

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

Case No. 3:17-cv-774-J-32MCR

JASON B. SCHARF, CIT
INVESTMENTS LLC,
BREVSPAND EOOD, CIT
INVESTMENTS LTD., A&J MEDIA
PARTNERS, INC., MICHAEL
SHAH, and ZILMIL, INC.,

Defendants.

ORDER

On November 13, 2018, the Court held a hearing on the many pending motions in this case, (Docs. 109, 130, 131, 134, 135, 136, 146, 163, 170), the record of which is incorporated herein. For the reasons stated on the record, the following are the Court's rulings and deadlines.

Accordingly, it is hereby

ORDERED:

1. Zilmil Defendants' Motion to Modify Consent Preliminary Injunction (Doc. 109) is **DENIED in part and GRANTED in part**. The

Consent Order for Preliminary Injunction (Doc. 32) will remain in place. However, the Receiver is to minimize expenses as much as reasonably possible until further order of the Court. If Dr. Shah has a good faith basis to do so, he may file a separate motion seeking to unfreeze assets to pay for attorneys' fees and living expenses.

2. CFTC's Motion in limine to Exclude the Expert Testimony and Opinion of Peter Kent (Doc. 130) is **DENIED**.

3. Zilmil Defendants' Motion to Compel: (i) Completion of CFTC Rule 30(b)(6) Deposition, and (ii) Production of Documents from Plaintiff (Doc. 131) is **GRANTED in part and DENIED in part**. Defendants are permitted to depose the CFTC's 30(b)(6) witness, Heather Dasso, for three additional hours. Defendants' request for documents is **MOOT**.

4. Motion for Entry of Default Judgment against Defendants CIT Investments LLC, Brevspand EOOD, and CIT Investments Ltd. (Doc. 134) is **GRANTED in part**. The Court finds these defendants liable, but will carry the damages determination with the case and withhold entry of final judgment at this time.

5. Zilmil Defendants' Motion for Summary Judgment (Doc. 135) is **DENIED**.

6. CFTC's Motion for Summary Judgment (Doc. 136) is **DENIED**.

7. Zilmil Defendants' Motions to Strike Declarations, or in the Alternative for leave to Depose Declarants, and for Sanctions (Docs. 146 & 163) are **GRANTED in part and DENIED in part**. The witnesses and their declarations are not stricken. However, Defendants, if they so choose, are permitted to depose Silver, Tate, Giacca, and Keller. Unless the parties otherwise agree, each deposition shall not exceed two-and-a-half hours for direct examination and two-and-a-half hours for cross examination. Not later than **November 21, 2018**, Zilmil Defendants shall notify the CFTC in writing which witnesses they intend to depose.

8. Zilmil Defendants' Motion for Sanctions Pursuant to Rule 11 (Doc. 170) is **DENIED**.

9. Not later than **November 28, 2018**, the CFTC and Zilmil Defendants shall file and exchange witness lists.

10. Not later than **December 5, 2018**, Zilmil Defendants shall inform the Court if they consent to a magistrate judge conducting voir dire.

11. Not later than **December 5, 2018**, the CFTC shall file its proposed jury instructions.

12. Not later than **December 5, 2018**, the CFTC and Zilmil Defendants shall file and exchange exhibit lists.

13. Not later than **December 5, 2018**, the CFTC and Zilmil Defendants shall file all motions in limine. Responses to motions in limine are due by **December 12, 2018**.

14. Not later than **December 12, 2018**, the Zilmil Defendants shall file their proposed jury instructions.

15. Not later than **December 14, 2018**, the CFTC and Zilmil Defendants shall file their joint pretrial statement in accordance with the September 27, 2017 Case Management Scheduling Order (Doc. 57).

16. Not later than **December 14, 2018**, the CFTC and Zilmil Defendants shall exchange any demonstrative or summary exhibits they intend to use at trial.

17. Not later than **December 17, 2018**, the Zilmil Defendants shall file a memorandum, not to exceed five pages, explaining the intricacies of a defendant asserting his Fifth Amendment rights in a civil jury trial.

18. Not later than **December 17, 2018**, the CFTC and the Citrades Defendants shall jointly notify the Court if they have reached an agreement as to damages, and if not, what dates they request for an evidentiary hearing on damages.

19. The Final Pretrial Conference will be held on **December 19, 2018 at 10:00 a.m.** in Courtroom 10D, United States Courthouse, 300 North Hogan

Street, Jacksonville, Florida 32202. The Citrades Defendants and the Receiver's presence are not required.

20. In all other respects, the parties shall continue to be governed by the terms of the Court's September 27, 2017 Case Management Scheduling Order (Doc. 57), as amended (Doc. 92).

DONE AND ORDERED in Jacksonville, Florida this 14th day of November, 2018.



TIMOTHY J. CORRIGAN
United States District Judge

jb
Copies to:

Counsel of record