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RECEIVED
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
JAN 11 2005

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 **CVO4-4079 SJO (CWx)**

14 COMMODITY FUTURES TRADING)
15 COMMISSION,)
16)
17 Plaintiff,)
18)
19 vs.)
20 JAMES WEATHERFORD, an individual)
21 d/b/a Managed-Mini.com,)
22)
23 Defendant.)
24)
25)
26)
27)
28)

Case No.
COMPLAINT FOR INJUNCTIVE AND
OTHER EQUITABLE RELIEF AND
FOR CIVIL PENALTIES UNDER THE
COMMODITY EXCHANGE ACT, AS
AMENDED, 7 U.S.C. §§ 1-et seq

I.

JURISDICTION AND VENUE

1. The Commodity Exchange Act, 7 U.S.C. § 1 et seq.
(2001) ("Act") establishes a comprehensive system for regulating
the purchase and sale of commodity futures contracts and options.
This Court has jurisdiction over this action pursuant to Section
6c of the Act, 7 U.S.C. § 13a-1 (2001), which authorizes the
Commodity Futures Trading Commission ("Commission") to seek
injunctive relief against any person whenever it shall appear

1 that such person has engaged, is engaging, or is about to engage
2 in any act or practice constituting a violation of any provision
3 of the Act or any rule, regulation or order thereunder.

4 2. Venue properly lies with this Court pursuant to Section
5 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2001), in that Defendants
6 are found in, inhabit, or transact business in this District, and
7 the acts and practices in violation of the Act have occurred, are
8 occurring, or are about to occur, within this District, among
9 other places.

10 II.

11 SUMMARY

12 3. From July 28, 2003 to the present, Defendant James
13 Weatherford d/b/a managed-mini.com has been soliciting the public
14 using an internet website, www.managed-mini.com, for the purpose
15 of pooling funds to trade Standard & Poor ("S&P") 500 e-mini
16 commodity futures contracts. In his solicitations, Defendant
17 falsely represents that he pools funds for trading with a
18 registered commodity trading advisor ("CTA") and that the trading
19 on behalf of the commodity pool is done in accordance with
20 certain software trading programs that achieve average monthly
21 returns of 26 percent. While misrepresenting the profits likely
22 to be made through investing with him, Defendant also fails to
23 disclose the risks inherent in trading commodity futures
24 contracts. By these misrepresentations and omissions,
25 Weatherford has violated Sections 4b and 4o of the Act, 7 U.S.C.
26 §§ 6b and 6o (2002), and Commission Regulation Section 4.41. By
27 soliciting funds from individuals for purposes of pooling those
28 funds and trading commodity futures contracts on behalf the pool

1 participants, Weatherford is acting as a commodity pool operator,
2 as defined by the Act, without being registered as required, in
3 violation of Section 4m(1) of the Act.

4 4. Accordingly, pursuant to Section 6c of the Act, 7
5 U.S.C. § 13a-1 (2002), Plaintiff Commission brings this action to
6 enjoin the unlawful acts and practices of Defendant. In
7 addition, Plaintiff seeks civil monetary penalties in the amount
8 of not more than the higher of \$120,000 for each violation, or
9 triple the monetary gain to Defendant for each violation of the
10 Act, disgorgement of Defendant's ill-gotten gains, restitution to
11 customers, prejudgment interest and such other relief as this
12 Court may deem necessary or appropriate.

13 5. Unless enjoined by this Court, Defendant is likely to
14 continue to engage in the acts and practices alleged in this
15 Complaint, as more fully described below.

16 III.

17 THE PARTIES

18 6. Plaintiff Commission is an independent federal
19 regulatory agency that is charged with responsibility for
20 administering and enforcing the provisions of the Commodity
21 Exchange Act, 7 U.S.C. §§ 1 et seq. (2002).

22 7. Defendant **James Weatherford**, who resides in Santa
23 Monica, California, is engaged in the business of soliciting
24 customers to open commodity futures trading accounts and
25 accepting and pooling funds from customers to trade on their
26 behalf. Weatherford, doing business as managed-mini.com, has
27 never been registered with the Commission in any capacity.
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IV.

FACTUAL BACKGROUND

8. Since at least July 28, 2003 through the present, Defendant James Weatherford has been conducting a business out of Los Angeles, California for the purpose of soliciting funds from individuals to invest in a commodity trading pool that would purportedly trade in S&P 500 e-mini futures contracts.

9. From at least July 28, 2003 and continuing to the present, Defendant has been soliciting funds for purposes of operating a commodity futures trading pool through an internet web site at www.managed-mini.com, which he established and controlled.

10. Section 1a(5) of the Act, 7 U.S.C. § 1a(4), defines a Commodity Pool Operator ("CPO") as any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities or property, either directly or through capital contributions, . . . for the purpose of trading in any commodity for future delivery on or subject to the rules any contract market.

11. Through his solicitations and representations on the managed-mini.com website that the funds solicited are invested with a CTA using a trading system, Defendant is acting as a CPO.

12. On his website, Defendant falsely represents that he will collect and pool funds from individuals for purposes of being traded with or by Vankar Trading, a CTA registered with the CFTC. Vankar Trading neither had, nor has, any trading accounts under the name, ownership or control of Defendant or managed-

1 mini.

2 13. Defendant also falsely represents that his
3 futures trading, through Vankar, utilizes the "Trendcat
4 trading systems developed by a company called XtradeUS. XtradeUS
5 has never had a relationship with either Defendant or managed-
6 mini.com.

7 14. Defendant further falsely claims that individuals who
8 invest funds with him to be traded pursuant to the Trendcatcher
9 trading system will average profits of 26% per month, and double
10 in approximately four months.

11 15. In his solicitations on his website, Defendant never
12 discusses or discloses the substantial risks involved in trading
13 commodity futures contracts.

14 16. Upon information and belief, Defendant did not manage,
15 control, hold or trade - either directly or indirectly -- any
16 commodity futures trading accounts on behalf of pool participants
17 or any individuals.

18 17. The only commodity futures trading known to have been
19 conducted by Weatherford was conducted in his personal trading
20 accounts. Weatherford overall lost money in trading commodity
21 futures in his personal trading accounts.

22 COUNT I

23 **VIOLATIONS OF SECTION 4b(a)(2)(i) and (iii)**
24 **OF THE ACT, 7 U.S.C. § 6b(a)(2)(i) and (iii): FRAUD**

25 18. Plaintiff realleges paragraphs 1 through 17 above and
26 incorporates these allegations herein by reference.

27 19. During the relevant time period, Defendant, in or in
28 connection with the orders to make, or the making of, contracts

1 of sale of commodities for future delivery, made or to be made,
2 for or on behalf of any other persons, where such contracts for
3 future delivery were or could be used for the purposes set forth
4 in Section 4b(a) (2) of the Act, 7 U.S.C. 7 U.S.C. § 6b(a) (2), has
5 cheated or defrauded or attempted to cheat or defraud prospective
6 customers, and willfully deceived or attempted to deceive
7 prospective investors or investors Among other things, Defendant
8 falsely represents that customer funds will be traded by Vankar
9 Trading pursuant to XtradeUS software and earn 26% profit per
10 month. Furthermore, Defendant fails to disclose the substantial
11 risks inherent in trading commodity futures contracts, all in
12 violation of Sections 4b(a) (2) (i) and (iii) of the Act, 7 U.S.C.
13 § 6b(a) (2) (i) and (iii).

14 20. Each fraudulent misrepresentation and omission,
15 including those specifically alleged herein, are alleged as a
16 separate and distinct violation of Section 4b(a) (2) (i) and (iii)
17 of the Act.

18 **COUNT II**

19 **VIOLATION OF SECTION 4o(1) OF THE ACT:**
20 **FRAUD AS A CPO**

21 21. Paragraphs 1 through 20 are re-alleged and incorporated
22 herein.

23 22. Since at least July 28, 2003, Defendant Weatherford has
24 been acting as a CPO by soliciting, accepting or receiving funds
25 from others and engaging in a business that is of the nature of
26 an investment trust, syndicate, or similar form of enterprise,
27 for the purpose of trading in commodities for future delivery on
28 or subject to the rules of a contract market.

1 participant or client, or where such advertising involves any
2 transaction, practice or course of business which operates as a
3 fraud or deceit upon any participant or client or any prospective
4 participant or client.

5 28. From at least July 28, 2003 and continuing through the
6 present, Defendant James Weatherford, while acting as a CPO,
7 violated Commission Regulation 4.41(a), 17 C.F.R. § 4.41(a), in
8 that he misrepresented and failed to disclose material facts in
9 solicitations on the internet website www.managed-mini.com, as
10 alleged herein, in a manner which constituted a device, scheme or
11 artifice to defraud prospective customers or a practice or course
12 of business which operated as a fraud or deceit on prospective
13 customers.

14 29. Each fraudulent misrepresentation and omission,
15 including those specifically alleged herein, are alleged as a
16 separate and distinct violation of Commission Regulation 4.41(a).

17 **COUNT IV**

18 **VIOLATIONS OF SECTION 4m(1) OF THE ACT:**
19 **FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR**

20 30. The allegations set forth in paragraphs 1 through 29
21 are realleged and incorporated herein by reference.

22 31. Since at least July 28, 2003, Defendant Weatherford has
23 used the mails or instrumentalities of interstate commerce in or
24 in connection with its business as a CPO while failing to
25 register as a CPO, in violation of Section 4m(1) of the Act, 7
26 U.S.C. § 6m(1).
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V.

RELIEF REQUESTED

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

A. An order of permanent injunction enjoining Defendant, and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of Defendant and all persons insofar as they are acting in active concert or participation with Defendant who receive actual notice of the Order by personal service or otherwise, from engaging in conduct violative of Sections 4b(a)(2)(i) and (iii), 4o(1)(A) and (B), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i), (iii), 6o(1), and 6m(1), and 4.41(a) of the Commission Regulations, 17 C.F.R. § 4.41(a);

B. An order requiring Defendant to make restitution to every customer whose funds were received or utilized by it as a result of acts and practices which constituted violations of the Act, as described herein, including pre-judgment interest;

C. An order requiring Defendant to pay civil penalties under the Act, in an amount of not more than the higher of \$120,000 or triple the monetary gain to Defendants for each violation of the Act;

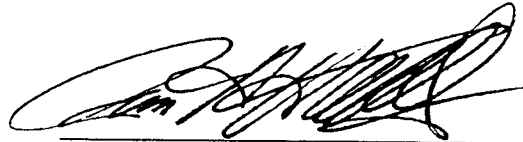
D. An order directing that Defendant make an accounting to the court of all its assets and liabilities, together with all the funds it received from persons in connection with their solicitation of customers to invest in their pool, including the

1 names, addresses and telephone numbers of any such persons from
2 whom it received such funds, from July 2003 to and including the
3 date of such accounting;

4 E. An order requiring Defendant to pay costs and fees as
5 permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

6 F. Such other equitable relief, including disgorgement, as
7 the court may deem necessary or appropriate under the
8 circumstances.

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10 Dated: June 7, 2004

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13 James H. Holl, III
14 Senior Trial Counsel
15 Attorneys for Plaintiff
16 Commodity Futures Trading
17 Commission
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