

2. The Consent Orders maintain the *SRO* in full force and effect. *Consent Order*, ¶ 22. The *Consent Orders* define Receivership Defendants as the “Defendants Tinoco and Kikit and their affiliates or subsidiaries owned or controlled by Defendants, including, but not limited to, Kikit & Mess Real Estate, LLC and Kikit & Mess Exotics LLC (hereinafter referred to as the “Receivership Defendants”). *Consent Orders*, ¶ 32.

3. The *SRO* provides that:

“Defendants are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly withdrawing, transferring, removing, dissipating, or otherwise disposing of any assets, wherever located.....”

SRO, ¶ 15.

Furthermore, Paragraph 31 of the *SRO* requires Defendant Tinoco to “*immediately or within such time as permitted by the Temporary Receiver in writing, deliver over to the Temporary Receiver:*

a. Possession and custody of all assets of the Receivership Defendants wherever situated; including those owned beneficially or otherwise; ...”

In addition, paragraph 32 of the *SRO* directs Defendant Tinoco to fully cooperate with and assist the Receiver while Paragraph 33 of the *SRO* restrains Defendant Tinoco from interfering with the duties of the Receiver.

4. On October 14, 2021, the *SRO* was served upon Tinoco by service upon an adult at Tinoco’s home. In the Consent Orders, Defendants Tinoco and Kikit admit that they have been properly served with a Summons and a copy of the Complaint and they consent to the entry of the Consent Orders. *Consent Orders* ¶13.

5. The Receiver identified \$181,048.40 that Defendant Tinoco should have turned over to the Receiver pursuant to the *SRO*. The Receiver contends Defendant Tinoco hid these monies from the Receiver and converted them for Tinoco’s own use in violation of this Court’s

orders. The Receiver threatened to request the Court to hold Defendant Tinoco in civil contempt for his violations of the SRO, but after much negotiation between the Receiver and Defendant Tinoco's counsel, the parties entered into a *Consent Order Resolving Abner Alejandro Tinoco's Contempt* (the "Consent Order") that was entered by the Court on October 26, 2022 [D.E. 105]. Pursuant to the Consent Order, Defendant Tinoco agreed to resolve the contempt issues by returning to the Receiver \$100,000 by on or before January 15, 2023.

6. Defendant Tinoco has failed to make the \$100,000 payment due to the receivership on January 15, 2023 pursuant to the Consent Order and is in contempt of the Consent Order.

7. On January 27, 2023, the Receiver informed Tinoco's counsel of Tinoco's contemptuous act.

8. On February 3, 2023, the Receiver filed the Receiver's Emergency Motion for "Show Cause" Hearing to Hold Defendant Abner Alejandro Tinoco in Civil Contempt [D.E. 115].

9. Since that time, Defendant Tinoco was incarcerated and continues to be incarcerated.

II. CONSENTS AND AGREEMENTS

To settle the matters alleged by the Receiver above concerning possible contempt by Defendant Tinoco of the SRO, without the Receiver filing a formal contempt motion, and without the Court conducting a hearing on the merits of any contempt motion, Defendant Tinoco:

1. Consents to the entry of this Consent Order Resolving Defendant Abner Alejandro Tinoco's Contempt (the "Consent Order");
2. Acknowledges he has read and agrees to this Consent Order voluntarily, and that no promise, other than as specifically set forth herein, or threat has been made by the Receiver to induce consent to this Order.
3. Waives any and all rights of appeal from this Consent Order.
4. Understands the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings he may not challenge the validity of this Consent Order..
5. Shall comply with all of the undertakings and agreements set forth in this Consent Order.
6. Consents to the continued jurisdiction of this Court over him for the purpose of implementing and carrying out the terms and conditions of all orders and decrees, including orders setting the appropriate amounts of restitution, disgorgement and civil monetary penalty, that may be entered herein, to entertain any suitable application or motion for additional relief within the jurisdiction of the Court, to assure compliance with this Consent Order and for any other purpose relevant to this action, even if Defendant Tinoco now or in the future resides outside the jurisdiction of this Court.
7. Agree that no provision of this Consent Order shall in any way limit or impair the ability of the Commodity Futures Trading Commission (the "Commission") or any other person or entity to seek any legal or equitable remedy against Defendants in any other proceeding.

III.
ORDER

The Court, being fully advised in the premises, find there is good cause for the entry of this Consent Order and that there is no just reason for delay.

THE PARTIES AGREE AND THE COURT HEREBY ORDERS:

8. As restitution to the receivership estate, and in settlement of the Receiver's contentions that Defendant Tinoco violated the SRO by hiding, and converting for his own use, \$181,048.40 subject to the SRO as identified herein, the sum of \$181,048.40 shall be added to the total damages, fines, and penalties, if any, that may be included in a judgment against Defendant Tinoco and in favor of the Plaintiff Commodity Futures Trading Commission in this case.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Consent Order Resolving Defendant Abner Alejandro Tinoco's Contempt.

IT IS SO ORDERED on this 3rd day of April, 2023.



DAVID C. GUADERRAMA
UNITED STATES DISTRICT COURT JUDGE

CONSENTED TO AND APPROVED BY DEFENDANT ABNER ALEJANDRO TINOCO

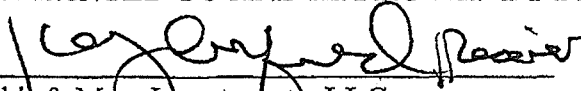
APPROVED AS TO FORM

Dated: March 31, 2023

David M. Mirazo

David M. Mirazo, Of Counsel
Dickinson Wright, PLLC
221 N. Kansas Street, Suite 200
El Paso, Texas 79901
Counsel for Defendant Tinoco

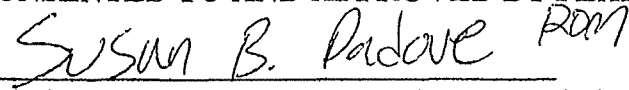
CONSENTED TO AND APPROVED BY DEFENDANT KIKIT & MESS



Dated: 3-31-23

Kikit & Mess Investments, LLC
By: Kelly Crawford, Receiver
SCHEEF & STONE, L.L.P.
500 North Akard, Suite 2700
Dallas, Texas 75201

CONSENTED TO AND APPROVED BY PLAINTIFF, CFTC



Dated: 3/31/2023

Plaintiff, Commodity Futures Trading Commission
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