alleges that Defendants, including Defendant Duran, made numerous misrepresentations to the pool participants, and further omitted to tell these pool participants other material information, including the fact that Defendant DaCorta had been permanently banned from registering with the Commission and from soliciting U.S. residents to trade forex and from trading forex for U.S. residents in any capacity. The CFTC alleges that certain of the Defendants also failed to register as commodity pool operators or associated persons of commodity pool operators. In addition, the CFTC alleges that Defendants, including Defendant Duran, failed to receive pool funds in the name of the Oasis Pools and commingled those pool funds with the property of Defendants or others, both in

violation of CFTC Regulations. Defendants, including Defendant Duran, also failed to provide pool participants with required disclosures.

Finally, the CFTC alleges that the Defendants lost all money deposited into forex trading accounts through trading in the Oasis Pools, and Defendants DaCorta, Anile, and Haas misappropriated the majority of pool funds through Ponzi-like payments to other pool participants and through the purchase of real estate, luxury vehicles, and other inappropriate business and personal expenses, among other things.

On April 15, 2019, the CFTC moved the Court, pursuant to Section 6c(a) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 13a-1(a) (2012), and in accordance with Federal Rule of Civil Procedure 65, for an Emergency Ex Parte Motion for a Statutory Restraining Order, Preliminary Injunction, and Other Equitable Relief (the “SRO Motion”). Doc. #4. In the SRO Motion, the CFTC also moved the Court to enter a preliminary injunction upon the expiration of the statutory restraining order.

After considering the CFTC’s SRO Motion, including the declarations and exhibits submitted in support thereof, the Court granted the SRO Motion on April 15, 2019 and entered a statutory restraining order (the “SRO,” Doc. #7) prohibiting Defendants, including Defendant Duran, from, among other things, withdrawing, transferring, removing, dissipating or disposing of assets and from destroying, altering, or disposing of any records that relate to their business activities or personal finances. Additionally, the Court appointed a temporary receiver to, among other things, assume control and management of the Receivership Defendants (as defined in the SRO at page 14, ¶32) and to take exclusive custody, control and possession of the Receivership Estate (as defined in the SRO at page 14, ¶32).

Defendant Duran was served with the Complaint on April 18, 2019. Doc. #19. The Court set a hearing for the CFTC's Motion for Preliminary Injunction on April 29, 2019. Doc. #9. However, that same day, the CFTC moved for entry of a Consent Order of Preliminary Injunction and Other Equitable Relief Against Defendant Duran (Doc. #35), which the Court entered on April 30. Doc. #43. On May 22, 2019, when Defendant Duran failed to answer or otherwise respond to the Complaint, the CFTC moved for a Clerk's Entry of Default. Doc. #62. The Clerk entered a default against Duran on May 23, 2019. Doc. #70. Defendant Duran retained legal counsel, who entered his appearance on June 18, 2019. Doc. #122. The next day, Defendant Duran's legal counsel moved to set aside the Clerk's Entry of Default, which the Court granted. Doc. ##125, 126. The CFTC and Defendant Duran now seek entry of an Amended Preliminary Injunction against Defendant Duran to allow him to use money from legitimate sources of income earned after April 15, 2019 that are not related to this case and are obtained after the effective date of the Statutory Restraining Order (Doc. #7) for his reasonable living expenses (inclusive of reasonable child support payments), and/or reasonable attorneys' fees.

While Defendant Duran neither admits nor denies the allegations in the Complaint or in the First Amended Complaint, for purposes of Plaintiff's Motion for Preliminary Injunction, he first consented to the entry of a Preliminary Injunction on April 29, 2019 and now consents to entry of an Amended Preliminary Injunction as set forth herein. In so doing, Defendant Duran is not admitting the allegations in the original Complaint or in the First Amended Complaint. Further, Defendant Duran is not waiving any defenses which may be raised in a motion to dismiss the First Amended Complaint or in an answer to the First

Amended Complaint, except as to jurisdiction and venue, which are admitted and waived (*see* Section I below). The CFTC and Defendant Duran enter into this Order voluntarily, and no promise or threat has been made by the CFTC or any member, officer, agent, or representative of the CFTC to induce Defendant Duran to consent to this Order.

In consideration of the foregoing, and based on the entire record in this case, the Court finds that there is good cause to believe that an Amended Preliminary Injunction against Defendant Duran is proper at this time and in this case to preserve the status quo; prevent the withdrawal, transfer, removal, dissipation, or disposal of assets; prevent the destruction, alteration, or disposal of books and records and other documents; protect members of the public from loss and damage; and enable the CFTC to fulfill its statutory duties. The Court hereby grants the Motion on the terms and conditions to which the CFTC and Defendant Duran have stipulated, as set forth below.

RELIEF GRANTED

IT IS HEREBY ORDERED that:

I. Jurisdiction and Venue

1. Defendant Duran has been properly served with a Summons and a copy of the Complaint. Doc. #19. This Court has jurisdiction over the parties and over the subject matter of this case. 7 U.S.C. § 13a-1 (2012) authorizes the Court to enter a preliminary injunction against the Defendant.
2. Venue lies properly within this District under 7 U.S.C. § 13a-1(e) (2012).
3. The parties waive the entry of findings of fact and conclusions of law for purposes of this Order pursuant to Rule 52 of the Federal Rules of Civil

Procedure, and the Court accepts that waiver.

II. Prohibitions from Violating the Act and Regulations, and from Engaging in Commodity-Related Activities

4. Defendant Duran and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with him, including any successors thereof, who receive actual notice of this Order by personal service or otherwise, are preliminarily restrained and enjoined from directly or indirectly violating Sections 4b(a)(2)(A)-(C), 4k(2), 4m(1), 4o(1)(A)-(B), and 2(c)(2)(iii)(I)(cc) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6k(2), 6m(1), 6o(1)(A)-(B), 2(c)(2)(iii)(I)(cc) (2012), and Commission Regulations (“Regulations”) 4.20(b)-(c), 4.21, 5.2(b)(1)-(3), and 5.3(a)(2), 17 C.F.R. § 4.20(b)-(c), 4.21, 5.2(b)(1)-(3), 5.3(a)(2) (2018).
5. Defendant Duran and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with him, including any successors thereof, who receive actual notice of this Order by personal service or otherwise, are preliminarily restrained and enjoined 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 (2018)) for their own personal account or for any account in which they have a direct or indirect interest;

- c. Having any commodity interests traded on their 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 contracts of sale for commodities in interstate commerce or commodity interests;
- e. Soliciting, receiving, or accepting any funds from any person for the purpose of entering into contracts of sale for commodities in interstate commerce or 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. § 4.19(a)(9) (2018); and/or
- g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. 3.1(a) (2018)), agent, or any other officer or employee or any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)) 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) (2018).

III. Prohibition on the Withdrawal, Transfer, Removal, Dissipation, and Disposal of Assets

- 6. Defendant Duran is restrained and enjoined from directly or indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing,

loaning, assigning, concealing, converting, directly or indirectly withdrawing, removing, dissipating, or otherwise disposing of any assets, wherever located, including assets held outside the United States, except as otherwise ordered by the Court. This Order shall apply to any of Defendant Duran's assets, regardless of when the asset is obtained, except as set forth below and in Sections III and IV of the Consolidated Receivership Order.

7. Any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset titled in the name of, held for the benefit of, or otherwise under the control of Defendant Duran, or which has held, controlled, or maintained custody of any such account or assets of Defendant Duran since April 15, 2014, who receives notice of this Order by personal service or otherwise, is hereby notified that this Order prohibits Defendant Duran from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of, in any manner, any funds, assets or property of Defendant Duran, wherever situated, including, but not limited to, all funds, personal property, money, or securities in safes, safety deposit boxes, and all funds on deposit in any financial institution, bank, or savings and loan account, including funds or property of customers, wherever located, whether held in the name of Defendant Duran or otherwise.
8. Nothing in this Order shall prevent Defendant Duran from earning an income from a legitimate business purpose or employment. Subject to reporting

requirements of this Order, Defendant Duran may use money from legitimate sources of income earned after April 15, 2019 that are not related to this case and are obtained after the effective date of the Statutory Restraining Order (Doc. #7) for his reasonable living expenses (inclusive of reasonable child support payments) and/or reasonable attorneys' fees.

9. Duran may open one bank account (the "Bank Account") at a branch of a bank chartered in the United States and regulated by the U.S. Federal Deposit Insurance Corporation, the U.S. Federal Reserve Board, or the U.S. Office of the Comptroller of the Currency for the purpose of depositing, withdrawing, or transferring funds earned or liabilities incurred after the date of this Order from activities unrelated to the allegations contained in the Complaint in this matter. In opening the Bank Account, Defendant Duran shall be required to abide by the following conditions:
 - a. The account shall be in Defendant Duran's name only.
 - b. Defendant Duran shall deposit income obtained after the effective date of this Order from legitimate sources that are not related to this case into the Bank Account to use for his reasonable living expenses (inclusive of reasonable child support payments), and/or reasonable attorneys' fees.
 - c. Defendant Duran shall not open any safety deposit boxes.
 - d. Defendant Duran is prohibited from providing any other entity or individual any control, direct or indirect beneficial interest,

- discretionary authority, or power of attorney over the account.
- e. For the Bank Account, Defendant Duran shall immediately provide the Commission and Receiver the name of the bank at which the account was opened, the type of account (i.e., checking, savings, etc.), the account number, and the name on the account.
 - f. Defendant Duran shall provide to the Commission and Receiver, on a monthly basis, copies of the monthly account statements for the Bank Account. Further, Defendant Duran shall provide information to the Receiver and Commission on a monthly basis to confirm that any activity in the Bank Account, including deposits, withdrawals, or fund transfers, was the result of lawful activities, reasonable living expenses (inclusive of reasonable child support payments), and/or reasonable attorneys' fees.
 - g. If the accounts are closed, either by Defendant Duran or the banks, then Defendant Duran shall immediately notify the Commission and provide copies of documents relating to the closing of the accounts, including close-out statements and all documents reflecting the reason the accounts were closed.
10. Nothing in this order shall exempt any after-acquired assets from fraudulent transfer or other claims brought by the Receiver or any other entity or individual pursuant to pertinent legal and equitable principles.

IV. Prohibition on the Destruction, Alteration, or Disposal of Books, Records, and Other Documents

11. The prohibition in paragraph 24 of the Order Granting Plaintiffs' Ex Parte Emergency Motion for Statutory Restraining Order (Doc. #7) on Defendant Duran's destruction, alteration, or disposing of, in any manner, any books, records, or other documents that relate to or refer to the business activities or business or personal finances of Defendant Duran shall continue in full force and effect.

V. Stay of Actions

12. Except by leave of the Court, Defendant Duran is hereby stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, or in his name, including but not limited to, the following actions:
 - a. Commencing, prosecuting, litigating, or enforcing any suit, except that actions may be filed to toll any applicable statute of limitation (with at least ten days' prior notice to the Commission and Receiver);
 - b. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, real and/or personal property of Defendant Duran, or any real and/or personal property claimed by Defendant Duran, or attempting to foreclose, forfeit, alter, or terminate Defendant Duran's interest(s) in real and/or personal property, whether such acts are part of a judicial proceeding or otherwise;
 - c. Using self-help or executing or issuing, or causing the execution or issuance of, any court attachment, subpoena, replevin, execution, or

other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of Defendant Duran; and

- d. Doing any act or thing to interfere with the exclusive jurisdiction of this Court over the real and/or personal property and assets of Defendant Duran. This paragraph does not stay the commencement or continuation of any action or proceeding by any governmental unit to enforce such governmental unit's police or regulatory power.

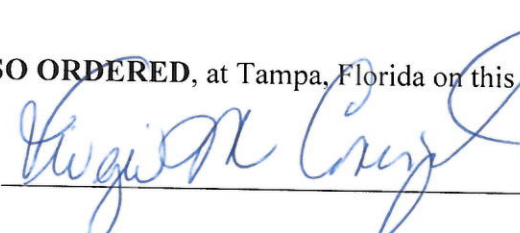
VI. Bond Not Required

13. Plaintiff CFTC is an agency of the United States, and therefore pursuant to Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b) (2012), no bond is required prior to entry of this Order.

VII. Force and Effect

14. This Consent Order shall remain in full force and effect until further order of the Court, and the Court retains jurisdiction of this matter for all purposes. Any party may petition this Court upon proper notice to amend or lift the Preliminary Injunction or Consent Order.

IT IS SO ORDERED, at Tampa, Florida on this 11th day of July 2019, at 6:46 a.m./p.m.



Hon. Virginia M. Hernandez Covington
United States District Judge

Hon. Sean P. Flynn
United States Magistrate Judge