

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMODITY FUTURES TRADING
COMMISSION,
1155 21st Street, N.W.
Washington, D.C. 20581

Plaintiff,

v.

1POOL LTD. and PATRICK BRUNNER
Trust Company Complex, Ajeltake Road,
Ajeltake Island, Majuro, Marshall Islands MH
96960

Defendants.

Case No. 1:18-CV-2243-TNM

**CONSENT ORDER FOR PERMANENT INJUNCTION,
CIVIL MONETARY PENALTY, AND OTHER EQUITABLE RELIEF
AGAINST DEFENDANTS 1POOL LTD. AND PATRICK BRUNNER**

I. INTRODUCTION

On September 27, 2018, Plaintiff Commodity Futures Trading Commission (“Plaintiff” or “Commission”) filed a Complaint against Defendants 1pool Ltd. (“1pool”) and its chief executive officer and principal, Patrick Brunner (“Brunner”) (collectively “Defendants”) seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1–26 (2012), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. pts. 1–190 (2018).

II. CONSENTS AND AGREEMENTS

To effect settlement of all charges alleged in the Complaint against Defendants without a trial on the merits or any further judicial proceedings, Defendants:

1. Consent to the entry of this Consent Order;

2. Affirm that they have read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order;

3. Acknowledge service of the summons and Complaint;

4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to 28 U.S.C. § 1331 (2012), 28 U.S.C. § 1345 (2012), and Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);

5. Admit the jurisdiction of the Commission over the conduct and transactions at issue in this action pursuant to the Act;

6. Admit that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e) (2012);

7. Waive:

(a) Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2018), relating to, or arising from, this action;

(b) Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-874 (1996), (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this action;

(c) Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing a civil monetary penalty or any other relief, including this Consent Order; and

(d) Any and all rights of appeal from this action.

8. Consent to the continued jurisdiction of this Court over them for the purpose of implementing and enforcing the terms and conditions of this Consent Order and for any other purpose relevant to this action, even if Defendants now or in the future reside outside the jurisdiction of this Court;

9. Agree that they will not oppose enforcement of this Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and hereby waive any objection based thereon;

10. Agree that neither they nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect their: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants shall comply with this agreement, and shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement;

11. Consent to the entry of this Consent Order without admitting or denying the allegations of the Complaint or any findings or conclusions in this Consent Order, except as to jurisdiction and venue, which they admit;

12. Consent to the use of the findings and conclusions in this Consent Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and, for that limited purpose only agree that they shall be taken as true and correct and be given preclusive effect therein, without further proof;

13. Do not consent, however, to the use of this Consent Order, or the findings and conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party, other than a proceeding in bankruptcy, or receivership, or proceeding to enforce the terms of this Consent Order;

14. Agree to provide immediate notice to this Court and the Commission by certified mail, in the manner required by paragraph 70 of Part VII of this Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against them, whether inside or outside the United States; and

15. Agree that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable remedy against them in any other proceeding.

III. FINDINGS AND CONCLUSIONS

16. The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, permanent injunction, and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), as set forth herein.

A. Findings of Fact

The Parties to This Consent Order

17. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act and the Regulations promulgated thereunder.

18. Defendant 1pool Ltd. is a limited liability company registered in the Republic of the Marshall Islands. 1pool operated an online trading platform, www.1broker.com, which offered customers retail commodity transactions among other products. 1pool has never been registered with the Commission in any capacity.

19. Defendant Patrick Brunner is 1pool's chief executive officer and principal and resides in Austria. Brunner has never been registered with the Commission in any capacity.

Defendants' Unlawful Retail Commodity Transactions

20. From at least February 2016 to September 2018 (the "Relevant Period"), 1pool through the actions of its officers, employees, or agents, including but not limited to Brunner, conducted a business in the United States in a manner that violated the Act and Regulations: namely, for the purpose of soliciting or accepting orders from non-eligible contract participants ("non-ECP"), as defined in Section 1a(18) of the Act, 7 U.S.C. § 1a(18) (2012), for the purchase or sale of commodities on a leveraged or financed basis that did not result in actual delivery of the commodities to the customer ("retail commodity transactions").

21. During the Relevant Period, Defendants operated an online trading platform, www.1broker.com ("1Broker" or "platform"), that solicited customers, including those in the United States, to transact in "Contracts for Difference" ("CFD").

22. A CFD is generally an agreement to exchange the difference in value of an underlying asset between the time at which the CFD trading position ("position") is established and the time at which it is terminated. The underlying assets of the CFDs offered by Defendants included gold and West Texas Intermediate crude oil ("WTI") among other commodities. Gold and WTI constitute "commodities" under Section 1a(9) of the Act, 7 U.S.C. § 1a(9) (2012).

23. A CFD allows customers to speculate or hedge on the underlying commodity's price movements, without the need for ownership and delivery/physical settlement of the underlying commodity.

24. CFD trading on the platform was settled in bitcoin.

25. To begin trading or open a position on the platform, customers completed a brief registration process through www.1broker.com and deposited bitcoin in a bitcoin wallet controlled by 1Broker. Customers could either buy or sell CFDs (go "long" or "short") referenced to gold and WTI, among other commodities, on margin with leverages as high as 1/200 depending on the underlying asset.

26. In this case, "margin" means the amount of bitcoin a customer deposits with the platform as collateral, while "leverage" allows a customer to control a large amount of a commodity with a comparatively small amount of bitcoin. Leverage also allowed customers to significantly boost their profits with a relatively small investment while also magnifying their losses.

27. In taking trading positions on the platform, customers could bet on the price movement of the underlying commodity and either profit or lose bitcoin based on whether prices moved in their favor or not with the platform serving as the counterparty. There was no actual delivery of the underlying asset or commodity and customers closed their trading position by placing an equal and opposite order. The platform automatically closed customers' positions when their losses exceeded the amount of bitcoin the customer had deposited as collateral.

28. Customers could keep their CFD trading positions open overnight. Leveraged positions held overnight were subject to a financing charge by the platform of a certain

percentage of the open position that varied by the type of underlying commodity and whether the position was long or short.

29. Defendants offered to enter into or entered into these leveraged transactions in commodities with non-ECP customers in the United States. Indeed, Defendants failed to check whether their customers were ECPs before offering or entering into these transactions.

30. The platform was not and is not a designated contract market, exempt board of trade or a bona fide foreign board of trade as those terms are defined in the Act.

1pool's Failure to Register as a Futures Commission Merchant

31. Without registering with the Commission as a futures commission merchant ("FCM"), 1pool: (a) solicited or accepted orders from U.S. non-ECPs for retail commodity transactions; (b) acted as a counterparty to these transactions; and (c) in or in connection with these retail commodity transactions, accepted money, securities, or property (or extended credit in lieu thereof) in the form of bitcoin, to margin, guarantee, or secure trades or contracts that resulted or may have resulted therefrom. Thus, 1pool acted as an FCM.

Defendants' Failure To Implement An Adequate Supervisory System That Included Know-Your-Customer/Customer Identification Program (KYC/CIP) Procedures

32. 1pool, as an entity that was required to be registered as an FCM, was required to maintain and implement an adequate supervisory system that included KYC/CIP procedures.

33. To adequately implement KYC/CIP procedures, 1pool was required to obtain sufficient information from its customers to form a reasonable belief that it knew the true identity of each of its customers in order to prevent money laundering, illegal trading with U.S. non-ECPs, and/or other illicit activity.

34. However, 1pool only required its customers to provide a username and email address to open a trading account, which was insufficient information to conduct any reasonable inquiry into the true identity of its customers.

35. 1pool did not require that its customers provide their actual name, physical address, or any other identifying information in order to trade.

36. By failing to implement adequate KYC/CIP procedures for reasonably verifying its customers' true identities, 1pool failed to implement an adequate supervisory system.

Brunner's Control of the Platform

37. At all times during the Relevant Period, Brunner directly or indirectly controlled the platform's operations. Brunner developed the platform, served as 1pool's chief executive officer, and is its sole shareholder and beneficial owner.

38. Further, Brunner was aware that the platform was accessible to U.S. customers for trading.

B. Conclusions of Law

Jurisdiction and Venue

39. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (2012) (federal question jurisdiction) and 28 U.S.C. § 1345 (2012), which provides that district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress. In addition, Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), provides that district courts have jurisdiction to hear actions brought by the Commission for injunctive relief and to enforce compliance with the Act whenever it shall appear to the Commission that any person has engaged, is engaging, or is about to engage in any

act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

40. The Commission has jurisdiction over the conduct and transactions at issue in this case pursuant to Sections 2(c)(2)(D) and 6c of the Act, 7 U.S.C. §§ 2(c)(2)(D), 13a-1 (2012).

41. Venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(a) because Defendants transacted business in this District and acts and practices in violation of the Act and Regulations occurred within this district.

Defendants' Unlawful Retail Commodity Transactions Violated 7 U.S.C. § 6(a)

42. Section 2(c)(2)(D)(i) of the Act, 7 U.S.C. § 2(c)(2)(D)(i) (2012), applies to “any agreement, contract, or transaction in any commodity” that is entered into with, or offered to (even if not entered into with), a non-ECP—i.e. a person who is a retail customer—“on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis” (the aforementioned “retail commodity transactions”), subject to certain exceptions not applicable here.

43. During the Relevant Period, the retail commodity transactions described in the Complaint and in paragraphs 20 through 30 of this Consent Order, and as defined in Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D) (2012), were offered or entered into by Defendants: (a) on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis; (b) with U.S. persons who are not ECPs or eligible commercial entities as defined by Sections 1a(17) and 1(a)(18) of the Act, 7 U.S.C. §§ 1a(17), 1a(18) (2018); and (c) without being made or conducted on, or subject to, the rules of any board of trade, exchange, or contract market.

44. Pursuant to Section 2(c)(2)(D)(iii) of the Act, 7 U.S.C. § 2(c)(2)(D)(iii) (2012), the retail commodity transactions alleged herein are subject to Section 4(a) of the Act, 7 U.S.C. § 6(a) (2012), as if they are contracts of sale of a commodity for future delivery.

45. In relevant part 7 U.S.C. § 6(a) makes it unlawful for any person to offer to enter into, enter into, execute, confirm the execution of, or conduct any office or business anywhere in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery unless the transaction is conducted on or subject to the rules of a board of trade that has been designated or registered by the Commission as a contract market.

46. As set forth above, during the Relevant Period, Defendants violated 7 U.S.C. § 6(a) by offering to enter into, entering into, executing, confirming the execution of, or conducting an office or business in the United States for the purpose of soliciting or accepting orders for, or otherwise dealing in, any transaction in, or in connection with, retail commodity transactions that were not conducted on or subject to the rules of a board of trade that has been designated or registered by the Commission as a contract market.

Defendants' Failure to Register as an FCM Violated 7 U.S.C. § 6d(a)(1)

47. The leveraged CFDs in commodities offered by Defendants to non-ECP U.S. customers constituted retail commodity transactions under 7 U.S.C. § 2(c)(2)(D) (2012).

48. During the Relevant Period, 1pool, through Brunner and its other employees and agents, acted as an FCM as defined in Section 1a(28) of the Act, 7 U.S.C. § 1a(28) (2012), by: (a) soliciting or accepting orders for retail commodity transactions; (b) acting as a counterparty for these transactions; and (c) in connection with these activities, accepting money, securities, or

property (or extending credit in lieu thereof) to margin trades or contracts that resulted or may have resulted therefrom.

49. Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1) (2012), provides that it shall be unlawful for any person to be an FCM unless such person is registered with the Commission as an FCM.

50. During the Relevant Period, 1pool failed to register with the Commission as an FCM, and therefore violated 7 U.S.C. § 6d(a)(1).

Defendants' Failure to Supervise Violated Regulation 166.3

51. Regulation 166.3, 17 C.F.R. § 166.3 (2018), requires a Commission registrant such as an FCM to diligently supervise all activities of its officers, employees, and agents relating to its business as an FCM. Specifically, it provides that:

Each Commission registrant, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all commodity interest [as defined in Regulation 1.3, 17 C.F.R. § 1.3 (2018)] accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.

17 C.F.R. § 166.3. A violation under 17 C.F.R. § 166.3 is an independent violation for which no underlying violation is necessary.

52. Regulation 166.1(a), 17 C.F.R. § 166.1(a) (2018), specifies that the term “Commission registrant” as used in 17 C.F.R. § 166.3 means “any person who is registered *or required to be registered* with the Commission pursuant to the Act or any rule, regulation, or order thereunder” (emphasis added). For the reasons described in paragraph 31, *supra*, 1pool

was “required to be registered” as an FCM, and therefore 17 C.F.R. § 166.3 applies to 1pool, as if it were properly registered.

53. During the Relevant Period, 1pool both employed an inadequate supervisory system and failed to perform its supervisory duties diligently in violation of 17 C.F.R. § 166.3.

54. 1pool’s failure to perform its supervisory duties diligently was evident from the fact that it required its customers to provide nothing more than a username and email address as identifying information, in order to trade on its platform.

55. 1pool should have implemented adequate KYC/CIP procedures and a monitoring system to ensure that its officers, employees, and agents responsible for opening trading accounts required more than a username and email address from its customers and that it could form a reasonable belief of the true identity of its customers.

Controlling Person Liability

56. Defendant Brunner controlled Defendant 1pool, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, 1pool’s acts in violation of the Act and Regulations. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), Defendant Brunner is liable for 1pool’s violations of 7 U.S.C. §§ 6(a), 6d(a)(1) (2012), and 17 C.F.R. § 166.3.

Liability of a Principal for Acts of Agent

57. The acts, omissions, and failures of Brunner and any other officers, employees or agents acting for 1pool described in the Complaint and paragraphs 20 through 56 of this Consent Order occurred within the scope of their agency, employment, and office at 1pool. Accordingly, 1pool is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation

1.2, 17 C.F.R. § 1.2 (2018), as principal for its agent's acts, omissions, or failures in violation of 7 U.S.C. §§ 6(a), 6d(a)(1) (2012), and 17 C.F.R. § 166.3.

Likelihood of Future Violations

58. Unless restrained and enjoined by this Court, there is a reasonable likelihood that Defendants will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the Act and Regulations.

IV. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

59. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendants 1pool and Brunner are: permanently restrained, enjoined and prohibited from:

- a. Violating Section 4(a) of the Act, 7 U.S.C. § 6(a) (2012), by offering to enter into, entering into, executing, confirming the execution of, or conducting an office or business in the United States for the purpose of soliciting or accepting orders for, or otherwise dealing in, any transaction in, or in connection with, retail commodity transactions that are not conducted on or subject to the rules of a board of trade that has been designated or registered by the Commission as a contract market;
- b. Violating Section 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1) (2012), by: (i) soliciting or accepting orders for retail commodity transactions; (ii) acting as a counterparty for these transactions; and (iii) in connection with these activities, accepting money, securities, or property (or extending credit in lieu thereof) to

margin trades or contracts that result or may result therefrom without being registered with the Commission as an FCM; and

c. Violating Regulation 166.3, 17 C.F.R. § 166.3 (2018), by failing to implement an adequate supervisory system including KYC/CIP procedures.

V. DISGORGEMENT AND CIVIL MONETARY PENALTY

A. Disgorgement

60. Defendants shall pay, jointly and severally, disgorgement in the amount of two hundred forty-six thousand dollars (\$246,000) (“Disgorgement Obligation”), representing the gains received in connection with such violation(s), within thirty (30) days of the date of the entry of this Consent Order. If the Disgorgement Obligation is not paid in full within thirty (30) days of the date of entry of this Consent Order, then post-judgment interest shall accrue on the Disgorgement Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

61. Defendants shall pay their Disgorgement Obligation and any post-judgment interest 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, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax

9-AMC-AR-CFTC@faa.gov

If payment by electronic funds transfer is chosen, Defendants shall contact Marie Thorne or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Defendants shall accompany payment of the Disgorgement Obligation with a cover letter that identifies Defendants and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

B. Civil Monetary Penalty

62. Defendants shall pay, jointly and severally, a civil monetary penalty in the amount of one hundred seventy-five thousand dollars (\$175,000) (“CMP Obligation”) within thirty (30) days of the date of the entry of this Consent Order. If the CMP Obligation is not paid in full within thirty (30) days of the date of entry of this Consent Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).

63. Defendants shall pay the CMP Obligation, plus any post-judgment interest, 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, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.

HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Defendants shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Defendants shall accompany payment of the CMP Obligation with a cover letter that identifies Defendants and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

C. Provisions Related to Monetary Sanctions

64. Partial satisfaction: Acceptance by the Commission of any partial payment of Defendants' CMP Obligation shall not be deemed a waiver of Defendants' obligation to make further payments pursuant to this Consent Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

VI. PAYMENT TO U.S. CUSTOMERS

65. Defendants shall pay to all known U.S. customers bitcoin held by Defendants in U.S. customers' accounts.

66. Defendants have certified to Plaintiff that they have as of February 16, 2019 liquidated all known U.S. customer accounts and repaid to U.S. customers approximately 93 bitcoins valued at approximately \$570,000 at the time of return.

67. Additionally, Defendants agree that upon presentment of adequate identification and verification, Defendants consent to repay bitcoin to such additional U.S. customers who may

seek return of bitcoin held by Defendants, for a period of six (6) months from the date of entry of this Consent Order. At the conclusion of this six (6) month period, Defendants shall report and certify any further such payments to Plaintiff as designated in paragraph 70 of Part VII of this Consent Order.

68. The amounts paid by Defendants to each U.S. customer shall not limit the ability of any U.S. customer from proving that a greater amount is owed by Defendants or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any customer that exist under state or common law.

VII. MISCELLANEOUS PROVISIONS

69. Cooperation: Defendants shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Defendants shall also cooperate in any Commission civil litigation, or administrative matter related to, or arising from, this action.

70. Notice: All notices required to be given by any provision in this Consent Order shall be sent as follows:

Notice to Commission:

Harry E. Wedewer
Trial Attorney
Division of Enforcement
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Notice to Defendants:

Patrick Brunner
Chief Executive Officer
Ipool Ltd.

c/o Kevin B. Muhlendorf
Wiley Rein LLP
1776 K Street N.W.
Washington, D.C. 20006

All such notices to the Commission shall be sent certified mail, return receipt requested, and reference the name and docket number of this action.

71. Change of Address/Phone: Until such time as Defendants satisfy in full their CMP and Disgorgement Obligations as set forth in this Consent Order, Defendants shall provide written notice to the Commission by certified mail of any change of address and/or phone number within ten (10) calendar days of the change.

72. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

73. Invalidation: If any provision of this Consent Order or if the application of any provision or circumstance is held invalid, then the remainder of this Consent Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

74. Waiver: The failure of any party to this Consent Order or of any customer at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or customer at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

75. Waiver of Service, and Acknowledgement: Defendants waive service of this Consent Order and agree that entry of this Consent Order by the Court and filing with the Clerk of the Court will constitute notice to Defendants of its terms and conditions. Defendants further agree to provide counsel for the Commission, within thirty (30) days after this Consent Order is filed with the Clerk of Court, with an affidavit or declaration stating that Defendants have received and read a copy of this Consent Order.

76. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motion by Defendants to modify or for relief from the terms of this Consent Order.

77. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon Defendants, upon any person under their authority or control, and upon any person who receives actual notice of this Consent Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendants.

78. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail, or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Consent Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.


79. Authority: Patrick Brunner hereby warrants that he is the chief executive officer of 1pool and that this Consent Order has been duly authorized by 1pool and he has been duly empowered to sign and submit this Consent Order on behalf of 1pool.

80. Contempt: Defendants understand that the terms of this Consent Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Consent Order.

81. Agreements and Undertakings: Defendants shall comply with all of the agreements and undertakings set forth in this Consent Order.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this *Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Defendants 1pool Ltd. and Patrick Brunner* forthwith and without further notice.

IT IS SO ORDERED on this 4th day of March, 2019.


TREVOR N. McFADDEN
United States District Judge