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2004 OCT -1 AM 10: 36

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

8 ELIZABETH C. PADGETT (*Pro Hac Vice*)

9 U.S. COMMODITY FUTURES
10 TRADING COMMISSION
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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 U.S. COMMODITY FUTURES
14 TRADING COMMISSION,

15 Plaintiff,

16 vs.

17 JAMES J. ZHOU, and JADE
18 TRADER
19 411 E. Mission Road
20 Suite 5
21 Alhambra, CA 91801,

22 Defendants.

Case No.

04-8213 ABC (JWX)

COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL MONETARY
PENALTIES AND OTHER
ANCILLARY RELIEF PURSUANT TO
THE COMMODITY EXCHANGE ACT
AS AMENDED, 7 U.S.C. §§ 1 *et seq.*

I.

JURISDICTION AND VENUE

1. The Act establishes a comprehensive system for regulating the purchase
and sale of commodity futures contracts. This Court possesses jurisdiction over this
action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which provides that,
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 promulgated thereunder, the

1 Commission may bring an action against such person to enjoin such practice or to
2 enforce compliance with the Act.

3
4 2. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7
5 U.S.C. § 13a-1(e), because Defendants are found in, inhabit, or transact business in
6 this District, or the acts and practices in violation of the Act occurred, are occurring,
7 or are about to occur within this District, among other places.

8 II

9 SUMMARY

10 3. From at least October 11, 2002 to the present, James J. Zhou (“Zhou”) and
11 Jade Trader engaged in a fraudulent scheme to solicit clients to trade in commodity
12 futures contracts.

13 4. By posting false returns on the Jade Trader website and making false oral
14 and written representations to clients, Defendants solicited at least fourteen clients to
15 give them approximately \$200,000 for the purpose of trading commodity futures
16 contracts.

17 5. Defendants engaged, are engaging or are about to engage in acts and
18 practices in violation of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, as
19 amended (2002) (the “Act”), and the U.S. Commodity Futures Trading Commission
20 (the “Commission” or “CFTC”) Regulations promulgated thereunder
21 (“Regulations”), 17 C.F.R. § 1.1 *et seq.* (2004). Defendants violated, are violating,
22 or are about to violate:

- 23 a. Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii),
24 by engaging in fraudulent activity in connection with trading
25 commodity futures contracts;
- 26 b. Section 4o(1) of the Act, 7 U.S.C. §§ 6o(1) and Regulation 4.41(a)(1)
27 and (2), 17 C.F.R. § 4.41(a)(1) and (2), by acting as a commodity
28 trading advisor (“CTA”) and engaging in fraudulent activity in
connection with trading commodity futures contracts;
- c. Section 4m(1) of the Act, 7 U.S.C. § 6(m)(1) by acting as an
unregistered CTA;

- 1
2 d. Section 4k(3) of the Act, 7 U.S.C. §6k(3), and Section 3.12(a) of the
3 Regulations, by acting as an unregistered associated person (“AP”) of a
4 CTA and permitting the association of an unregistered AP; and
5 e. Regulation 4.31(a), 17 C.F.R. § 4.31(a) by failing to provide to
6 prospective clients the required Disclosure Document.

7 6. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the
8 Commission brings this action to enjoin Defendants’ unlawful acts and practices,
9 and to compel their compliance with the Act and the Regulations. In addition,
10 Plaintiff seeks civil monetary penalties and remedial ancillary relief including, but
11 not limited to, restitution, disgorgement, pre-judgment and post-judgment interest,
12 and such other relief as this Court may deem necessary or appropriate.

13 7. Unless restrained and enjoined by this Court, Defendants may continue to
14 engage in the acts and practices alleged in this Complaint or in similar acts and
15 practices, as more fully described below.

16 III

17 THE PARTIES

18 A. Plaintiff

19 8. The Commission is the independent federal regulatory agency charged
20 with the administration and enforcement of the Act and the Regulations. The
21 Commission’s main office is located at 1155 21st St, NW, Washington, D.C. 20581.

22 B. Defendants

23 9. James J. Zhou’s last known address is 411 E. Mission Road, Suite 5,
24 Alhambra, California 91801. Zhou is a director and owner of Jade Trader. He was
25 registered with the Commission as an associated person (“AP”) of Empire Financial
26 Group, LLC from July 17, 2002 through September 23, 2002, and as an AP of Sinta
27 Commodities Service Co. from September 23, 2002 through December 31, 2002.
28 Since that time, he has not been registered with the Commission in any capacity.

10 10. Jade Trader last known address is 411 E. Mission Road, Suite 5,
11 Alhambra, California 91801. It is not registered as a corporate entity with the

1 California Secretary of State. Jade Trader applied for registration with the
2 Commission as a CTA on June 25, 2003. Registration application documents for
3 Jade Trader identify James J. Zhou as a director and owner of Jade Trader, and
4 Simon Zhou as the CEO and a director of Jade Trader. Jade Trader's registration
5 application was not granted because it was incomplete. Jade Trader was never
6 registered with the Commission in any capacity.

7
8 IV

9 FACTS

10 A. Operation of Jade Trader as an Unregistered CTA

11 11. From approximately October 11, 2002 to the present, Defendants, for
12 compensation or profit, solicited members of the general public to place funds under
13 management with Jade Trader to trade in commodity futures contracts using the
14 Jade Trader Day Trade System ("DTS"), as well as other trading systems.

15 12. From on or about October 11, 2002 to the present, Jade Trader
16 maintained a website at www.jadetrader.net. The website was registered to
17 Sutchong Zhou, listing an address of 411 E. Mission Road, Alhambra, CA 91801.
18 The domain has a valid registration that expires on October 11, 2005. On its
19 website, Jade Trader advises potential clients regarding the trading systems that
20 Defendants claim to use and the returns that they claim to achieve.

21 13. During the period January 1, 2003 through March 31, 2004, at least
22 fourteen individuals granted Defendants trading authority over their accounts. At
23 Defendants' direction, these individuals opened commodity trading accounts at
24 Pioneer Futures, Inc., and/or Velocity Futures, LP, futures commission merchants
25 registered with the Commission, to allow Defendants to trade on their behalf.
26 Defendants actively managed these accounts.

1 14. Jade Trader charges a commission fee of \$30 for winning trade days with
2 a maximum monthly charge of \$500, for the Jade Trader Day Trade System
3 (“DTS”).

4 15. Jade Trader claims on its website that commission payments for the Jade
5 Trader DTS, as well as for at least one other Jade Trader trading system, are made
6 using Yahoo! Pay Direct. However, at least one Jade Trader DTS client made
7 payment by check directly to Zhou.

8 B. Fraudulent Solicitation of Clients to Trade Through Jade Trader

9 16. The Jade Trader website contains various tables that purport to show
10 actual trading results achieved by Defendants using the trading systems that they
11 promote. At least some of the tables purport to show actual trading results achieved
12 by Jade Trader as recently as August 13, 2004.

13 17. Defendants falsely posted profitable trading results on their website
14 when, in fact, actual client trading accounts were losing money.

15 18. Jade Trader claims on its website that the Jade Trader DTS returned a
16 profit of \$63,975 for one S&P 500 E-mini contract traded for the year 2003. Actual
17 client accounts for that time frame show that clients realized total losses of
18 \$127,135.96.

19 19. Specifically, Jade Trader claims on its website that the Jade Trader DTS
20 generated a positive return for April 2003 of \$1075 for two S&P 500 E-mini
21 contracts traded. In actual trading in a Jade Trader client’s account, however, the
22 client realized a loss of \$24,101 for that month.

23 20. Similarly, Jade Trader claims on its website that on March 10, 2003,
24 clients in the Jade Trader DTS achieved a positive return of \$625 for two S&P 500
25 E-mini contracts traded. In actual trading, a Jade Trader client realized a loss of
26 \$1,687.50 that day, not including commission and fees of \$288.

1 21. On the Jade Trader website, Defendants make various misrepresentations
2 regarding how client accounts will be traded. The Jade Trader website falsely
3 represents that the Jade Trader DTS "trades 2 to about 12 times per day."

4 22. In reality, actual trading in client accounts exceeded that figure by
5 several times. Trading in one client's account in April and May 2003 averaged as
6 high as eighty-nine contracts per trading day, significantly increasing the client's
7 exposure over what had been represented.

8 23. In another Jade Trader DTS client account, on March 10, 2003, Jade
9 Trader executed fifty-one trades, significantly increasing the client's exposure over
10 what had been represented.

11 24. Jade Trader further claims on its website that Jade Trader DTS holds no
12 overnight positions. Defendants also orally represented to clients that Jade Trader
13 would not hold positions open overnight.

14 25. In actual trading in client accounts, positions were regularly held
15 overnight in at least five client accounts, subjecting them to unexpected margin
16 calls.

17 26. Zhou was not registered as an AP of Jade Trader yet solicited clients to
18 purchase the DTS. As part of his solicitations, Zhou made various oral
19 misrepresentations to clients regarding how their Jade Trader accounts would be
20 managed. For example:

21 27. Zhou told at least one client that Jade Trader would execute a maximum
22 of four to five trades a day in his account. However, on March 4, 2003, the day after
23 the client funded his account, Zhou placed sixteen trades in the client's account.

24 28. Zhou assured at least one client that there was minimal risk in trading the
25 S&P 500 E-mini contract and that his loss was limited to 30% of his original
26 investment. Under Defendants' control, that client's account eventually lost
27 \$7890.65, or 78.9% of his original investment in just over one month.
28

1 29. Zhou also told at least two clients who maintained a joint account that
2 Jade Trader would purchase only one S&P 500 E-mini contract for each \$3000 in
3 the client's account. He then traded several times the number of contracts
4 represented. When confronted, Zhou agreed in writing to reimburse the client's
5 account \$1900 and to charge no fees until the account value was returned to \$6000.
6 Zhou further agreed that, if the account value dropped below \$2000, all trading
7 would stop and he would deposit funds into the account to return the account value
8 to \$4000 within thirty calendar days. Zhou never reimbursed the clients and the
9 account value was never restored.

10 30. As a result of Defendants' misrepresentations regarding Jade Trader's
11 trading history, Jade Trader's trading systems used, and the risk associated with
12 trading commodity futures contracts, clients invested approximately \$200,000 and
13 lost in excess of \$125,000.

14 C. Violation of Disclosure Document Requirements

15 31. At least two clients of Defendants, who maintained a joint account,
16 report that they did not receive a Disclosure Document from Jade Trader.

17 D. Zhou is a Controlling Person

18 32. Zhou is a director, owner and authorized signatory of Jade Trader and
19 entered into contracts on Jade Trader's behalf. Zhou also handled and resolved
20 client complaints on behalf of Jade Trader.

21 33. Because Zhou handled all trading in the client accounts, he had actual
22 knowledge about the trading losses being generated by his trading systems and,
23 nonetheless, reported trading results that were inconsistent with actual losses
24 sustained by Jade Trader clients. Furthermore, Zhou, on behalf of Jade Trader
25 entered into an agreement to reimburse two clients, who maintained a joint account,
26 for trading losses in that account due to alleged misrepresentations. Accordingly,
27
28

1 Zhou had actual knowledge of the core activities that constitute the violations at
2 issue in this complaint, and allowed them to continue.

3 34. Zhou directly or indirectly controlled Jade Trader and did not act in good
4 faith, or knowingly induced, directly or indirectly, the acts alleged herein.
5 Therefore, he is liable as a controlling person for violations of the Act.
6

7 V.

8 VIOLATIONS OF THE COMMODITY EXCHANGE ACT

9 COUNT I

10 Violations of Section 4b(a)(2)(i) and (iii) of the Act:
11 Fraud in Connection with Commodity Futures Contracts

12 35. Paragraphs 1 through 35 are realleged and incorporated herein by
13 reference.

14 36. The acts and omissions alleged in this Count were made in or in
15 connection with orders to make, or the making of contracts for future delivery,
16 made, or to be made, for or on behalf of other persons where such contracts for
17 future delivery were or may have been used for (a) hedging any transaction in
18 interstate commerce in such commodity, or the products or byproducts thereof, or
19 (b) determining the price basis of any transaction in interstate commerce in such
20 commodity, or (c) delivering any such commodity sold, shipped, or received in
21 interstate commerce for the fulfillment thereof.

22 37. From October 11, 2002 to the present, Defendants cheated or defrauded
23 or attempted to cheat or defraud other persons, and willfully deceived or attempted
24 to deceive other persons. Defendants committed this fraud by, among other things,
25 posting false trading results on the Jade Trader website; making false
26 representations regarding how trading accounts would be handled; and
27 misrepresenting the associated risks of trading commodity futures contracts.
28

1 Therefore, Jade Trader and Zhou are directly liable for violations of Section
2 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii).

3
4 38. Zhou controls or controlled Jade Trader, directly or indirectly, and did
5 not act in good faith or knowingly induced, directly or indirectly, Jade Trader's
6 conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7
7 U.S.C. § 13c(b), Zhou is liable for Jade Trader's violations of Section 4b(a)(2)(i)
8 and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii), as described in this Count.

9
10 39. At all times relevant to this Complaint, Jade Trader's officers and
11 employees engaged in the illegal conduct alleged in this Count within the scope of
12 their offices or employment as agents of Jade Trader. Pursuant to Section 2(a)(1)(B)
13 of the Act, 7 U.S.C. § 2(a)(1)(B), Jade Trader is liable as a principal for the
14 violations by its agents of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §
15 6b(a)(2)(i) and (iii).

16
17 40. Each false, deceptive, or misleading representation of material facts and
18 each failure to disclose material facts, including, but not limited to those specifically
19 alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(i)
20 and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii).

21 COUNT II

22 Violations of Section 4o(1) of the Act and Regulation 4.41(a)(1) and (2): 23 Fraud by a Commodity Trading Advisor

24 41. Paragraphs 1 through 41 are realleged and incorporated herein by
25 reference.

26
27 42. As defined in Section 1a(6) of the Act 7 U.S.C. 1a(6), a CTA is any
28 person who for compensation or profit engages in the business of advising others,
either directly or through publications, writings, or electronic media, as to the value
of or advisability of trading in any contract of sale of a commodity for future
delivery made or to be made on or subject to the rules of any contract market or

1 derivatives transaction or, for compensation or profit, and as part of a regular
2 business, issues or promulgates analysis or reports concerning any of the activities
3 referred to above.

4 43. Jade Trader is a CTA and acted as such in operating Jade Trader.
5 Specifically Jade Trader solicited members of the general public to manage client
6 accounts using Jade Trader trading systems for a fee. In connection with such
7 conduct, Jade Trader used the internet and other means or instrumentalities of
8 interstate commerce, directly or indirectly, to misrepresent Jade Trader's trading
9 history, the trading systems used by Jade Trader, and the risks involved in trading
10 commodity futures contracts.

11 44. During the relevant time period, Defendants violated Section 4o(1) of the
12 Act, 7 U.S.C. § 6o(1), in that they directly or indirectly employed a device, scheme
13 or artifice to defraud clients or prospective clients, or engaged in transactions,
14 practices or a course of business which operated as a fraud or deceit upon clients or
15 prospective clients. Defendants committed fraud by, among other things, posting
16 false trading results on the Jade Trader website; making false representations
17 regarding how trading accounts would be handled; and misrepresenting the
18 associated risks of trading commodity futures contracts. Furthermore, during the
19 relevant time period, Defendants violated Section 4.41(a)(1) and (2) of the
20 Regulations, 17 C.F.R. §4.41(a)(1) and (2), by advertising in a manner that employs
21 or employed a device, scheme, or artifice to defraud clients or prospective clients, or
22 by advertising in a manner that engaged or is engaging in transactions, practices or
23 courses of business which operated or are operating as a fraud or deceit upon clients
24 or prospective clients while acting as a CTA.

25 45. Defendants are directly liable for violations of Section 4o(1) of the Act
26 and Regulation 4.41(a)(1) and (2) by making material misrepresentations to clients
27 and/or potential clients regarding Jade Trader's trading results, how trading would
28

1 be handled, and the risk associated with trading commodity futures in order to solicit
2 them to trade with Jade Trader.

3 46. Zhou controls or controlled Jade Trader, directly or indirectly, and did
4 not act in good faith or knowingly induced, directly or indirectly, Jade Trader's
5 conduct alleged in this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. §
6 13c(b), Zhou is liable for Jade Trader's violations of Section 4o(1) of the Act, 7
7 U.S.C. § 6o(1), and Section 4.41(a)(1) and (2) of the Regulations, 17 C.F.R.
8 §4.41(a)(1) and (2), as described in this Count.

9 47. At all times relevant to this Complaint, Jade Trader's officers and
10 employees engaged in the illegal conduct alleged in this Count within the scope of
11 their offices or employment as agents of Jade Trader. Pursuant to Section 2(a)(1)(B)
12 of the Act, 7 U.S.C. § 2(a)(1)(B), Jade Trader is liable as a principal for the
13 violations by its agents of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and Section
14 4.41(a)(1) and (2) of the Regulations, 17 C.F.R. §4.41(a)(1) and (2).

15 48. Each false, deceptive, or misleading representation of material facts, each
16 failure to disclose material facts, each false report, and each misappropriation of
17 client funds including, but not limited to those specifically alleged herein, is alleged
18 as a separate and distinct violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and
19 Section 4.41(a)(1) and (2) of the Regulations, 17 C.F.R. §4.41(a)(1) and (2).

20 COUNT III

21 Violations of Section 4m(1) of the Act: 22 Acting as an Unregistered Commodity Trading Advisor

23 49. Paragraphs 1 through 49 are realleged and incorporated herein by
24 reference.

25 50. Section 4m(1) of the Act makes it unlawful to use the mails or
26 instrumentalities of interstate commerce to provide commodity trading advice to 15
27 or more persons during the preceding twelve month period, or to hold oneself out
28 generally to the public as a CTA, unless registered as a CTA under the Act.

1 Commission Regulation 4.14(a)(9) further provides that CTAs that direct the trading
2 in another person's commodity interest account are not exempt from being
3 registered as a CTA. 17 C.F.R. § 4.14(a)(9). Commission Regulation 4.10(f)
4 defines "direct", as used in the context of trading commodity interest accounts, as an
5 "agreement whereby a person is authorized to cause transactions to be effected for a
6 client's commodity interest account without the client's specific authorization." 17
7 C.F.R. § 4.10(f).

8 51. Jade Trader is a CTA and acted as such in operating Jade Trader.

9 52. Jade Trader violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1), by
10 engaging in the business of advising others, for compensation or profit, as to the
11 advisability of trading in commodity futures contracts, and made use of the mails or
12 other means or instrumentalities of interstate commerce in connection with its
13 business as a CTA while holding itself out to the public as a CTA.

14 53. Zhou controls Jade Trader, directly or indirectly, and did not act in good
15 faith or knowingly induced, directly or indirectly, Jade Trader's conduct alleged in
16 this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Zhou is liable
17 for Jade Trader's violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1), as
18 described in this Count.

19 54. Each client account advised by Defendants, for compensation or profit,
20 as to the advisability of trading in commodity futures contracts including, but not
21 limited to those specifically alleged herein, is alleged as a separate and distinct
22 violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

23 COUNT IV

24 Violations of Section 4k(3) of the Act and Section 3.12(a) of the Regulations:
25 Acting as an Unregistered AP of a Commodity Trading Advisor and
26 Permitting the Association of an Unregistered AP by a Commodity Trading Advisor

27 55. Paragraphs 1 through 55 are realleged and incorporated herein by
28 reference.

1
2 56. It is unlawful for any person to be associated with a CTA as a partner,
3 officer, employee, consultant or agent (or any person occupying a similar status or
4 performing similar functions) in any capacity that involves the solicitation of a
5 client's or prospective client's discretionary account, unless that person is registered
6 as an AP of the CTA. Section 4k(3) of the Act, 7 U.S.C. § 6k(3), and Section
7 3.12(a) of the Regulations, 17 C.F.R. § 3.12(a). Further, it is unlawful for a CTA to
8 permit such an unregistered AP to become or remain associated with the CTA in any
9 such capacity. Section 4k(3) of the Act, 7 U.S.C. § 6k(3).

10 57. During the relevant time period, Zhou violated Section 4k(3) of the Act,
11 7 U.S.C. § 6k(3), and Section 3.12(a) of the Regulations, 17 C.F.R. § 3.12(a), by
12 soliciting the discretionary accounts of clients and prospective clients of Jade Trader
13 without being registered as an AP of a CTA as required.

14 58. During the relevant time period, Jade Trader violated Section 4k(3) of
15 the Act, 7 U.S.C. § 6k(3), in that, as a CTA, it permitted Zhou to solicit funds for
16 participation in Jade Trader without being registered as an AP of a CTA.

17 59. Zhou controls Jade Trader, directly or indirectly, and did not act in good
18 faith or knowingly induced, directly or indirectly, Jade Trader's conduct alleged in
19 this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Zhou is liable
20 for Jade Trader's violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1), as
21 described in this Count.

22 60. Each discretionary account of a client and/or prospective client of Jade
23 Trader solicited by Defendants, including, but not limited to those specifically
24 alleged herein, is alleged as a separate and distinct violation of Section 4k(3) of the
25 Act, 7 U.S.C. § 6k(3), and Section 3.12(a) of the Regulations, 17 C.F.R. § 3.12(a).

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COUNT V

Violations of Regulation 4.31(a):
Failure to Comply with Disclosure Document Requirements

61. Paragraphs 1 through 61 are realleged and incorporated herein by reference.

62. Section 4.31(a) of the Regulations, 17 C.F.R. § 4.31(a), requires that every CTA registered or required to be registered under the Act deliver or cause to be delivered to a prospective client a Disclosure Document containing the information for the trading program that the CTA seeks to use to direct the trading in the client's account.

63. During the relevant time period, Defendants failed to provide to prospective clients the Disclosure Document required by Regulation 4.31(a) and, therefore, are directly liable.

64. Zhou controls Jade Trader, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Jade Trader's conduct alleged in this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Zhou is liable for Jade Trader's violations of Regulation 4.31(a), 17 C.F.R. § 4.31(a).

65. At all times relevant to this Complaint, Jade Trader's officers and employees engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of Jade Trader. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), Jade Trader is liable as a principal for the violations by its agents of Regulation 4.31(a), 17 C.F.R. § 4.31(a).

66. Each failure to deliver required disclosure documents to prospective clients, and each failure to make the required performance disclosures, including, but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.31(a), 17 C.F.R. § 4.31(a).

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VI

RELIEF

WHEREFORE, Plaintiff respectfully request that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to the Court's own equitable powers, enter:

A. An order of permanent injunction restraining and enjoining Defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of Defendants, and all persons insofar as they are acting in active concert or participation with Defendants, who receive actual notice of the order, by personal service or otherwise, from directly or indirectly:

1. Cheating or defrauding or attempting to cheat or defraud other persons and willfully making or causing to be made to other persons any false report or statement thereof, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii),
2. From employing any device, scheme, or artifice to defraud clients or prospective clients, or engaging in any transactions, practices or courses of business which operate as a fraud or deceit upon clients or prospective clients in violation of Section 4o(1) of the Act, 7 U.S.C. §§

1 6o(1), and Regulation 4.41(a)(1) and (2), 17 C.F.R. § 4.41(a)(1)
2 and (2);

3 3. Acting as a CTA, directly or indirectly, without being registered under
4 the Act and using the mails or any means or instrumentality of
5 interstate commerce in connection with their business as a CTA in
6 violation of Section 4m(1) of the Act, 7 U.S.C. § 6(m)(1);

7 4. Acting as an unregistered AP of a CTA and/or permitting the
8 association of an unregistered AP in violation of Section 4k(3) of the
9 Act, 7 U.S.C. §6k(3), and Section 3.12(a) of the Regulations; and

10 B. An order of permanent injunction prohibiting Defendants, all persons
11 insofar as they are acting in the capacity of agents, servants, employees, successors,
12 assigns, or attorneys of Defendants, and all persons insofar as they are acting in
13 active concert or participation with Defendants who receive actual notice of the
14 Order by personal service or otherwise, from directly or indirectly: (1) soliciting or
15 accepting any funds from any person in connection with the purchase or sale of any
16 commodity interest contract; (2) placing orders or giving advice or price quotations,
17 or other information in connection with the purchase or sale of commodity interest
18 contracts for themselves and others; (3) introducing clients to any other person
19 engaged in the business of commodity interest trading; (4) issuing statements or
20 reports to others concerning commodity interest trading; and (5) otherwise engaging
21 in any business activities related to commodity interest trading;

22 C. An order directing Defendants to make full restitution for harm caused
23 by their violations of the provisions of the Act and the Regulations as described
24 herein, including pre-judgment and post-judgment interest;

25 D. An order directing Defendants to disgorge to any officer appointed and
26 directed by the Court, or directly to their investors, all benefits received including,
27 but not limited to, salaries, commissions, loans, fees, revenues and trading profits
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1 derived, directly or indirectly, from acts or practices which constitute violations of
2 the Act and the Regulations as described herein, including pre-judgment and post-
3 judgment interest;

4 E. An order directing Defendants to pay civil monetary penalties under
5 Section 6c of the Act, 7 U.S.C. § 9a, to be assessed by the Court separately against
6 each of them, in amounts not more than the higher of \$120,000 or triple the
7 monetary gain to Defendants for each violation of the Act; and

8 F. An order for such other and further relief as the Court may deem
9 necessary or appropriate under the circumstances, including the appointment of a
10 temporary or permanent receiver.

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27 Dated: September 28, 2004
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