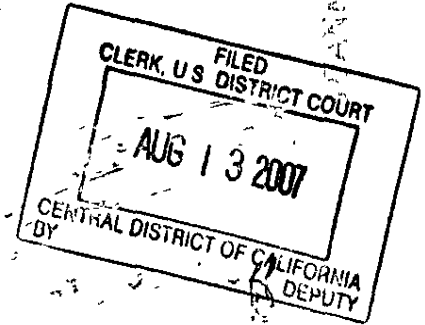


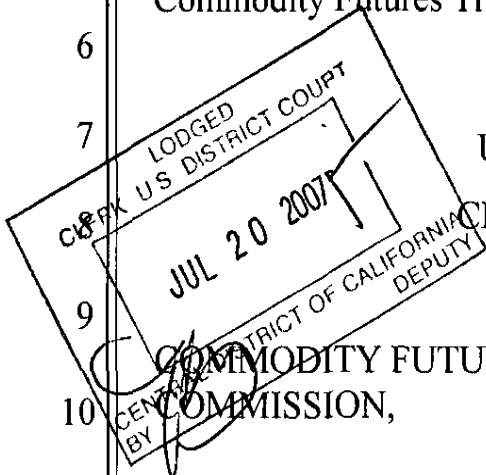
1 DAVID ACEVEDO, *pro hac vice*  
2 MICHAEL R. BERLOWITZ, *pro hac vice*  
3 COMMODITY FUTURES TRADING COMMISSION  
4 140 Broadway, 19<sup>th</sup> Floor  
5 New York, NY 10005  
6 Telephone (646) 746-9754  
7 Facsimile (646) 746-9940

ORIGINAL



Attorneys for Plaintiff  
Commodity Futures Trading Commission

✓ P/SEND  
✓ ENTER  
✓ JS-6



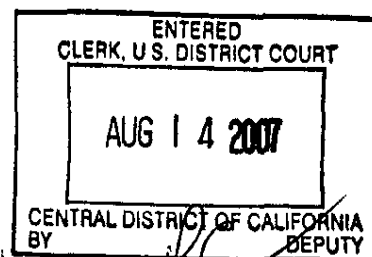
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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10 COMMODITY FUTURES TRADING )  
11 COMMISSION, )  
12 )  
13 Plaintiff, )  
14 )  
15 vs. )  
16 BEN OUYANG, et al., )  
17 )  
18 Defendants. )

Case No. CV -03-0833 DSF (Mcx)  
[PROPOSED] ORDER APPROVING  
PROPOSED UPDATED  
DISTRIBUTION PLAN  
DATE: No hearing scheduled  
TIME: No hearing scheduled  
COURT: Courtroom of the Hon. Dale  
S. Fischer

16 This matter came before the Court on the Motion of Plaintiff Commodity  
17 Futures Trading Commission ("CFTC") for an Order Approving the Proposed  
18 Updated Proposed Distribution Plan without an evidentiary hearing. The Court,  
19 having considered the Motion and the Memorandum of Points and Authorities  
20 finds and orders as follows:

21 THIS CONSTITUTES NOTICE OF ENTRY  
22 AS REQUIRED BY FRCP, RULE 77(d).



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I.  
FINDINGS

1. Pursuant to the Court's June 27, 2005 Order Establishing Restitution Claims Process (the "Claims Process Order"), Plaintiff employed its best efforts to identify customers of Defendants Ben Ouyang ("Ouyang") and Victco Financial Services, Inc. ("Victco") (collectively, "Defendants"), along with Money World Customers, and notified them, via letter and claim form, of their right to submit claims for restitution to be paid out of the Defendants' frozen assets. The claims letter sent by Plaintiff prominently referenced a November 15, 2005 deadline for submission of restitution claims by Defendants' customers. In its order, the Court stated that customers whose claim forms were not received by Plaintiff by November 15, 2005 were to be barred from recovering any restitution payments in connection with this action.

2. The National Futures Association ("NFA"); serving as "Monitor" pursuant to Paragraph 19 of the Consent Order of Permanent Injunction and Ancillary Relief ("Consent Order"), entered by the Court on March 11, 2005, is presently holding \$1,040,980.62 in funds that were frozen in Defendants' accounts at Gain Capital, Inc. and FXCM, both futures commission merchants registered with the CFTC.

3. Pursuant to the Claims Process Order, Plaintiff mailed letters and

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claim forms to approximately 400 potential claimants. Plaintiff received 152 potential claims in response.

4. Pursuant to the Claims Process Order, Plaintiff analyzed those 152 claims. Plaintiff determined that 62 of the claimants were Defendants' customers and identified allowable claims for Defendants' 62 customers amounting to \$1,122,804.44.

5. On May 30, 2006, Plaintiff filed with the Court a Motion For a Proposed Distribution Plan ("Motion For Distribution") with exhibits and the declaration of Linda Santiago ("Ms. Santiago"), a licensed Certified Public Accountant and Auditor employed by Plaintiff. Plaintiff's motion set forth each of the 62 claimant's recommended allowable claim, each claimant's percentage of total recommended allowable claims, and the proposed amount to be distributed to each claimant from the presently available funds on a *pro rata* basis.

6. On July 19, 2006, the Court entered an Amended Order Approving Proposed Distribution Plan ("July 19<sup>th</sup> Order"). Pursuant to the July 19<sup>th</sup> Order, Plaintiff mailed a letter enclosing a copy of the Motion For Distribution to all 152 claimants who filed claims pursuant to the Claims Process Order. Plaintiff's letter to claimants prominently referenced a September 15, 2006 deadline by which time claimants were to submit, in writing, comments on or objections to the Motion For Distribution.

7. Pursuant to the Court's July 19<sup>th</sup> Order, Plaintiff filed with the Court on

1 September 25, 2006, all comments and objections to the Motion For Distribution  
2 that were received by Plaintiff.

3 8. On November 21, 2006, and pursuant to the Court's July 19<sup>th</sup> Order,  
4 Plaintiff filed its Responses to Claimants' Objections to Proposed Distribution Plan.  
5 In its response, Plaintiff also filed a supplemental declaration of Ms. Santiago and a  
6 Proposed Updated Distribution Plan, which recalculated the recommended  
7 allowable claim of one of the 62 claimants.

8 9. The claims notification procedures utilized in this case were thorough  
9 and subject to principles of due process.<sup>1</sup> The procedures afforded all potential  
10 claimants timely opportunities to submit claims with supporting documents, and  
11 objections or comments to the proposed distribution plan submitted by Plaintiff.  
12 Based on the objections and comments received, Plaintiff submitted its Proposed  
13 Updated Distribution Plan which recalculated the recommended allowable claim  
14 of one of the 62 claimants, and only slightly modified the proposed claims for the  
15 remaining 61 claimants.

16 Accordingly, IT IS HEREBY ORDERED AS FOLLOWS:

17 II.

18 ORDER

19 10. An evidentiary hearing on the Proposed Updated Distribution Plan

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21 <sup>1</sup> *SEC v American Capital Inv, Inc* , 98 F.3d 1133, 1146 (9th Cir. 1996) ("For claims of  
22 nonparties to property, summary proceedings satisfy due process so long as there is adequate  
notice and opportunity to be heard.") (abrogated on other grounds).

1 filed by Plaintiff on November 21, 2006, is unnecessary and, therefore, the plan is  
2 approved in its entirety.

3 11. It is further ordered that the NFA, serving as "Monitor" pursuant to  
4 Paragraph 19 of the Consent Order, and which is presently holding \$1,040,980.62 in  
5 funds that were frozen in Defendant Ouyang's and Victco's accounts at Gain  
6 Capital, Inc. and FXCM, distribute said funds in accordance with the Proposed  
7 Updated Distribution Plan.

8 IT IS SO ORDERED.

9 Dated: 8-13, 2007

D&P  
UNITED STATES DISTRICT JUDGE

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13 Presented by:  
14 David Acevedo  
15 David Acevedo  
16 Attorney for Plaintiff  
17 Commodity Futures Trading  
18 Commission  
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