

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

_____)	
U.S. COMMODITY FUTURES)	
TRADING COMMISSION,)	
)	
Plaintiff,)	
)	CASE NO.: 3 09-CV-75 TWT
v.)	
)	
ELDON A. GRESHAM (a/k/a)	
ELDON A. GRESHAM, JR.) d/b/a)	
THE GRESHAM COMPANY,)	
)	
Defendant,)	
)	
and)	
)	
WERNER H. BEIERSDOERFER,)	
ELAINE BEIERSDOERFER,)	
INTERVESTON WINES, LLC, and)	
KIRK M. GRESHAM,)	
)	
Relief Defendants.)	
_____)	

**ORDER GRANTING PLAINTIFF’S
MOTION FOR RECONSIDERATION AND ENTERING
FINAL ORDER OF JUDGMENT AGAINST DEFENDANT**

Before the Court is plaintiff U.S. Commodity Futures Trading Commission’s (CFTC’s) Motion for Partial Reconsideration of Order Granting Motion for Summary Judgment [DE # 204]. Upon review of the motion and for good cause shown, plaintiff’s motion is **GRANTED**.

IT IS ORDERED that:

1. The Court's Order dated September 8, 2011 [DE # 199] is amended to order that Defendant Eldon A. Gresham (a/k/a Eldon A. Gresham, Jr) d/b/a The Gresham Company (Gresham) shall pay disgorgement in the amount of \$2,710,454.30, plus post-judgment interest, to the Gresham customers identified in Attachment A to the Consent Order of Disgorgement and Other Ancillary Relief Against Relief Defendant Kirk M. Gresham [DE # 167] (Kirk Gresham Consent Order).

IT IS FURTHER ORDERED that:

Designation of the Monitor

2. On March 30, 2011, the Court appointed the National Futures Association as Monitor to effect payment of disgorgement of relief defendant Kirk M. Gresham and to effect distribution of such disgorgement. *See* Kirk Gresham Consent Order [DE # 167]. The Monitor shall collect disgorgement payments from Gresham, place those payments in an interest-bearing account, and make distributions to Gresham customers in the same manner as set forth in the Kirk Gresham Consent Order. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, the Monitor shall not be liable for any action or inaction arising from its appointment as Monitor, other than actions involving fraud.

3. Any acceptance by the CFTC and/or Monitor of partial payment of the disgorgement obligation shall not be deemed a waiver of Gresham's requirements to make further payments pursuant to this Order or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

Disgorgement Obligation

4. All of Gresham's disgorgement obligation is immediately due and owing.

5. Gresham's initial disgorgement payment shall consist of all money in the frozen accounts referenced in paragraph 7 below.¹ Because the total amount of funds in these frozen accounts is less than \$2,710,454.30, Gresham shall pay the shortfall to the Monitor within ten (10) days of being notified of such shortfall.

6. If Gresham fails to pay in full the shortfall per paragraph 5 within ten (10) days of being notified of such shortfall by the Monitor, then post-judgment interest shall accrue on this shortfall beginning as of the date of this Order's entry and shall be determined by using the Treasury Bill rate prevailing on the date of this Order's entry, pursuant to 28 U.S.C. § 1961(a).

7. Upon issuance of this Order, the CFTC shall promptly provide each of the financial institutions identified in this paragraph with a copy of this Order.

Within thirty (30) days of receiving a copy of this Order, each of the financial

¹ The Monitor is currently in possession of \$2,607.50 in cash seized from Gresham on July 2, 2009 pursuant to the Order Granting Plaintiff's Ex Parte Emergency Motion for Statutory Restraining Order, Expedited Discovery, Preliminary Injunction, and Other Equitable Relief [DE # 8].

institutions identified in this paragraph are specifically directed to liquidate and release all funds in any account identified below, whether the account is held singly or jointly, or in any other capacity, and to convey by wire transfer to an account designated by the Monitor, all funds in these accounts, less any nominal amounts required to cover the financial institutions' administrative or wire transfer fees. At no time during the liquidation, release, and/or wire transfer of these funds pursuant to this Order shall Gresham be afforded any access to, or be provided with, any funds from these accounts. Gresham and all banks and financial institutions listed in this Order shall cooperate fully and expeditiously with the CFTC and the Monitor in the liquidation, release, and wire transfer of these funds.

The accounts to be liquidated, released, and transferred are:

<u>Name</u>	<u>Financial Institution</u>	<u>Account Number</u>	<u>Approx. Balance (as of September 2011)</u>
Eldon A. Gresham, Jr.	FXCM	*****99	\$1,094.37
Eldon A. Gresham, Jr.	FXCM	*****89	\$1,154.89
Eldon A. Gresham, Jr.	FXCM	*****68	\$22.27
Eldon A. Gresham, Jr.	FXCM	*****33	\$271,402.90
The Gresham Company	Regions Bank	*****25	\$149,668.59
The Gresham Company	Regions Bank	*****37	\$739.22
Eldon A Gresham, Jr.	Regions Bank	*****47	\$5.00
Eldon A Gresham, Jr.	Regions Bank	*****45	\$62.45
Eldon A Gresham, Jr.	American Century Investments	***_*****81	\$2,482.59
Eldon A. Gresham & Marcia D. Gresham	Community Nat'l Bank	*****74	\$14,771.36
Eldon Gresham	Wachovia Bank (Wells Fargo)	*****61	\$48,598.34
Eldon & Marcia Gresham	Wachovia Bank (Wells Fargo)	*****40	\$29.47

Eldon Gresham, Jr.	Gain Capital	**** **53	\$16.26
Eldon Gresham, Jr.	Gain Capital	*** **73	\$3.15
Eldon Gresham, Jr.	Gain Capital	***3 **15	\$4.27
Eldon Gresham, Jr.	Gain Capital	***5 **36	\$4.84
Eldon Gresham, Jr.	Gain Capital	**** **68	\$1.29
Eldon Gresham, Jr.	Gain Capital	**** **10	\$3.80
Eldon Gresham	Interbank FX	*****86	\$1,000

8. Gresham shall make any subsequent disgorgement payments under paragraph 1 of this Order in the name “Gresham Settlement Fund” and shall send such payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s, or bank money order, to Office of Administration, National Futures Association, 300 Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under cover letter that identifies himself and the name and docket number of this proceeding. Gresham shall simultaneously transmit copies of the cover letter and the form of payment to the CFTC per paragraph 13.

Payment of Civil Monetary Penalties

9. The Court’s Order dated September 8, 2011 [DE # 199] imposed against Gresham a civil monetary penalty in the amount of \$8,131,362.90.

10. All of Gresham’s civil monetary penalty is immediately due and owing.

11. Post-judgment interest on the civil monetary penalty shall accrue commencing on the date of this Order’s entry. The post-judgment interest rate

shall be determined by using the Treasury Bill rate prevailing on the date of this Order's entry, pursuant to 28 U.S.C. § 1961.

12. Gresham shall pay his civil monetary penalty by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, the payment shall be made payable to the "Commodity Futures Trading Commission" and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Linda Zurhorst
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

13. If payment by electronic transfer is chosen, Gresham shall contact Linda Zurhorst or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Gresham shall accompany payment of the civil monetary penalty with a cover letter that identifies himself and the name and docket number of this proceeding. Gresham shall simultaneously transmit copies of the cover letter and the form of payment to (a) the Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581; (2) the Chief, Office of Cooperative Enforcement, Division of Enforcement, Commodity Futures

Trading Commission at the same address; and (3) Charles Marvine, Chief Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 4900 Main Street, Suite 500, Kansas City, MO 64112.

14. All other aspects of the Court's Order dated September 8, 2011 remain unchanged.

IT IS SO ORDERED this 9th day of May, 2012.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge