

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

MAY 24 2012

SECURITIES AND EXCHANGE)
 COMMISSION,)
)
 Plaintiff,)
)
 v.)
 NEW FUTURES TRADING)
 INTERNATIONAL CORPORATION,)
 and HENRY ROCHE,)
)
 Defendants,)

FILED

Civil Action No. 11 CV 532-JL

**FINAL JUDGMENT AS TO
DEFENDANT HENRY ROCHE**

WHEREAS, on November 16, 2011, Plaintiff Securities and Exchange Commission (“Commission”) commenced this action by filing a Complaint against New Futures Trading International Corporation and Henry Roche (“Defendant”) and a Summons was issued on that date to the same;

WHEREAS, the Commission served Roche by process server on November 17, 2011 and New Futures waived service that day;

WHEREAS, the Commission filed a motion to enter default against Defendant for failure to answer or otherwise appear;

WHEREAS, in accordance with Fed. R. Civ. P. 55(a), a Clerk’s default was entered against Defendant on January 31, 2012;

WHEREAS, the Court accepts as true the factual allegations in the Complaint against Defendant, who has defaulted, and that:

1. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77v(a)], and Sections 21(e) and 27 of the Securities and Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(e) and 78aa]; and

2. The Defendant employed the means or instrumentalities of interstate commerce, the mails, or facilities of national securities exchanges to engage in the conduct alleged in the Complaint.

WHEREAS, the Commission has applied, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, for the entry of this Final Default Judgment based on the Defendants failure to answer or otherwise respond to the Commission's Complaint, and the Court having considered the prima facie case for relief shown by the Commission's Complaint and the Memorandum of Law in Support of Plaintiff Securities and Exchange Commission's Motion for Default Judgment, and the exhibits thereto, which showing has not been rebutted by the Defendant;

NOW THEREFORE BASED ON THE FOREGOING:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$1,242,972, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$40,917.47 and a civil penalty in the amount of \$ 150,000 pursuant to Section 20(d)(2) of the Securities Act [15 U.S.C. § 77t(d)(2)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78(u)(d)(3)]. Defendant shall satisfy this obligation by paying \$ 1,433,889^{.47} within 14 days after entry of this Final Judgment by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission. Payment shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington DC 20549, and shall be accompanied by a letter identifying Roche as an defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Asset Freeze entered by this Court on December 7, 2011 (the "Asset Freeze Order") shall remain in full force and effect. Anyone in possession of assets subject to the Court's Asset Freeze Order shall hold

them until further Order of the Court, or, upon service of this Final Judgment by the Commission, send the frozen proceeds to the Commission as directed above to be applied toward the amounts ordered to be paid herein.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: May 24, 2012



UNITED STATES DISTRICT JUDGE