

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION

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U.S. SECURITIES AND	)
EXCHANGE COMMISSION,	)
Plaintiff,	)
	) CASE NO. 1:09-cv-1330
v.	)
	) (Judge Conner)
SEAN NATHAN HEALY,	)
Defendant,	)
	)
and	)
	)
SHALESE HEALY and SAND	)
DOLLAR INVESTING PARTNERS,	)
LLC,	)
Relief Defendants.	)
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U.S. COMMODITY FUTURES	)
TRADING COMMISSION,	)
Plaintiff,	)
	) CASE NO. 1:09-cv-1331
v.	)
	) (Judge Conner)
SEAN NATHAN HEALY,	)
Defendant,	)
	)
and	)
	)
SHALESE HEALY and SAND	)
DOLLAR INVESTING PARTNERS,	)
LLC,	)
Relief Defendants.	)
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**JOINT CASE MANAGEMENT PLAN**

Having complied with the meet and confer requirements set forth in the local rules, the Plaintiffs U.S. Securities and Exchange Commission (SEC) and U.S. Commodity Futures Trading Commission (CFTC), Defendant Sean Nathan Healy (Sean Healy), and Relief Defendant Shalese Rania Healy (Shalese Healy) hereby submit the following Joint Case Management Plan with respect to the above-captioned cases:

**1. Principal Issues**

**By Plaintiff SEC:** This case is an enforcement action brought by the SEC seeking injunctive relief, other equitable relief, and civil monetary penalties for violations of Section 17(a) of the Securities Act of 1933 (Securities Act), 15 U.S.C. § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

In the complaint filed by the SEC, the SEC alleges that since at least 2005, Defendant has obtained millions of dollars from numerous investors by promising that he would use the money to trade in securities and commodities on their behalf. In reality the Defendant did not invest this money as he represented to investors. Rather, he used the money for daily living expenses and to purchase, among other things: numerous luxury vehicles, jewelry, a \$2.4 million home, and millions in home improvements and furnishings.

The SEC alleges that Relief Defendants Shalese Healy and Sand Dollar Investing Partners, LLC each received ill-gotten gains or property as a result of Defendant's fraudulent conduct and to which they do not have a legitimate claim.

**By Plaintiff CFTC:** This is an enforcement action brought by the CFTC seeking injunctive relief, other equitable relief, and civil monetary penalties under the Commodity Exchange Act (Act), 7 U.S.C. §§ 1 *et seq.* (2006), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (CRA)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008).

In the Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief, the CFTC alleges that, from at least May 2008 to at least March 2009, Sean Nathan Healy (Sean Healy) has engaged in a fraudulent scheme to solicit at least \$14 million from at least 44 investors to invest in, *inter alia*, commodity futures contracts and commodity options contracts on the investors' behalf. Sean Healy repeatedly assured the investors the futures and options trading was earning excellent returns and that distributions of these tremendous trading profits would be made in February 2009. These statements are false and no trading actually occurred. Bank records show that, during the time Sean Healy was receiving money from the investors, he Shalese Healy used that money to purchase numerous luxury vehicles (including multiple Porsches, Lamborghinis, and

Ferraris), approximately \$1.4 million worth of jewelry, gold bullion, a \$2.4 million home, and to fund approximately \$2 million in home furnishings and home improvements, including \$500,000 for a home movie theater.

The CFTC also alleges that Shalese Healy and Sand Dollar are relief defendants (collectively, Relief Defendants), and, as such each received ill-gotten gains or property as a result of the fraud committed by Sean Healy to which they do not have a legitimate claim and, therefore, must disgorge these funds or relinquish the property.

**By Defendant Sean Healy:** In response, Defendant Sean Healy invokes his Fifth Amendment right against self-incrimination and relies on the affirmative defenses as set for in his Answer. Considering that at this stage in the litigation both the SEC and CFTC have merely asserted allegations, Counsel for Defendant Sean Healy objects to the manner in which the Plaintiffs' summaries are drafted above. Each sentence in Plaintiffs' summaries should be drafted as a pending allegation. The parties have conferred on this issue and have been unable to resolve it. Accordingly, by signing this joint Case Management Plan, Counsel for Defendant Healy is neither making any admissions nor denials on his behalf as to the information in Plaintiffs' summaries above; instead, Defendant Sean Healy stands on his Answers to Plaintiffs' Complaints.

**By Relief Defendant Shalese Healy:** In response, Defendant Shalese Healy invokes her Fifth Amendment right against self-incrimination and relies on the

affirmative defenses as set for in her Answer. Considering that at this stage in the litigation both the SEC and CFTC have merely asserted allegations, Counsel for Relief Defendant Shalese Healy objects to the manner in which the Plaintiffs' summaries are drafted above. Each sentence in Plaintiffs' summaries should be drafted as a pending allegation. The parties have conferred on this issue and have been unable to resolve it. Accordingly, by signing this joint Case Management Plan, Counsel for Relief Defendant Shalese Healy is neither making any admissions nor denials on her behalf as to the information in Plaintiffs' summaries above; instead, Relief Defendant Shalese Healy stands on her Answers to Plaintiffs' Complaints.

**The principal factual issues that the parties dispute are:**

Both Sean Healy and Shalese Healy have invoked their Fifth Amendment privilege against self-incrimination with respect to all factual allegations of the SEC and CFTC complaints.

**The principal legal issues that the parties dispute are:**

Both Sean Healy and Shalese Healy have invoked their Fifth Amendment privilege against self-incrimination with respect to all legal allegations of the SEC and CFTC complaints. The SEC and the CFTC dispute all of the Healys' affirmative defenses.

**Identify any unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue:**

There are no unresolved issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue.

**Identify any named parties that have not yet been served:**

All named parties have been served.

**Identify any additional parties that plaintiffs or defendant intends to join:**

No party intends to join additional parties at this time.

**Identify any additional claims that plaintiffs or defendant intends to add:**

No party intends to add additional claims at this time.

**2. Alternative Dispute Resolution (ADR):**

The parties agree that ADR would not serve a useful purpose at this time based on the Healys' invocation of their 5<sup>th</sup> Amendment privilege against self-incrimination, and are uninterested in settlement at this time.

**3. Consent to Jurisdiction by a Magistrate Judge**

The parties do not consent to have a magistrate judge preside as the judge of these cases with appeal lying to the United States Court of Appeals for the Third Circuit.

**4. Disclosures**

Please see the SEC's initial disclosures in Attachment B and the CFTC's initial disclosures in Attachment A. In response, Defendant Sean Healy and Relief Defendant Shalese Healy currently invoke their Fifth Amendment rights against

self-incrimination. Defendant Sean Healy and Relief Defendant Shalese Healy reserve their rights to make disclosures as discovery proceeds in the matter.

## **5. Motions**

- (a) Motion for an Order Providing the Receiver with Sole Possession of the Riviera Manor Property, filed by the Court-Appointed Receiver Melanie E. Damian in both actions on September 4, 2009. SEC D.E. # 39, CFTC D.E. # 34.
- (b) Motion to Compel Tim Cash to Disclose the Identity and Location of Bank Accounts and Incorporated Memorandum of Law, filed by the Court-Appointed Receiver Melanie E. Damian on September 11, 2009. SEC D.E. # 42, CFTC D.E. # 43.
- (c) Receiver's Motion for an Order Establishing Bidding Procedures and Approving Sale of Vehicles, anticipated to be filed by October 1, 2009.
- (d) Summary judgment motions by Plaintiffs SEC and CFTC, anticipated to be filed by November 1, 2009.

## **6. Discovery**

### **Discovery Completed:**

The court-appointed Receiver has conducted the depositions and issued subpoenas contained on Attachment C.

The SEC served Defendant and Relief Defendant Shalese Healy with requests to produce documents, interrogatories, and requests for admission on July 14, 2009. The Healys responded to this discovery on July 27, 2007 by invoking their 5<sup>th</sup> Amendment privilege against self-incrimination in response to each discovery request.

The CFTC served Defendant and Relief Defendant Shalese Healy with requests to produce documents, interrogatories, and requests for admission on July 15, 2009. The Healys responded to this discovery on July 27, 2007 by invoking their 5<sup>th</sup> Amendment privilege against self-incrimination in response to each discovery request.

The SEC, CFTC and Receiver conducted depositions of Defendant and Relief Defendant, who invoked their 5<sup>th</sup> Amendment privilege against self-incrimination in response to each and every substantive question.

**Additional Discovery by Plaintiffs:**

At this time, Plaintiffs do not intend to conduct any additional discovery. The court-appointed Receiver intends to pursue additional discovery in pursuit of the recovery of additional assets, to determine disposition of assets and in furtherance of any claims the Estate may have to recover assets on behalf of aggrieved investors.

**Additional Discovery by Defendant:**

Counsel for Defendant Sean Healy intends to seek discovery, including taking depositions, issuing subpoenas, and propounding requests for admissions, documents, responses to interrogatories.

**Additional Discovery by Relief Defendant:**

Counsel for Relief Defendant Shalese Healy intends to seek discovery, including taking depositions, issuing subpoenas, and propounding requests for admissions, documents, and responses to interrogatories.

**Identify any subject area limitations on discovery that one or more parties would like imposed, at the first stage of or throughout the litigation:**

None exist at this time.

**Recommended limitation of depositions (excluding experts) to be taken by:**

Plaintiffs: 10

Defendant: 10

**Recommended limitation of interrogatories to be served by:**

Plaintiffs: 25

Defendant: 25

**Recommended limitation of document production requests to be served by:**

Plaintiffs: 75

Defendant: 75

**Recommended limitation of requests for admission to be served by:**

Plaintiffs: 50

Defendant: 50

**All discovery commenced in time to be completed by:**

March 15, 2010

**Reports from retained experts due:**

Plaintiffs: April 16, 2010, with supplementations due May 1, 2010.

Defendants: April 16, 2010, with supplementations due May 1, 2010.

**7. Protective Order**

None at this time.

**8. Certification of Settlement Authority**

**For Plaintiff SEC:** The SEC consists of five Commissioners that are appointed by the President of the United States, with the advice and consent of the Senate. No individual Commissioner has authority to accept a settlement on behalf of the SEC. The SEC prosecutes actions through its Division of Enforcement (Division) but the Division does not possess independent settlement authority; rather, the Division presents executed offers of settlement to the Commission with a recommendation to accept or decline the offer. Senior staff of the Division can be made available to attend any settlement conferences. These senior staff have the authority to recommend specific actions to the Commission.

**For Plaintiff CFTC:** The CFTC consists of five Commissioners (of which there are currently four in office) that are appointed by the President of the United States, with the advice and consent of the Senate. No individual Commissioner has authority to approve dismissal of a case or to accept a settlement amount on behalf of the CFTC. Further, the CFTC prosecutes actions through its Division of

Enforcement (DOE), but the DOE does not possess independent settlement authority; instead, the DOE presents executed offers of settlement to the Commission with specific recommendations that any such offer be accepted or declined, and, in the case of federal litigation, to grant the DOE the authority to enter into the proposed settlement. Within this framework, the CFTC respectfully requests that it be allowed to participate in any settlement conferences with a senior DOE attorney who possesses authority to negotiate the terms of a settlement that (if appropriate) the DOE affirmatively will recommend that the Commission accept.

**For Defendant and Relief Defendant:** Counsel for Defendant Sean Healy and Relief Defendant Shalse Healy hereby certifies that his clients have the ultimate settlement authority.

## **9. Scheduling**

As noted herein, both the SEC and CFTC shortly will file motions for summary judgment that Plaintiffs believe should resolve this litigation without the need of a trial. In the event these motions are denied, this case may be appropriate for trial in approximately 365 Days from the filing of the action in this court.

Suggested Date for Trial: July 2010

Suggested Date for the final Pretrial Conference: June 2010

Final date for joining additional parties: January 4, 2010

Final date for amending pleadings: January 4, 2010

All potentially dispositive motions should be filed by: April 16, 2010

## **10. Other Matters**

The parties have no additional suggestions for the case development process, settlement, or trial that may be useful or necessary to the efficient and just resolution of the dispute.

## **11. Identification of Counsel**

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Dated: September 24, 2009

Respectfully submitted by,

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