



January 14, 2015

CFTC Obtains Judgment against Commodity Pool Operators TOTE Fund LLC and MJS Capital Management LLC, and their Principal, Michael J. Siegel, for Commodity Pool Fraud and Other Violations

Federal Court Orders Defendants to Pay More than \$871,000 in Restitution, Disgorgement, and Civil Monetary Penalties

Washington, DC – The U.S. Commodity Futures Trading Commission (CFTC) today announced that Judge Noel L. Hillman of the U.S. District Court for the District of New Jersey entered an Order of default judgment and permanent injunction against Defendants **TOTE Fund LLC** (TOTE) and **MJS Capital Management LLC** (MJS), two Commodity Pool Operators, and their sole principal **Michael J. Siegel** of Northfield, New Jersey.

The court's Order requires Siegel and MJS, jointly and severally, to pay restitution of \$104,684.47, disgorgement of \$86,503.36, and a civil monetary of \$259,510.08. Siegel and TOTE are also jointly and severally required to pay disgorgement of \$105,185.89 and a civil monetary penalty of \$315,557.67. The Order further imposes permanent trading and registration bans against all Defendants. The Order, entered on December 30, 2014, stems from a CFTC Complaint filed on September 27, 2013 (see CFTC Press Release [6723-13](#)).

The Order finds that Defendants violated the Commodity Exchange Act by misappropriating funds totaling approximately \$191,689 from **Monarch Futures Fund LLC** (Monarch) and **QEP Futures Fund LLC** (QEP), two commodity pools operated by TOTE and MJS, respectively, by withdrawing money from the pools for non-pool expenses and taking fees to which they were not entitled. According to the Order, despite earning incentive, management, and administrative fees of \$319,909 based on his trading, Siegel transferred approximately \$511,598 from bank accounts in the names of Monarch, QEP, and TOTE to his personal bank accounts, to a credit card account, and to at least one individual and used some of these funds to pay personal expenses.

The Order further finds that MJS and Siegel misappropriated funds by failing to return funds to at least two pool participants who sought to withdraw their funds from QEP. Also, TOTE, acting through Siegel, failed to provide Monarch pool participants with copies of monthly statements received by TOTE from Futures Commission Merchants, as required by a CFTC Regulation, the Order finds.

The CFTC cautions victims that restitution orders may not result in the recovery of money lost because the wrongdoers may not have sufficient funds or assets. The CFTC will continue to fight vigorously for the protection of customers and to ensure the wrongdoers are held accountable.

The CFTC Division of Enforcement staff members responsible for this case are Kara L. Mucha, James A. Garcia, Michael W. Solinsky, Charles D. Marvine, and Gretchen L. Lowe.

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CFTC's Commodity Pool Fraud Advisory

The CFTC has issued several customer protection [Fraud Advisories](#) that provide the warning signs of fraud, including the [Commodity Pool Fraud Advisory](#), which warns customers about a type of fraud that involves individuals and firms, often unregistered, offering investments in commodity pools.

Customers can report suspicious activities or information, such as possible violations of commodity trading laws, to the CFTC Division of Enforcement via a Toll-Free Hotline 866-FON-CFTC (866-366-2382) or [file a tip or complaint](#) online.

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