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FILED
CLERK, U.S. DISTRICT COURT
JUN 27 2005
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

8 Attorneys for Plaintiff
9 Commodity Futures Trading Commission

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

ENTERED
CLERK, U.S. DISTRICT COURT
JUN 27 2005
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

12 COMMODITY FUTURES TRADING)
13 COMMISSION,)

Case No. CV 03-0833 DSF (Mcx)

14 Plaintiff,)

[PROPOSED] ORDER)

15 vs.)

ESTABLISHING RESTITUTION)
CLAIMS PROCESS)

16 BEN OUYANG, et al.,)

Date: June 27, 2005)

17 Defendants.)

Time: 1:30 p.m.)

18 Courtroom: Courtroom of the Hon.)
19 Dale S. Fischer)

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

21 This matter came before the Court on the Motion of Plaintiff Commodity

22 Futures Trading Commission ("CFTC") for Order Establishing Restitution Claims
23 Process. The Court, having considered the memorandum and evidence in support
24 of the Motion, finds and orders as follows:
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LODGED
CLERK, U.S. DISTRICT COURT
JUN 23 2005
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

I

FINDINGS

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4 1. On March 11, 2005 a consent Order of Permanent Injunction and
5 Ancillary Relief ("Consent Order") was entered in this action against Defendants
6 Ben Ouyang ("Ouyang") and Victco Financial Services, Inc. ("Victco").
7

8 2. The Consent Order included a monetary award against Defendants
9 Ouyang and Victco requiring them to make restitution to their customers in an
10 amount of up to the total amount of funds frozen pursuant to the Statutory
11 Restraining Order entered when this action was filed. Par. 21 of the Consent Order
12 provides that such funds are to be distributed to Defendants' customers in
13 accordance with a plan of recommended distribution, when approved by the Court,
14 following summary proceedings held in accordance with principles of equity.
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17 3. Plaintiff does not presently have sufficient accounting records of the
18 Defendants' activities to support the formulation of a distribution plan.
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20 4. Under the circumstances, Plaintiff's proposed two-step distribution plan
21 constitutes a reasonable and practicable attempt to administer restitution without
22 depriving the Defendants' customers of fair notice and a reasonable opportunity to
23 respond.
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1 Accordingly, IT IS HEREBY ORDERED AS FOLLOWS:

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4 ORDER

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5 5. Plaintiff shall use its best efforts, based upon records presently available
6 to Plaintiff, to ascertain the names and most recent mailing addresses of persons
7 who may have been customers of Defendants Ouyang or Victco.
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9 6. On or before 8/15, 2005 Plaintiff shall mail a letter and claim form,
10 in the format set forth in the attachments to this Order, to all persons identified by
11 Plaintiff pursuant to Par. 5 above, including persons who appear in the database of
12 Money World customers as set forth in Plaintiff's Supplemental Memorandum in
13 Support of Motion for Order Establishing Restitution Claims Process. Plaintiff
14 shall also prominently post copies of the letter and claim form on its Internet
15 website, cftc.gov.
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18 7. The letter and claim form to be mailed by Plaintiff shall prominently
19 reference a 11/15, 2005 deadline for submission of restitution claims by
20 Defendants' customers. Customers whose claim forms are not received by
21 Plaintiff by that date shall be barred from recovering any restitution payments in
22 connection with this action.
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25 8. Submitted claim forms shall be analyzed for the purpose of creating a
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1 proposed distribution plan. Thereafter, claimants shall be given notice of the
2 proposed distribution plan and an opportunity to submit objections. A hearing
3 shall be held whereby the Court will consider and rule upon the proposed
4 distribution plan and any of the claimants' objections.
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7 IT IS SO ORDERED

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9 DATED: 6-27, 2005

Robert Lischer
10 UNITED STATES DISTRICT JUDGE
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19 Presented by:

John T. Wise
20 John T. Wise
21 Attorney for Plaintiff
22 Commodity Futures Trading
23 Commission
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U.S. COMMODITY FUTURES TRADING COMMISSION

140 Broadway
New York, New York 10005
Telephone: (646) 746-9700
Facsimile: (646) 746-9940

Division of
Enforcement

SCANNED

_____, 2005

Re: CFTC v. Ouyang et al., Case No. CV 03-0833 DSF (Mcx)

Dear _____:

This letter is addressed to you as a person who may be a former customer of Ben Ouyang or Victco Financial Services, Inc.

The consent Order Of Permanent Injunction And Ancillary Relief entered in the above-captioned case provides that the Defendants must make restitution (repayment of investment losses) to their customers in an amount up to the amount of the Defendants' funds that were frozen by the Court when this case was filed. Frozen funds are to be paid to the Defendants' customers in accordance with a plan of recommended distribution, when approved by the Court.

On _____, 2005, the Court entered an Order Establishing Restitution Claims Process that sets forth a procedure for submission of restitution claims. A copy of that Order is enclosed. As provided by the Order Establishing Restitution Claims Process, customers of the Defendants who wish to submit make claims must complete a claim form and return it to the CFTC by _____, 2005.

Enclosed is a Court-approved claim form that you should complete and which must be received by the CFTC at the above address no later than _____, 2005. Please also send any documents that you may have that support your claim, such as copies of cancelled checks or customer account statements. **If your completed claim form is not received by the CFTC by _____, 2005, you will be barred from receiving any portion of the Defendants' frozen funds in connection with this case.**

After the claim forms have been received and analyzed, a distribution plan will be submitted to the Court for approval. You will be given notice of the plan, an opportunity to respond or object to the distribution plan in writing, and the right to appear at the court hearing for final approval of the distribution plan.

Sincerely,

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New York, New York 10005
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Division of
Enforcement

SCANNED

**Ouyang/Victco
Customer Claim Form**

Name of Former Customer _____

Address _____

_____ Zip _____

Telephone _____ E-Mail _____

Amounts and dates of investments: _____

Amounts and dates of any withdrawals/payments received: _____

Copies of the following documents are attached in support of this claim:

I hereby declare under penalty of perjury that the foregoing distribution claim form, including any attachments thereto, is true and correct in every respect.

Signature of person submitting claim

Date

Please submit this form and any attachments to the Commodity Futures Trading Commission at the above address. **This form must be received by the CFTC by _____, 2005 or your claim will be barred.**

PROOF OF SERVICE

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I certify and declare that I am over the age of 18 years, not a party to the above-entitled action, and employed in the office of a member of the Bar of this Court at whose direction the service was made. My business address is 140 Broadway, 19th Floor, New York, NY 10005. On June 22, 2005 I served a true copy of [PROPOSED] ORDER ESTABLISHING RESTITUTION CLAIMS PROCESS by depositing it with the United States Postal Service in a sealed envelope with the postage thereon fully prepaid to:

Eric T. Smith
850 East Chapman Ave, Suite C
Orange, CA 92866

Hank Vanderkam, Esq.
Vanderkam & Associates
1301 Travis, Suite 1200
Houston, TX 77002

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 22, 2005 at New York, New York.


Angela Mely