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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
17 **WESTERN DIVISION**

18 U.S. COMMODITY FUTURES ) Case No. CV04-8213 ABC (JWJx)  
19 TRADING COMMISSION, )  
20 Plaintiff, )  
21 vs. )  
22 JAMES J. ZHOU, et al., )  
23 )  
24 )  
25 Defendants. )

1 **I.**

2 **INTRODUCTION**

3  
4 1. On October 1, 2004, Plaintiff, the U.S. Commodity Futures Trading  
5 Commission (“CFTC” or the “Commission”), filed a complaint against Defendants  
6 James J. Zhou (“Zhou”) and Jade Trader (“Jade Trader”) (collectively,  
7 “Defendants”) alleging violations of the Commodity Exchange Act, as amended  
8 (the “Act”), 7 U.S.C. § 1 *et seq.* (2002), and Commission Regulations  
9 (“Regulations”) promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* (2004). On  
10 November 5, 2004, this Court entered an Order of Preliminary Injunction enjoining  
11 Defendants from, among other things, further violations of the Act and  
12 Regulations.  
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15 **II.**

16 **CONSENTS AND AGREEMENTS**

17  
18 In order to effect settlement of this action without a trial on the merits or  
19 further judicial proceedings, Zhou and Jade Trader:  
20

21 2. Consent to entry of this Consent Order of Permanent Injunction, Civil  
22 Monetary Penalty and Other Equitable Relief (“Order”);

23 3. Affirm that they have read this Order and agree to this Order  
24 voluntarily, and that no promise or threat of any kind has been made by the CFTC  
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1 or any member, officer, agent, or representative thereof, or by any other person, to  
2 induce their consent to this Order;

3 4. Acknowledge service of the summons and complaint;

4 5. Admit that this Court possesses personal and subject matter  
5 jurisdiction over them and the subject of this action pursuant to Section 6c of the  
6 Act, 7 U.S.C. § 13a-1;

7 6. Admit that venue properly lies with this Court pursuant to Section 6c  
8 of the Act, 7 U.S.C. § 13a-1;

9 7. Waive

10 a. Any and all claims that they may possess under the Equal  
11 Access to Justice Act (EAJA), 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000),  
12 and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, et seq. (2007), relating to, or  
13 arising from, this action;

14 b. Any and all claims that they may possess under the Small  
15 Business Regulatory Enforcement Fairness Act, 1996 HR 3136, Pub. L. 104-121,  
16 §§ 231-232, 110 Stat. 862-63 (Mar. 29, 1996) based upon the institution of this  
17 proceeding or the entry in this proceeding of any order imposing a civil monetary  
18 penalty or any other relief;  
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1 c. Any claim of double jeopardy based upon the institution of this  
2 proceeding or the entry in this proceeding of any order imposing a civil monetary  
3 penalty or any other relief; and

4 d. Any and all rights of appeal from this action;

5  
6 8. Consent to the continued jurisdiction of this Court for the purpose of  
7 enforcing the terms and conditions of this Order and for any other purposes  
8 relevant to this case, even if Defendants now or in the future reside outside the  
9 jurisdiction;

10  
11 9. Agree that neither Defendants nor their agents, employees or  
12 representatives under their authority or control shall take any action or make any  
13 public statement denying, directly or indirectly, any allegations in the Complaint or  
14 the Findings of Fact and Conclusions of Law contained in this Order, or creating or  
15 tending to create the impression that the Complaint or this Order are without  
16 factual basis; provided, however, that nothing in this provision shall affect  
17 Defendants': i) testimonial obligations, or ii) right to take legal positions in other  
18 proceedings to which the Commission is not a party. Defendants shall undertake  
19 all steps necessary to assure that their agents, employees and representatives  
20 understand and comply with this agreement; and

21  
22  
23 10. In consenting to the entry of this Order, Defendants neither admit nor  
24 deny the allegations of the Complaint or the Findings of Fact and Conclusions of  
25



1 **1. Findings of Fact**

2 A. Jurisdiction and Venue

3  
4 13. This Court has jurisdiction over this action pursuant to Section 6c of  
5 the Act, 7 U.S.C. § 13a-1, which authorizes the CFTC to seek injunctive relief  
6 against any person whenever it shall appear to the CFTC that such person has  
7 engaged, is engaging, or is about to engage in any act or practice constituting a  
8 violation of any provision of the Act or any rule, regulation or order thereunder.  
9

10 14. Venue properly lies with this Court pursuant to Section 6c of the Act,  
11 7 U.S.C. § 13a-1(e), in that Zhou and Jade Trader are found in, inhabit, or transact  
12 business in this district, and the acts and practices in violation of the Act and  
13 Regulations have occurred, are occurring, or are about to occur within this district,  
14 among other places.  
15

16 B. Parties to This Order

17  
18 15. Plaintiff is the independent federal regulatory agency charged with the  
19 administration and enforcement of the Act, 7 U.S.C. § 1 *et seq.*, and the  
20 Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.*  
21

22 16. Defendant James J. Zhou formerly resided in Alhambra, California.  
23 Zhou is a director, owner and authorized signatory of Jade Trader. He handled all  
24 trading in client accounts and entered into contracts on Jade Trader's behalf. Zhou  
25

1 also handled and resolved client complaints on behalf of Jade Trader. Zhou was  
2 registered with the Commission as an associated person (“AP”) of a registered  
3 introducing broker (“IB”) from July 17, 2002 through September 23, 2002, and as  
4 an AP of a registered IB and commodity trading advisor (“CTA”) from September  
5 23, 2002 through December 31, 2002. Since that time, he has not been registered  
6 with the Commission in any capacity.  
7

8 17. Defendant Jade Trader was located in Alhambra, California 91801.  
9 Jade Trader applied for registration with the Commission as a CTA on June 25,  
10 2003. Registration application documents for Jade Trader, among other things,  
11 identify Zhou as a director and owner of Jade Trader. Jade Trader’s application for  
12 registration was withdrawn on December 1, 2003. Jade Trader was never  
13 registered with the Commission in any capacity.  
14

15  
16 C. Jade Trader acted as a CTA and Zhou acted as an AP  
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18 18. From approximately October 11, 2002 to October 5, 2004 (the  
19 “relevant period”), Defendants, for compensation or profit, solicited members of  
20 the general public to place funds under management with Jade Trader to trade  
21 commodity futures contracts using the Jade Trader Day Trade System (“Jade  
22 Trader DTS”), as well as other commodity trading systems.  
23

24 19. During the relevant period, Jade Trader maintained a website at  
25 [www.jadetrader.net](http://www.jadetrader.net) (“website”). On its website, Jade Trader advised potential

1 clients regarding the trading systems that Defendants claimed to use and the  
2 returns that they claimed to achieve.

3 20. From January 1, 2003 through March 31, 2004, at least fourteen  
4 individuals granted Defendants trading authority over their commodity trading  
5 accounts. At Defendants' direction, these individuals opened commodity trading  
6 accounts at Pioneer Futures, Inc., and/or Velocity Futures, LP, registered futures  
7 commission merchants. Defendants actively traded these accounts.  
8

9 21. Jade Trader charged a commission fee of \$30 for winning trade days,  
10 with a maximum monthly charge of \$500 for the Jade Trader DTS.  
11

12 D. Defendants' Fraudulent Solicitation of Clients  
13

14 22. Defendants' website contains various tables reflecting trading results.  
15 At least some of the tables purportedly show actual trading results achieved by  
16 Jade Trader on a monthly basis for the year 2003.  
17

18 23. Defendants posted misleading trading results on their website. For  
19 example, Defendants claimed on the website that:

- 20 • the Jade Trader DTS returned a profit of \$63,975 for one E-  
21 mini contract traded in 2003; actual client accounts for that time  
22 frame show that clients realized total losses of \$127,135.96;
- 23 • Jade Trader clients using the Jade Trader DTS received a  
24 positive return for April 2003 of \$1,075 for two E-mini  
25 contracts traded; actual trading in a client's account show that  
the client realized a loss of \$24,101 for that month; and



- clients using the Jade Trader DTS on March 10, 2003 achieved a positive return of \$625 for two E-mini contracts traded; actual trading by a Jade Trader client showed a loss of \$1,687.50 that day, not including commission and fees of \$288.

24. On the website, Defendants made various misrepresentations regarding how client accounts would be traded. The website falsely represented that the Jade Trader DTS “trades 2 to about 12 times per day.” In reality, actual trading in client accounts exceeded that figure by several times. For example, trading in one client’s account in April and May 2003 averaged as high as eighty-nine contracts per trading day. In another client account, on March 10, 2003, Jade Trader executed fifty-one trades. In both instances, Defendants significantly increased the client’s exposure over what had been represented to the client.

25. Jade Trader further claimed on its website that Jade Trader DTS held no overnight positions. Defendants also orally represented to clients that Jade Trader would not hold positions open overnight. In fact, positions were held overnight regularly in at least five client accounts, subjecting them to unexpected margin calls.

26. In addition to the representations made by Defendants on the website, Zhou made various oral misrepresentations to clients. For example:

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

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- Zhou also told at least two clients who maintained a joint account that Jade Trader would purchase only one E-mini S&P contract for each \$3,000 in the client's account. Zhou then traded several times the number of contracts represented. When confronted, Zhou agreed in writing to reimburse the client's account \$1,900 and to charge no fees until the account value was returned to \$6,000. Zhou further agreed that, if the account value dropped below \$2,000, all trading would stop and Zhou would deposit funds into the account to return the account value to \$4,000 within thirty calendar days. Zhou never reimbursed the clients and the account value was never restored; and
- Zhou assured at least one client that there was minimal risk in trading the E-mini S&P 500 and that the client's loss would be limited to 30% of his original investment. Under Defendants' control, that client eventually lost \$7,890.65, or 78.9% of his original investment in just over one month.

27. As a result of Defendants' misrepresentations regarding Jade Trader's trading history, Jade Trader's trading systems used, and the risk associated with trading commodity futures contracts, clients invested approximately \$200,000 and lost in excess of \$127,000.

E. Defendants Failed to Provide Proper Disclosures

28. On one or more occasions, Jade Trader failed to deliver to prospective clients the legally mandated disclosure document that contained trading program information used by Jade Trader to direct trading in clients' accounts.

1 **2. Conclusions of Law**

2 A. Violations of Section 4b(a)(2)(i) and (iii) of the Act

3  
4 29. Defendants cheated or defrauded or attempted to defraud other  
5 persons and willfully deceived or attempted to deceive other persons, in or in  
6 connection with orders to make, or the making of, contracts of sale of commodities  
7 for future delivery, made, or to be made, for or on behalf of any other persons,  
8 where such contracts for future delivery were or could be used for the purposes set  
9 forth in Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2).  
10

11 30. In particular, Defendants, knowingly or with reckless disregard for the  
12 truth, posted false trading results on their website; made false representations  
13 regarding how trading accounts would be handled; and misrepresented the  
14 associated risks of trading commodity futures contracts; all in violation of Sections  
15 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii).  
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18 B. Violations of Section 4o(1) of the Act and Regulations 4.41(a)

19  
20 31. Section 1a(6) of the Act, 7 U.S.C. §1a(6), defines a CTA to include  
21 any person who for compensation or profit engages in the business of advising  
22 others, either directly or through publications, writings, or electronic media, as to  
23 the value of or advisability of trading in any contract of sale of a commodity for  
24 future delivery made or to be made on or subject to the rules of any contract  
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1 market or derivatives transaction or, for compensation or profit, and as part of a  
2 regular business, issues or promulgates analyses or reports concerning any of the  
3 activities referred to above. Section 4k(3) of the Act, 7 U.S.C. § 6k(3), defines an  
4 AP to include any person who, as a partner, officer, employee consultant or agent  
5 of a CTA, solicits a client's or prospective client's discretionary account.  
6

7 32. Jade Trader acted as a CTA and Zhou acted as an AP of a CTA.  
8 Specifically, Defendants solicited members of the general public to place funds  
9 under management with Jade Trader to trade commodity futures contracts in  
10 discretionary accounts using the Jade Trader DTS. In return, Defendants received  
11 a fee.  
12

13 33. In connection with their conduct as a CTA and AP of a CTA,  
14 respectively, Defendants used the internet and other means or instrumentalities of  
15 interstate commerce, directly or indirectly, to promote the Jade Trader DTS.  
16

17 34. During the relevant period, Defendants, directly or indirectly: 1)  
18 employed a device, scheme or artifice to defraud clients or prospective clients; and  
19 2) engaged in transactions, practices or a course of business that operated as a  
20 fraud or deceit upon clients or prospective clients. In particular, Defendants posted  
21 false trading results on the website; made false representations regarding how  
22 trading accounts would be handled; and misrepresented the associated risks of  
23 trading commodity futures contracts. Defendants therefore violated Section 4o(1)  
24  
25

1 of the Act, 7 U.S.C. § 6o(1) and Regulations 4.41(a)(1) and (2), 17 C.F.R. §§  
2 4.41(a)(1) and (2).

3 C. Violations of Sections 4m(1) and 4k(3) of the Act and  
4 Regulation 3.12(a)

5  
6 35. Section 4m(1) of the Act, 7 U.S.C. § 6m(1), makes it unlawful for any  
7 unregistered CTA to use the mails or instrumentalities of interstate commerce in  
8 connection with his business as a CTA if the CTA, during the proceeding twelve  
9 months, furnished commodity trading advice to more than 15 persons during or  
10 held himself out generally to the public as a CTA.  
11

12 36. Jade Trader is a CTA, and acted as such in operating Jade Trader, but  
13 was not registered with the Commission as a CTA. By using the Internet to  
14 communicate with Jade Trader clients and prospective clients, Jade Trader used the  
15 instrumentalities of interstate commerce in connection with its CTA business. Jade  
16 Trader therefore violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1).  
17

18 37. Section 4k(3) of the Act, 7 U.S.C. § 6k(3), and Regulation 3.12(a), 17  
19 C.F.R. § 3.12(a), make it unlawful for any person to be associated with a CTA as a  
20 partner, officer, employee, consultant or agent in any capacity that involves the  
21 solicitation of a client's or prospective client's discretionary account, unless that  
22 person is registered as an AP of the CTA. Further, Section 4k(3) of the Act, 7  
23 U.S.C. § 6k(3), makes it unlawful for a CTA to permit such an unregistered AP to  
24  
25

1 become or remain associated with the CTA in any such capacity if the CTA knew  
2 or should have known that such person was not so registered.

3 38. During the relevant period, Zhou acted as an AP by soliciting  
4 prospective clients for Jade Trader discretionary accounts without being registered  
5 as an AP of a CTA. Zhou therefore violated Section 4k(3) of the Act, 7 U.S.C. §  
6 6k(3), and Section 3.12(a) of the Regulations, 17 C.F.R. § 3.12(a).  
7

8 39. During the relevant period, Jade Trader, as a CTA, permitted Zhou to  
9 solicit clients for Jade Trader discretionary accounts while knowing that Zhou was  
10 not registered as an AP of a CTA. Jade Trader therefore violated Section 4k(3) of  
11 the Act, 7 U.S.C. § 6k(3).  
12

13  
14 D. Violations of Regulation 4.31(a)

15 40. Regulation 4.31(a), 17 C.F.R. § 4.31(a), requires that “[E]ach  
16 commodity trading advisor registered or required to be registered under the Act  
17 must deliver or cause to be delivered to a prospective client a Disclosure Document  
18 containing the information...for the trading program pursuant to which the trading  
19 advisor seeks to direct...or to guide the client’s commodity interest trading...by no  
20 later than the time the trading advisor delivers to the prospective client an advisory  
21 agreement to direct or guide the client’s account....”  
22

23  
24 41. During the relevant period, Defendants entered into agreements to  
25 manage client accounts without first delivering to prospective clients the

1 mandatory Disclosure Documents. Defendants therefore violated Regulation  
2 4.31(a), 17 C.F.R. § 4.31(a).

3 E. Zhou is Liable as a Controlling Person for Jade Trader's Violations of  
4 the Act and Regulations Pursuant to Section 13(b) of the Act  
5

6 42. Section 13(b) of the Act, 7 U.S.C. § 13c (b), provides that "[a]ny  
7 person who, directly or indirectly, controls any person who has violated any  
8 provision of the Act or any" Regulations may be held liable for such violations if  
9 "the controlling person did not act in good faith or knowingly induced, directly or  
10 indirectly, the act or acts constituting the violation."  
11

12 43. Zhou controlled Jade Trader, directly or indirectly, and did not act in  
13 good faith or knowingly induced, directly or indirectly, Jade Trader's misconduct.  
14 Zhou made various oral misrepresentations to customers regarding how their Jade  
15 Trader accounts would be managed. For example: Zhou told at least one customer  
16 that Jade Trader would execute a maximum of four to five trades a day in his  
17 account. However, on March 4, 2003, the day after the customer funded his  
18 account, Zhou placed sixteen trades in the customer's account. Zhou also assured  
19 at least one customer that there was minimal risk in trading the E-mini S&P 500  
20 and that his loss was limited to 30% of his original investment. Under Zhou's  
21 control, that customer's account eventually lost \$7890.65, or 78.9% of his original  
22 investment in just over one month.  
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1           44. Zhou also told at least two customers who maintained a joint account  
2 that Jade Trader would purchase only one E-mini S&P contract for each \$3000 in  
3 the customer's account. He then traded several times the number of contracts  
4 represented. When confronted, Zhou agreed in writing to reimburse the customer'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 customers and  
9 the account value was never restored.  
10  
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12           45. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Zhou is liable  
13 for Jade Trader's violations of Sections 4b(a)(2)(i) and (iii), 4o(1), 4m(1), and  
14 4k(3) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), 6o(1), 6m(1), and 6k(3), and  
15 Regulations 4.31(a), and 4.41(a), 17 C.F.R. §§ 4.31(a), and 4.41(a).  
16

17           F. Jade Trader is Liable for the Acts of its Employees and Agents  
18           Pursuant to Section 2(a)(1)(B) of the Act  
19

20           **46.** Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), provides that "the  
21 act, omission, or failure of any official, agent, or other person acting for any  
22 individual, association, partnership, corporation, or trust within the scope of his  
23 employment or office shall be deemed the act, omission, or failure of such  
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1 be used for the purposes set forth in § 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §  
2 6b(a)(2)(i) and (iii), including:

- 3 • misrepresenting the profit potential of a commodities  
4 trading system;
- 5 • making false representations about how trading accounts  
6 will be managed; and
- 7 • misrepresenting the risks of trading commodity futures  
8 contracts.

9 b. employing any device, scheme, or artifice to defraud clients or  
10 participants or prospective clients or participants, or engaging in any transactions,  
11 practices or courses of business that operate as a fraud or deceit upon clients or  
12 participants or prospective clients or participants in violation of Section 4o(1) of  
13 the Act, 7 U.S.C. §§ 6o(1) and Regulation 4.41(a), 17 C.F.R. § 4.41(a) and  
14 specifically from engaging in any commodity-related activity including:  
15

- 16 • misrepresenting the profit potential of a commodities  
17 trading system;
- 18 • making false representations about how trading accounts  
19 will be managed; and
- 20 • misrepresenting the risks of trading commodity futures  
21 contracts.

22 c. using the mails or any means or instrumentality of interstate  
23 commerce in connection with a business as a commodity trading advisor without  
24 being registered with the Commission in violation of Section 4m(1) of the Act, 7  
25 U.S.C. § 6m(1);

1 d. being associated with a futures commission merchant,  
2 introducing broker, commodity trading advisor, commodity pool operator or  
3 leverage transaction merchant as a partner, officer, employee, consultant or agent  
4 in a capacity requiring registration with the Commission, without being registered  
5 as an AP with the Commission or having a valid exemption from such registration  
6 or permitting the association of an unregistered AP in violation of Section 4k(3) of  
7 the Act, 7 U.S.C. §6k(3), and Regulation 3.12(a), 17 C.F.R. § 312(a); and,  
8

9 e. soliciting prospective clients without first delivering the  
10 mandatory disclosure document to these prospective clients in violation of  
11 Regulation 4.31(a), 17 C.F.R. § 4.31(a).  
12

13 **IT IS FURTHER ORDERED THAT:**  
14

15 49. Jade Trader and Zhou are permanently restrained, enjoined, and  
16 prohibited from engaging, directly or indirectly, in any activity related to trading in  
17 any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. §  
18 1a(4) (“commodity interest”), including but not limited to, the following:  
19

20 a. trading on or subject to the rules of any registered entity, at that  
21 term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29);  
22  
23  
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25





1           54. Defendants shall make restitution payments under this Order in the  
2 name “Jade Trader – Restitution Fund” and shall send such restitution payments by  
3 electronic funds transfer, or by U.S. postal money order, certified check, bank  
4 cashier’s, or bank money order, to Office of Administration, National Futures  
5 Association, 200 W. Madison Street #1600, Chicago, Illinois 60606-3447 under  
6 cover letter that identifies the paying Defendant and the name and docket number  
7 of the proceeding. The paying Defendant shall simultaneously transmit copies of  
8 the cover letter and the form of payment to (a) the Director, Division of  
9 Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette  
10 Centre, 1155 21st Street, NW, Washington, D.C. 20581, and (b) the Chief, Office  
11 of Cooperative Enforcement, at the same address.  
12  
13

14           55. The Monitor shall oversee Defendants’ restitution obligation, and  
15 shall have discretion to determine the manner for distribution of funds in an  
16 equitable fashion to defrauded Jade Trader customers, as appropriate, or may defer  
17 distribution until such time as it deems appropriate. In the event that the amount of  
18 restitution payments to the Monitor are of a de minimis nature such that the  
19 Monitor determines that the administrative costs of the making a restitution  
20 distribution is impractical, the Monitor may, in its discretion, treat such restitution  
21 payments as civil monetary penalty payments, which the Monitor shall forward to  
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1 the Commission following the instructions for civil monetary penalty payments set  
2 forth in Part V.2., below.

3 56. The Defendants shall cooperate with the Monitor as appropriate to  
4 provide such information as the NFA deems necessary and appropriate to identify  
5 Defendants' customers to whom the Monitor, in its sole discretion, may determine  
6 to include in any plan for distribution of any restitution payments.  
7

8  
9 **2. Civil Monetary Penalty**

10 57. Defendants are jointly and severally liable with each other for \$50,000  
11 in civil monetary penalties.  
12

13 58. Defendants shall pay, jointly and severally, to the Commission a civil  
14 monetary penalty in the amount of fifty thousand dollars (\$50,000), plus post-  
15 judgment interest.  
16

17 59. Post-judgment interest shall accrue beginning on the date of entry of  
18 this Order and shall be determined by using the Treasury Bill rate prevailing on the  
19 date of entry of this Order, pursuant to 28 U.S.C. § 1961.  
20

21 60. Defendants shall pay this civil monetary penalty by electronic funds  
22 transfer, U.S. postal money order, certified check, bank cashier's check, or bank  
23 money order. If payment is to be made other than by electronic funds transfer, the  
24 payment shall be made payable to the Commodity Futures Trading Commission  
25 and sent to the address below:

1 Commodity Futures Trading Commission  
2 Division of Enforcement  
3 Attn: Marie Bateman – AMZ-300  
4 DOT/FAA/MMAC  
5 6500 S. MacArthur Blvd.  
6 Oklahoma City, Oklahoma 73169  
7 Telephone: 405-954-6569

8 If payment is to be made by electronic funds transfer, [Defendants] shall contact  
9 Marie Bateman or her successor at the above address to receive payment  
10 instructions and shall fully comply with those instructions. The paying Defendant  
11 shall accompany payment of the penalty with a cover letter that identifies the  
12 paying Defendant and the name and docket number of the proceedings. The  
13 paying Defendant shall simultaneously transmit copies of the cover letter and the  
14 form of payment to the Director, Division of Enforcement, Commodity Futures  
15 Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W.,  
16 Washington, D.C. 20581, and the Chief, Office of Cooperative Enforcement, at the  
17 same address.

18 **3. Priority Of Monetary Sanctions And Partial Payments**

19  
20 61. All payments by Defendants pursuant to this Order shall first be  
21 applied to satisfaction of their restitution obligations, consistent with the authority  
22 granted the Monitor in Part V.2., above. After satisfaction of their restitution  
23 obligation, payments by Defendants pursuant to this Order shall be applied to  
24 satisfy Defendants' civil monetary penalty obligations.  
25



1           62. Any acceptance by the Commission and/or Monitor of partial  
2 payment of Defendants' restitution obligations and/or civil monetary penalties  
3 shall not be deemed a waiver of the respective requirement to make further  
4 payments pursuant to this Order, or a waiver of the Commission's and/or  
5 Monitor's right to seek to compel payment of any remaining balance.  
6

7 **4. Cooperation**

8           63. Defendants shall cooperate fully with the Commission, the Monitor,  
9 and any government agency seeking to enforce the restitution and civil monetary  
10 provisions of this Order by providing any requested information relating to their  
11 financial status including, but not limited to, income and earnings, assets, financial  
12 statements, asset transfers, and tax returns.  
13

14 **5. Injunctive and Equitable Provisions**

15           64. The injunctive provision of this Order shall be binding upon  
16 Defendants, upon any person who acts in the capacity of officer, agent, employee,  
17 attorney, successor and/or assign of either of the Defendants and upon any person  
18 who receives actual notice of this Order, by personal service or otherwise, insofar  
19 as he or she is acting in active concert or participation with either of the  
20 Defendants.  
21

22           65. The equitable relief provisions of this Order shall be binding upon  
23 Defendants and any person who is acting in the capacity of officer, agent,  
24  
25

1 employee, servant or attorney of Defendants, and any person acting in active  
2 concert or participation with Defendants who receives actual notice of this Order  
3 by personal service or otherwise.

4  
5 **VI.**

6 **OTHER PROVISIONS**

7 **IT IS FURTHER ORDERED:**

8 66. Jurisdiction of this Court: This Court shall retain jurisdiction of this  
9 cause to assure compliance with this Order and for all other purposes related to this  
10 action.  
11

12 67. Third-Party Beneficiaries: Pursuant to Federal Rule of Civil  
13 Procedure 71, the clients explicitly are made intended third-party beneficiaries of  
14 this Order and may enforce obedience of this Order to obtain satisfaction of any  
15 portion of the restitution obligation that has not been paid by Zhou and/or Jade  
16 Trader, and to hold them in default and/or contempt for any past violation of any  
17 provision of this Order.  
18

19 68. Waiver: The failure of any party to this Order or of any client at any  
20 time to require performance of any provision of this Order shall in no manner  
21 affect the right of the party or investor to enforce the same or any other provision  
22 of this Order at a later time. No waiver in one or more instances of the breach of  
23 any provision contained in this Order shall be deemed or construed as a further or  
24  
25

1 continuing waiver of such breach or waiver of the breach of any other provision of  
2 this Order.

3 69. Successors and Assigns: This Order shall inure to the benefit of and  
4 be binding upon the successors, assigns, beneficiaries, and administrators of all  
5 parties to this Order.  
6

7 70. Acknowledgements: Upon being served with a copy of this Order  
8 after entry by this Court, Zhou and Jade Trader shall sign an acknowledgment of  
9 service and serve the acknowledgment on this Court and the CFTC within ten (10)  
10 calendar days. Upon being served with a copy of this Order after entry by the  
11 Court, the CFTC shall serve a copy of the Order upon the Monitor within ten (10)  
12 calendar days.  
13

14 71. Invalidation: If any provision, or the application of any provision, of  
15 this Order is held invalid, the remainder of this Order and the application of the  
16 provision to any other person or circumstance shall not be affected by the holding.  
17

18 72. Integration: This Order incorporates all of the terms and conditions of  
19 the settlement of the parties to this Order. Nothing shall serve to amend or modify  
20 this Order in any respect, unless (1) reduced to writing, (2) signed by all parties  
21 hereto, and (3) approved by order of this Court.  
22

23 73. Notices: All notices required to be given by any provision in this  
24 Order to the Commission shall be sent certified mail, return receipt requested, as  
25

1 follows: Notice to Commission: Attention – Director, Division of Enforcement,  
2 Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street N.W., Washington, DC  
3 20581; Notice to NFA: Attention - Office of Administration, National Futures  
4 Association, 200 W. Madison St., #1600, Chicago, IL 60606-3447.

5  
6 74. Authority: Zhou hereby warrants that he is the sole owner and  
7 operator of Jade Trader, that this Order has been duly authorized by Jade Trader,  
8 and he has been duly empowered to sign and submit it on behalf of Jade Trader.

9  
10 75. Continuing Jurisdiction of this Court: This Court shall retain  
11 jurisdiction of this cause to assure compliance with this Order and for all other  
12 purposes related to this action.

13  
14 **SO ORDERED**, at Los Angeles, California on this 11 day of June, 2008

15  
16  
17 \_\_\_\_\_  
18 Audrey B. Collins

19 

20  
21 United States District Court Judge

22  
23 Consent Order of Permanent Injunction and Other Equitable Relief consented to  
24 and approved for entry by:

1 /s/ James Zhou

2 James Zhou  
3 Individually and on behalf of  
4 Jade Trader  
5 Dated: Apr 4, 2008

6  
7 /s/ William L. Small

8 William L. Small (*pro hac vice*)  
9 Attorney for Plaintiff  
10 U.S. Commodity Futures  
11 Trading Commission  
12 Three Lafayette Centre  
13 1155 21st Street, N.W.  
14 Washington, DC 20581  
15 (202) 418-5579  
16 (202) 418-5531 (facsimile)

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Dated: June 9, 2008