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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 COMMODITY FUTURES TRADING) Case No. CV 03-0833 DSF(Mcx)
15 COMMISSION,)
16) PLAINTIFF'S RESPONSES TO
17 Plaintiff,) CLAIMANTS' OBJECTIONS TO
18) PROPOSED DISTRIBUTION PLAN
19 vs.) DATE: No hearing scheduled
20) TIME: No hearing scheduled
21 BEN OUYANG., et al.,) COURT: Courtroom of the Hon. Dale
22) S. Fischer
23 Defendants.)
24 _____)

25 Pursuant to the Court's July 19, 2006 Order, Plaintiff Commodity Futures
26 Trading Commission ("Plaintiff" or "Commission") hereby submits its responses
27 to claimants' comments and objections to Plaintiff's proposed distribution plan.

28 PROCEDURAL HISTORY

The Commission filed this injunctive action on February 5, 2003. The

1 Commission's Complaint alleged that the Defendants violated Section 4(a) of the
2 Commodity Exchange Act (the "Act"), 7 U.S.C. §6(a) (2002), which prohibits the
3 offer or sale of off-exchange commodity futures contracts, and Section 4b(a)(i),
4 (ii) and (iii) of the Act, 7 U.S.C. §§6(a)(i), (ii) and (iii) (2002), which prohibits
5 fraud in connection with commodity futures contracts. Defendant Ouyang was
6 charged as a controlling person of Victco and liable for Victco's violations
7 pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(b) (2001). Upon the filing of
8 the action, the Honorable Nora Manella issued a Statutory Restraining Order
9 freezing the assets of the Defendants.
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13 On March 11, 2005, the Court entered an Order of Permanent Injunction
14 and Ancillary Relief against Defendants Ben Ouyang ("Ouyang") and Victco
15 Financial Services, Inc. ("Victco"). The Order requires that the funds frozen by
16 the court be distributed to Defendants' customers in accordance with a
17 recommended plan of distribution.
18
19

20 On June 27, 2005, the Court entered an Order Establishing
21 Restitution Claims Process which required Plaintiff to mail a letter and claim form
22 to persons who may have been customers of Ouyang or Victco. The deadline for
23 submitting restitution claims, prominently referenced in the letter sent to potential
24 claimants was November 15, 2005. The order stated that "Customers whose claim
25 forms are not received by Plaintiff by that date shall be barred from recovering any
26 restitution payments in connection with this action." Said claims were then to be
27
28

1 analyzed by Plaintiff for the purpose of creating a proposed distribution plan.

2 On May 30, 2006, Plaintiff filed with the Court a proposed distribution plan.
3
4 On July 20, 2006, the Court entered an Amended Order Approving Distribution
5 Plan setting various deadlines. By August 18, 2006, Plaintiff was required to mail
6 a letter containing its Motion for a Proposed Distribution Plan, along with
7 exhibits, to all claimants who submitted a claim pursuant to the claims process
8 established by the Court. The letter prominently referenced September 15, 2006,
9 as the deadline by which objections or comments to the plan were to be submitted.
10
11 Plaintiff met the August 18 deadline.
12

13 Upon receipt of any objections or comments to the plan, Plaintiff was to file
14 them with the Court no later than September 22, 2006. Plaintiff met this deadline.
15
16 Plaintiff now submits its responses.

17 UPDATED PROPOSED DISTRIBUTION PLAN

18 On May 30, 2006, Plaintiff filed a proposed distribution plan with the Court.
19
20 Since that filing, and as a result of documents reviewed by CFTC Auditor Linda
21 Santiago received during the comments and objections period, Plaintiff now
22 submits a proposed updated distribution plan. See Exhibits A, B and C attached.
23
24 As described in Ms. Santiago's declaration, she has recalculated Bertha Galindo's
25 distribution (Claimant #12 on the distribution plan) which slightly affects the
26 distribution of the remaining proposed recipients. Rather than receiving 92.71%
27 of their recommended allowable claims called for in the original plan, the
28

1 proposed recipients will now receive 92.22% of their recommended allowable
2 claim, better than ninety two cents on the dollar.
3

4 OBJECTIONS TO THE DISTRIBUTION PLAN

5 Plaintiff has received objections, comments and additional claims forms to
6 its proposed distribution plan from more than 60 individuals. Plaintiff categorizes
7 them below and addresses them as a group and, where appropriate, individually.
8

9 The responses are categorized as follows:

- 10 1. Money World customers who object to being omitted from the plan;
- 11 2. I.B. Funds, Inc. customers who have submitted late claim forms
12 which were originally due November 15, 2005;
- 13 3. Victco customers who have submitted late claim forms which were
14 originally due November 15, 2005.
15
16

17 1. MONEY WORLD CLAIMS

18 Numerous objections to the proposed plan were received from customers of
19 Money World Financial Services ("Money World"). As Plaintiff has previously
20 pointed out, Money World was a retail foreign currency operation in Texas and
21 started by some of Victco's employees and some of its customers. The most
22 conspicuous of these individuals was Francisco Rocha ("Rocha"), who appears to
23 have solicited the bulk of the Money World customers. Indeed, several of the
24 Money World claimants include references to Rocha as the person who solicited
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26
27
28

1 them. In numerous copies of Forex Capital Markets (“FXCM”)¹ agreements
2 submitted by Money World claimants, Mr. Rocha is listed as the “Trading Agent”
3 for Money World. Money World’s activities appear to have been separate from
4 Victco’s. Therefore, it appears that the Money World claimants should not
5 participate in the distribution plan. The following individuals invested with
6 Money World:
7

- 9 • Ramona Becerra – Exh. 2
- 10 • Dr. Pablo Chapa – Exh. 5
- 11 • Norman Comia – Exh. 9
- 12 • Cindy Du – Exh. 10
- 13 • Glenn Flohser – Exh. 13
- 14 • Jose Martin Garcia – Exh. A
- 15 • Victor Garcia and Ester Naveja – Exh. 15
- 16 • Angel & Lilia Gutierrez – Exh. 17
- 17 • Jorge H. Hernandez – Exh. B
- 18 • Gerardo Llamas – Exh. 27
- 19 • Maria Lopez – Exh. 28
- 20 • Joel & Yaneth Luna – Exh. 29
- 21 • Maria Navidad – Exh. 31
- 22 • Misael Ortiz – Exh. 33
- 23 • Gema Ramirez – Exh. 37
- 24 • Martha Ramirez – Exh. 38
- 25 • Gloria Romo – Exh. 43
- 26 • Carlos Siezar – Exh. 46
- 27 • Antonio & Nicolosa Velasquez – Exh. 17

28 **Angel & Lilia Gutierrez – Exh. 17**

Mr. and Mrs. Gutierrez assert that they invested with Victco and provide what appear to be generic Victco solicitation documents. However, they also provide copies of agreements they executed with FXCM, the futures clearing

¹ FXCM was the futures commission merchant for Money World.

1 merchant who cleared Money World's trades. Additionally, the agreement also
2 includes a Limited Power-of-Attorney Managed Account and Risk Disclosure
3 signed by the Gutierrez's and Francisco Rocha, the Money World "Trading
4 Agent," which gives Rocha limited power of attorney over their account. Thus, it
5 appears the Gutierrez's actually invested with Money World, not Victco.
6

7
8 **Joel & Yaneth Luna – Exh. 29**

9 The Luna's also appear to be Money World customers, not Victco. The
10 Luna's provide a copy of a Victco business card for Gerardo Vargas, one of
11 Rocha's Money World employees, and what purports to be a Victco investment
12 contract entitled "CONTRATO DE INVERSION," Spanish for Investment
13 Contract. The document contains Mr. Luna's signature along with that of the
14 "Account Executive," apparently Vargas. However, the Luna's also provide a
15 copy of a Limited Power-of-Attorney Managed Account Authorization and Risk
16 Disclosure with FXCM which lists Rocha as Money World's "Trading Agent." It
17 appears that the Luna's invested with Money World.
18
19
20

21 **Maria Navidad – Exh. 31**

22 Ms. Navidad submitted what purports to be an investment contract
23 ("Contrato De Inversion") on Victco letterhead for \$10,000. The so-called
24 contract promises, at the end of a 34 month period, a grand total of \$130,000 on an
25 "investment" of \$10,000. Juan Gerardo Vargas, an employee at Money World, is
26 listed as the "Account Executive." Ms. Navidad's other submissions are two
27
28

1 Money World documents, one which lists Javier Jimenez, Francisco Rocha,
2 Conrado Dominguez and Francisco Yanez as owners of Money World. The other
3 is a letter promising the return of her initial "investment," listing the amount
4 \$8,500.
5

6 In her letter to the undersigned as part of her comment to the distribution
7 plan, Ms. Navidad indicates that Mr. Vargas's offer sounded too good to be true.
8 She states that her excuse for giving Mr. Vargas her \$10,000 was that she "was so
9 desperate for money" and, therefore, put her "better judgment aside." It appears
10 that Ms. Navidad is a Money World customer.
11
12

13 **Gema Ramirez – Exh. 37**

14 In her letter to Plaintiff, Ms. Ramirez writes that she initially believed that
15 Francisco Rocha was soliciting her and her husband as part of a "pyramid scheme
16 or something illegal." She indicates that it wasn't until Rosendo Rocha, Francisco
17 Rocha's brother, showed her his "winnings" and indicated that this was "legal,"
18 that she then "sought" Francisco Rocha and ultimately gave him \$10,000. The
19 documents she submitted are all Money World and FXCM documents. It appears
20 that she is a Money World customer.
21
22

23 **Norman Comia – Exh. 9**

24 Mr. Comia's submission includes a letter addressed to him from Money
25 World, which also bears the Money World letterhead. The letter is dated August
26 26, 2002, and confirms that Mr. Comia's trading agreement with FXCM has been
27
28

1 processed and that the funds have cleared “the bank.” Mr. Comia’s submission
2 also includes a copy of a PFF Bank & Trust check for \$5,000, payable to Forex
3 Capital Markets, LLC. In support of a claim against Ouyang and Victco, Mr.
4 Comia also includes a generic letter from Victco Financial Service, Inc., dated
5 November 20, 2002, and addressed to “Dear valued clients and patrons.” The
6 letter advises Victco customers that Gain Capital, Inc., a futures commission
7 merchant, “froze the customer and proprietary accounts of Victco Financial
8 Services, Inc. (“Victco”) in October, 2002.”
9
10

11
12 On September 18, 2006, the undersigned spoke with Mr. Comia, who called
13 to find out why his name did not appear on the proposed distribution plan,
14 particularly when the names of his associates were included. Mr. Comia claimed
15 that he had only heard of Money World after he invested with Victco. Your
16 declarant explained that an analysis of financial documents indicates that Mr.
17 Comia was a Money World customer. Mr. Comia did not claim a nexus between
18 Money World and either Ouyang or Victco. It appears that Mr. Comia was a
19 Money World customer.
20
21

22 2. I.B. FUNDS CLAIMANTS

23

24 In September 2006, Plaintiff received a slew of claim forms, originally due
25 on November 15, 2005. These forms and accompanying documents were received
26 by Plaintiff, *en masse*, in three, separate FedEx envelopes on three separate dates.
27 The majority of the claim forms are photocopies dated between September 8 and
28

1 19, 2006, and are mostly claims against I.B. Funds, not I.B.F. Captial, Ltd.,¹ with a
2 few claims against Victco. Included with these forms are agreements signed by
3 the claimant and by Kang Soo Yoon, on behalf of I.B. Funds. Some of the forms
4 contain a signature below Yoon's purporting to be Ouyang's. These submissions
5 cannot be characterized as objections or comments to the proposed plan. Instead,
6 they are claims based on purported loan agreements mostly against I.B. Funds,
7 Inc., submitted nearly 10 months after the Court's November 10, 2005 deadline.
8 Significantly, these claims fail to include any evidence showing that claimants
9 were returned significant sums of money
10
11
12

13 In more than half of these submissions, Plaintiff has copies of executed
14 releases, provided by Ouyang's attorney during litigation discovery which show
15 that in November 2002, these individuals were returned substantial sums of money
16 and that their Victco accounts were closed. In some instances, Plaintiff also has
17 Victco Bank of America account statements which confirm the transfer of monies
18 to some of these individuals. The evidence also shows that many of these
19 individuals were sent claims packages during the claims process in 2005 but did
20 not return them until September 2006. Below are the names of the individuals
21 who have submitted these late claims:
22
23
24

- 25 • Ah Dae Kim – Exh. 21
- 26 • Andrew Y. Kim – Exh. 22
- 27 • Byung In Chun – Exh. 8
- 28 • Chong S. Cha – Exh. 4

² As noted in Ms. Santiago's declaration, attached as Exhibit A.

- 1 • Helen Son – Exh. 47
- 2 • Henry K. Baik – Exh. 58
- 3 • Heui Gwan Lee – Exh. 26 & 57
- 4 • Hui Jung An – Exh. 1
- 5 • Hye Lan Jung – Exh. 20
- 6 • Hyo J. Park – Exh. 35 & 56
- 7 • Jung Kang Lee – Exh. 65
- 8 • Kay Kim (a.k.a. Kye Sook Kim) – Exh. 23
- 9 • Kun Soon An – Exh. 66
- 10 • Kwansu Park (a.k.a. Kenny Park) – Exh. 61
- 11 • Kyung Hee Lee – Exh. 62
- 12 • Ma Sung Ja – Exh. 25a
- 13 • Mi Sook Ji – Exh. 59
- 14 • Michael Yoo – Exh. 52
- 15 • Myoung Hui Oh – Exh. 55
- 16 • Sarah Nam Mills – Exh. 30
- 17 • Soo Mee Park – Exh. 36
- 18 • Soon H. Jun – Exh. 19
- 19 • Soon Nou Yoon – Exh. 54
- 20 • Sung Kon Kim – Exh. 24
- 21 • Won B. Kim – Exh. 25
- 22 • Yong Sil Chon – Exh. 7
- 23 • Yoon-Hee Park – Exh. 60
- 24 • Young Gil Sohn – Exh. 64

25 Twenty-two of these claims are against I.B. Funds, Inc., and six claims are against
26 Victco. Plaintiff first addresses the claims against Victco.

27 **Helen Son – Exh. 47**

28 Ms. Son's claim, dated September 8, 2006, against Victco for \$40,000 is
late and appears to be unsubstantiated.

On August 12, 2005, pursuant to the claims process, Plaintiff sent Ms. Son a
claims package to 4056 Ingraham Street, Los Angeles, CA 90005, the address
listed on her claim form. Thus, the address remains current. Indeed, Plaintiff sent

1 two mailings to this address, the second addressed to Henry C. Son. As
2 evidenced by Ms. Son's claim form, dated September 8, 2006, the Ingraham Street
3 address in Los Angeles remains her current address. In her submission, Ms. Son
4 fails to indicate why her claim is almost 10 months past the November 15, 2005
5 deadline.
6

7
8 It also appears that Ms. Son's claim is unsubstantiated. On November 5,
9 2002, Ms. Son executed a release against Victco which, according to the
10 document, paid Ms. Son \$70,566; the release closed her Victco account.
11

12 **Heui Gwan Lee – Exh. 26 & 57**

13 It appears that Mr. Lee's claim for \$230,000 is late.

14 Mr. Lee's submission includes several purported "Promissory Notes" on
15 Victco letterhead which are signed by Kang Soo Yoon for the "Borrower," Victco.
16

17 On August 12, 2005, pursuant to the claims process, Plaintiff sent Mr. Lee a
18 claims package to 1716 Mountain Terrace Lane, Montebello, CA 90640, the
19 address listed by Mr. Lee's claim form, dated September 8, 2006. Thus, the
20 address remains current.
21

22 On September 25, 2006, the undersigned spoke with Mr. Lee who
23 repeatedly called about the distribution plan. Mr. Lee stated that he did not send
24 in the claim form earlier because Ouyang told him that Ouyang would claim the
25 money, presumably on Mr. Lee's behalf. Mr. Lee had timely notice of the claims
26 process.
27
28

1 **Hye Lan Jung – Exh. 20**

2 It appears that this claim for \$50,000 is late and unsubstantiated.

3
4 The Jung submission includes three purported “Promissory Notes” on
5 Victco letterhead and signed by Kang Soo Yoon for the “Borrower,” Victco, along
6 with copies of three checks to Gain Capital.

7
8 On August 12, 2005, pursuant to the claims process, Plaintiff sent Jung a
9 claims package to 1262 Boynton St., #15, Glendale, CA 9120, the same address
10 listed in Jung’s claim form, dated September 11, 2006. Thus, the address remains
11 current. It appears that claimant Jung had notice of the claims process. Plaintiff
12 does not know why Jung failed to timely submit a claim and provides no
13 explanation.

14
15 It also appears that Jung’s claim is unsubstantiated. On November 5, 2002,
16 Jung executed a release against Victco which, according to the document, paid
17 Jung \$50,283, and which closed Jung’s account at Victco.

18
19
20 **Hyo J. Park – Exh. 35 & 56**

21 The Park submission includes a signed, but undated claim form for
22 \$125,000. The form only contains a facsimile date stamp of September 11, 2006,
23 5:39 p.m. The submission includes purported Victco “Promissory Notes” and
24 canceled checks payable to Gain Capital.

25
26 On August 12, 2005, pursuant to the claims Plaintiff sent Hyo J. Park a
27 claims package, to 5605 Waltrip Lane, San Jose, CA 95118. This address differs
28

1 from the one on Park's claim form: Lematsh Street, Northridge, CA 91324.

2 However, the envelope to the San Jose address was not returned to Plaintiff. As
3 evidenced by the submission of a late claim form, claimant Park had notice of the
4 distribution plan.
5

6 It also appears that the Park claim is unsubstantiated. On November 12,
7 2002, Hyo Park executed a release against Victco which, according to the
8 document, paid Park \$125,800.
9

10 **Michael Yoo- Exh. 52**

11 It appears that Mr. Yoo's claim for \$210,000 is late and unsubstantiated.

12 Mr. Yoo's submission includes a claim form dated September 13, 2006,
13 purported Victco "Promissory Notes" signed by Kang Soo Yoon for the
14 "Borrower," Victco, copies of checks to Gain Capital and copies of wire transfers.
15
16

17 On August 12, 2005, pursuant to the claims process, Plaintiff sent Mr. Yoo
18 a claims package to Wilshire Blvd., Los Angeles, CA 90010. The envelope was
19 returned to Plaintiff.
20

21 On September 25, 2006, the undersigned spoke with Mr. Yoo who called
22 about the distribution plan. Mr. Yoo stated that he had not received the documents
23 from the CFTC and that "Ben" (Defendant Ouyang) stated that he would handle
24 the claim for Mr. Yoo. Significantly, Mr. Yoo also stated that he had learned
25 "about a year ago," from others, that there was a claims process. He said that he
26 did not bother with the process because he thought that Ouyang would handle it
27
28

1 and, besides, Mr. Yoo was “too busy to handle it.” Mr. Yoo further stated that he
2 did not realize that the claims process had a November 15, 2005, deadline. Mr.
3 Yoo stated that he was unaware that the CFTC had sued Ouyang and that he
4 received the claim from from “Jay Lee,” who works for “Mr. Ben.” Finally, Mr.
5 Yoo stated that he invested a total of \$210,000 and that over a period of time, he
6 received \$10,000 to \$15,000 in interest. He did not submit evidence of interest
7 payments with his claim because sometimes, he said, he received the payments in
8 cash and, at other times, via check. Nonetheless, Mr. Yoo is claiming the entire
9 \$210,000.
10
11
12

13 Although Mr. Yoo was not directly informed of the distribution plan by the
14 CFTC, he has admitted that he was aware of it, presumably from others, like him,
15 who did business with Ouyang. Mr. Yoo further admitted that as the claims
16 process developed, he did nothing about it, in part, because he (Mr. Yoo) was “too
17 busy.” It appears that Mr. Yoo had timely notice of the claims process.
18
19

20 Additionally, Mr. Yoo’s claim appears to be unsubstantiated. Counsel for
21 Plaintiff has viewed a Bank of America statement for Victco Financial Services
22 which indicates that \$202,640 was transferred to Mr. Yoo on November 7, 2002.
23 Mr. Yoo failed to include this information in his submission and in his
24 conversation with the undersigned.
25

26 **Sarah Nam Mills – Exh. 30**
27

28 Ms. Mills’s claim for \$125,000 appears to be unsubstantiated.

1 Ms. Mills's claim form is dated September 8, 2006, and her submission also
2 includes a purported Victco "Promissory Note" signed by Kang Soo Yoon on
3 behalf of the "Borrower," and a copy of a Wells Fargo Bank check in the amount
4 of 125,000, dated September 16, 2002, and bearing what appears to be Ms. Mills's
5 signature.
6

7
8 On August 12, 2005, as part of the claims process, Plaintiff sent a claims
9 package to Ms. Mills to two addresses. The first was sent to Menlo Avenue in Los
10 Angeles, California, in care of Kang Soo Yoon. The second envelope was sent to
11 South Ardmore Avenue in Los Angeles, California, in care of Jay Yoon. The
12 envelope to the Menlo Avenue address was returned to the CFTC, unopened, and
13 marked "ATTEMPTED, NOT KNOWN." The envelope to the South Ardmore
14 address was not returned to the CFTC.
15
16

17 Ms. Mills's claim is unsubstantiated. On November 4, 2002, Ms. Mills
18 executed a release against Victco which, according to the document, paid her
19 \$145,845, approximately twenty thousand dollars more than her claim.
20

21 The following are the late claims received by Plaintiff in September 2006
22 and which are against I.B. Funds, Inc.
23

24 **Henry K. Baik – Exh. 58**

25 It appears that Mr. Baik's claim for \$54,000 is late and unsubstantiated. Mr.
26 Baik's submission includes his claim form, dated September 19, 2006, and a
27 purported "Agreement" signed by him and by Kang Soo Yoon, as a representative
28

1 of "Borrower" I.B. Funds. Below Yoon's signature is a signature which appears
2 to be Ouyang's. The agreement is dated March 10, 2003.
3

4 On August 12, 2005, pursuant to the claims process, Plaintiff sent a claim
5 form to Mr. Baik to the Terra Bella Avenue address, in Laguna Hills, CA, the
6 address appearing on his late claim form. The envelope was not returned to
7 Plaintiff. Thus, the address remains current. It seems that Mr. Baik received
8 timely notice of the process and the November 15, 2005, deadline for submitting
9 claims.
10

11 It also appears that Mr. Baik's claim is unsubstantiated. On November 12,
12 2002, he executed a release against Victco which, according to the document, paid
13 him \$50,533, and closed his Victco account. Counsel for Plaintiff has also
14 reviewed a Bank of America statement which confirms a wire transfer of \$50,533
15 to Mr. Baik.
16

17
18 **Myoung Hui Oh – Exh. 32**
19

20 Myoung Hui Oh's claim is for \$250,000. It appears to be unsubstantiated.
21 Oh's submission includes copies of checks made payable to I.B. Funds and Kang
22 Soo Yoon, along with purported I.B. Funds "Agreements" signed by Yoon on
23 behalf of "Borrower" I.B. Funds. Ouyang's signature also appears below Yoon's.
24

25 On August 12, 2005, as part of the claims process, Plaintiff sent claimant
26 Oh a claims package to Reeves Drive South in Beverly Hills, CA. The envelope
27 was returned to Plaintiff. Plaintiff was unable to resend it to a forwarding address.
28

1 However, as evidenced by claimant Oh's submission, Oh received notice of the
2 proposed distribution plan.
3

4 Oh's claim appears to be unsubstantiated. On November 7, 2002, Oh
5 executed a release against Victco which, according to the document, paid Oh
6 \$171,810, and closed Oh's Victco account. Counsel for Plaintiff also reviewed a
7 Bank of America statement which confirms a wire transfer of \$171,810 to Oh.
8 Notably, the release is signed before Oh's I.B. Funds agreement. Thus, it is
9 appears that the investment with I.B. Funds was separate from Oh's previous
10 involvement with Victco.
11
12

13 **Soon H. Jun – Exh. 19**

14 Soon H. Jun's claim for \$56,000 appears to be late. Jun's submission
15 consists of a claim form dated September 15, 2006, and a purported I.B. Funds
16 "Agreement" signed by Kang Soo Yoon on behalf of "Borrower," I.B. Funds.
17 Below Yoon's signature appears to be Ouyang's.
18

19 On August 12, 2005, pursuant to the claims process, Plaintiff sent Jun a
20 claims package to 700 S. Berendo, Los Angeles, CA, the address appearing on
21 Jun's claim form. It appears that Jun received direct notice of the claims process
22 in August 2005 and failed to timely submit a claim.
23
24

25 On November 12, 2002, claimant Jun executed a release against Victco
26 which, according to the document, paid Jun \$60,720 and closed his Victco
27 account. Counsel for Plaintiff has also reviewed a Bank of America statement for
28

1 Victco which confirms a wire transfer of \$60,720 to Jun.

2 **Won Bae Kim – Exh. 25**

3
4 Won Bae Kim's claim is for \$100,000. Kim's submission consists of a
5 claim form dated September 15, 2006, and a purported I.B. Funds
6 "Agreement" signed by Kang Soo Yoon on behalf of "Borrower," I.B. Funds.
7
8 Below Yoon's signature appears to be Ouyang's. The agreement is dated
9 November 8, 2002.

10 On August 12, 2005, pursuant to the claims process, Plaintiff sent claimant
11 Kim a claims package on August 12, 2005 to 963 South Wilton Place in Los
12 Angeles, California. The address appearing on Kim's claim form is not the same.
13 However, the package sent to the Wilton Place address was not returned to
14 Plaintiff. As evidenced by this submission, claimant Kim received notice of the
15
16 claims process.
17

18 On November 12, 2002, claimant Kim executed a release against Victco
19 which, according to the document, paid Kim \$101,066 and closed Kim's Victco
20 account. It appears that Kim does not have a claim against Victco.
21

22 **Chong S. Cha – Exh. 4**

23
24 Cha's claim is for \$30,000. Cha's submission consists of a claim form dated
25 September 15, 2006, two purported I.B. Funds "Agreements" signed by Kang Soo
26 Yoon on behalf of "Borrower," I.B. Funds. Below Yoon's signature appears to be
27 Ouyang's. The agreements are dated November 1, 2002, and March 25, 2003.
28

1 Also included is a Bank of America wire transfer from Cha to IBF Capital
2 Limited.

3
4 On August 12, 2005, pursuant to the claims process, Plaintiff sent claimant
5 Cha a claims package to an Angeles Forest Highway address in Palmdale, CA.
6 The address appearing on Cha's claim form is different. However, the package
7 sent to the Palmdale address was not returned to Plaintiff.
8

9 On November 1, 2002, claimant Cha executed a release against Victco
10 which, according to the document, paid Cha \$20,167 and closed Cha's Victco
11 account. It appears that this document extinguished Cha's claim against Victco.
12

13 **Yoon Hee Park – Exh. 60**

14 Park's claim is for \$60,000 and has submitted a claim form dated September
15 14, 2006, a purported I.B. Funds "Agreement" signed by Kang Soo Yoon on
16 behalf of "Borrower," I.B. Funds. Below Yoon's signature appears to be
17 Ouyang's. The agreement is dated December 10, 2002.
18

19
20 On November 5, 2002, claimant Park executed a release against Victco
21 which, according to the document, paid Park \$60,350 and closed Park's Victco
22 account. It appears that claimant Park does not have a claim against Victco.
23

24 **Yong Sil Chon - Ex's 7**

25 Chon's claim appears to be for \$80,000. Chon's submission consists of a
26 claim form dated September 14, 2006, three purported I.B. Funds "Agreements"
27 signed by Kang Soo Yoon on behalf of "Borrower," I.B. Funds. Below Yoon's
28

1 signature appears to be Ouyang's. The agreements are dated March 1, 2003,
2 March 10, 2003, and September 15, 2003. Also included is a Bank of America
3 wire transfer, dated November 5, 2002, from Ji H. Lee to IBF Capital Limited.
4

5 On August 12, 2005, pursuant to the claims process, Plaintiff sent claimant
6 Chon a claims to an address in Texas. Claimant Chon lists an Arizona address.
7 The package was returned to the Plaintiff.
8

9 On November 5, 2002, claimant Chon and Ji H. Lee executed a release
10 against Victco which, according to the document, paid Chon and Lee \$50,333.00
11 and closed Chon's and Lee's Victco account.
12

13 **Young Gil Sohn- Exh. 64**

14 It appears that claimant Sohn's claim for \$220,000 is late. Sohn's
15 submission includes a claim form, dated September 19, 2006, a purported I.B.
16 Fund "Agreement" signed Sohn and signed by Kang Soo Yoon as "Borrower" I.B.
17 Funds. Below Yoon's signature is a signature which appears to be Ouyang's. The
18 agreements are dated June 27, 2003, and July 28, 2004.
19
20

21 On August 12, 2005, pursuant to the claims process, Plaintiff sent Sohn a
22 claims package to 9331 Crosby Avenue, Garden Grove, California, the same
23 address which appears on Sohn's claim form. Thus, the address remains current
24 and it appears that that claimant Sohn had notice of the process and the November
25 15, 2005, deadline for submitting claims
26
27

28 It also appears that Sohn's claim is unsubstantiated. On November 12,

1 2002, Sohn executed a release against Victco which, according to the document,
2 paid Sohn \$50,533, and closed Sohn's Victco account.
3

4 **Kwansu Park – Exh. 61**

5 This claim is for \$80,000. Kwansu Park, also known as Kenny Park,
6 submitted a claim form dated September 14, 2006, and a purported I.B. Funds
7 “Agreement” signed by him and by Kang Soo Yoon as “Borrower,” I.B. Funds.
8 Below Yoon's signature is a signature which appears to be Ouyang's. The
9 agreement is dated February 10, 2003.
10

11
12 On August 12, 2005, pursuant to the claims process, Plaintiff sent Mr. Park
13 a claims package to South St. Andrews Place in Los Angeles, California. A
14 second package was sent to West 8th Street in Los Angeles California. This
15 second address appeared to be Hye Youn Jung's residence, an apparent joint
16 account holder with Mr. Park. While both addresses differ from the one Mr. Park
17 lists on his claim form, neither of the envelopes sent by Plaintiff was returned. It
18 appears that Mr. Park had notice of the claims process.
19
20

21 On November 5, 2002, Mr. Park and Hye Youn Jung executed a release
22 against Victco which, according to the document, paid them \$40,230.00, and
23 closed their Victco account.
24

25 **Hui Jung An – Exh. 1**

26 Ms. An's claim is for \$120,000 and appears to be late. Her submission
27 consists of a claim form dated September 15, 2006, two purported I.B. Funds
28

1 "Agreements" signed by Kang Soo Yoon on behalf of "Borrower," I.B. Funds.
2 The agreements are dated July 31, 2003, and August 22, 2003. Also included is a
3 copy of a Hanmi Bank check, dated August 22, 2003, in the amount of \$100,000
4 and payable to I.B. Funds. The remitter on the check is Duek Yeoung Lee.
5

6 Plaintiff's records indicate that a claims package was not sent to Ms. An.
7 Nonetheless, the undersigned spoke with Ms. An on September 25, 2006, who
8 called Plaintiff to inquire about the distribution plan. Ms. An stated that she
9 invested \$10,000 with Victco in August 2003. Subsequently, she invested
10 \$100,000 with I.B. Funds. She stated that she invested with Kang Soo Yoon who
11 told her that Ouyang was the boss, and that I.B. Funds "continued" from Victco.
12
13

14 Ms. An further stated that she waited until "now" (September 2006), to
15 submit her claim because Ouyang told her to wait. Specifically, she stated that
16 Ouyang told her that there was a problem with "the Spanish people," that someone
17 had cheated "the Spanish people" and that this was the reason why the money was
18 frozen. Ms. An stated that Ouyang told her that she could not contact the CFTC
19 and that she should wait until Victco was "clear." Ms. An stated that Ouyang later
20 told her that "they" denied his claim and that she should make her own claim. Ms.
21 An then went to I.B. Funds's office and received a claim form on September 15,
22 2006 from "Jay," who works for Ouyang. After filling out the claim form, Ms. An
23 sent it on September 15, 2006, with other persons claim forms. She thought that
24 the November 15, 2005, deadline on the form was a mistake. Ms. An stated "I
25
26
27
28

1 have nothing to do with Victco. I'm not interested in the Victco case."

2 **Ah Dae Kim – Exh. 21**

3 This claim is for \$380,000.

4
5 The submission consists of a claim form dated September 15, 2006, and six
6 purported I.B. Funds "Agreements" signed by Kang Soo Yoon on behalf of
7 "Borrower," I.B. Funds. Ouyang's signature appears below Yoon's on each of the
8 agreements, dated between November 1, 2002, and September 10, 2003
9

10 It is unclear whether this claimant was sent a claims package. Plaintiff's
11 records indicate that a package was sent on August 12, 2005, to "Ah Jae Kim" to a
12 Alice Lane address in Orinda, California. The envelope was returned to Plaintiff
13 and this claimant lists a Monterey Park, California address.
14

15
16 Nevertheless, on November 1, 2002, the date of one of the above I.B. Funds
17 agreements, claimant Kim executed a release against Victco which, according to
18 the document, paid Kim \$100,940, and closed Kim's Victco account.
19

20 **Jung Kang Lee – Exh. 65**

21 This claim is for \$650,000. Lee's submission consists of a claim form dated
22 September 18, 2006, and three purported I.B. Funds "Agreements" signed by
23 Kang Soo Yoon on behalf of "Borrower," I.B. Funds. Ouyang's signature appears
24 below Yoon's on each of the documents, dated November 1, 2002, April 2, 2003
25 and August 22, 2003.
26

27
28 On August 12, 2005, pursuant to the claims process, Plaintiff sent claimant

1 Lee a claims package to 1716 Mountain Terrace Lane, Montebello, CA, the same
2 address which appears on Lee's claim form. Thus, the address remains current and
3 it appears that Lee had notice of the claims process.
4

5 Significantly, the Mountain Terrace Lane address also appears on **Heui**
6 **Gwan Lee's** claim form (Page 11 above). Claimant Jung Kang Lee's claim
7 appears to be against I.B. Funds, not Victco.
8

9 **Kyung Hee Lee – Exh. 62**

10 This claim is for \$90,000 and consists of a claim form dated September 14,
11 2006, and a purported I.B. Funds "Agreement" signed by Kang Soo Yoon on
12 behalf of "Borrower," I.B. Funds. Ouyang's signature appears below Yoon's. The
13 agreement is dated November 1, 2002.
14

15 On August 12, 2005, pursuant to the claims process, Plaintiff sent claimant
16 Lee a claims package to 861 S. Catalina Street, #210, Los Angeles, CA, the same
17 address appearing on Lee's claim form. Thus, the address remains current and it
18 appears that Lee had timely notice of the claims process.
19
20

21 On November 5, 2002, claimant Lee executed, along with Sung Park
22 (possibly a joint account holder) a release against Victco which, according to the
23 document, paid Lee and Sung \$90,550, and closed their Victco account.
24

25 **Soo Mee Park- Exh. 36**

26 This claim is for \$50,000 and consists of a claim form dated September 15,
27 2006, and a purported I.B. Funds "Agreement" signed by "Soo Mi Park." and
28

1 Kang Soo Yoon on behalf of "Borrower," I.B. Funds. The agreement is dated
2 December 15, 2003.

3
4 Plaintiff's records indicate that a claims package was not sent to claimant
5 Park. However, the address listed on Park's claim form is 861 South Catalina
6 Street, #203, Los Angeles, CA. As explained above, Plaintiff sent a claims
7 package to claimant **Kyung Hee Lee**, whose address is 861 South Catalina Street,
8 #210, Los Angeles, CA. Given the similarities of these two claims, including the
9 fact that they were received by Plaintiff on or about the same time, it is likely that
10 claimants Lee and Park know each other and that claimant Park knew about the
11 claims process in August 2005 from claimant Lee. In any case, this appears to be
12 a claim against I.B. Funds, not Victco.

13
14
15
16 **Kay Kim (Kye Sook Kim) – Exh. 23**

17 This claim is for \$21,000 and consists of a claim form dated September 15,
18 2006, copies of two purported I.B. Funds checks totaling \$8,000, each signed by
19 Kang Soo Yoon. One is payable to "Cha, Hun/Hi Tel," and the second is payable
20 to "Lee or Hi Tele." Each check bears the stamp "ACCOUNT CLOSED." Also
21 included is a copy of a handwritten letter signed by Kang Soo Yoon, addressed to
22 I.B. Funds Inc., and appears to be written in Korean.

23
24
25 As part of the claims process in 2005, Plaintiff sent this claimant claims
26 packages to addresses in Los Angeles, California and Arcadia, California. The
27 envelopes were not returned to the CFTC, however, claimant Kim lists an address
28

1 different than those the claims packages were sent to originally.

2 **Sung Kon Kim – Exh. 24**

3
4 This claim appears to be late and, in any case, is against I.B. Funds. This
5 claim is for \$210,000, and consists of a claim form dated September 15, 2006, and
6 five purported I.B. Funds “Agreements” signed by Kang Soo Yoon on behalf of
7 “Borrower,” I.B. Funds. Ouyang’s signature appears below Yoon’s on each of the
8 agreements, dated between November 2002, and August 2003. Also included is a
9 copy of a \$30,000 wire transfer from Wilshire State Bank from Sung Kon Kim to
10 I.B. F. Capital Limited, dated November 12, 2002.
11
12

13 On August 12, 2005, pursuant to the claims process, Plaintiff sent a claims
14 package to this claimant at 12949 Mooreshire Drive, Cerritos, CA, the same
15 address appearing on Kim’s claim form. Thus, Kim’s address remains current. It
16 seems that claimant Kim received timely notice in August 2005 of the claims
17 process and knew about the November 15, 2005, deadline for submitting claims.
18
19

20 **Mi Sook Ji – Exh. 59**

21 This claim is for \$10,000 and consists of a claim form dated September 10,
22 2006, and a purported I.B. Funds “Agreement” dated June 23, 2003, and signed by
23 claimant Ji and Kang Soo Yoon on behalf of “Borrower,” I.B. Funds. Ouyang’s
24 signature appears below Yoon’s.
25

26 On August 12, 2005, pursuant to the claims process, Plaintiff sent a claims
27 package to 1835 Wellspring Drive, Diamond Bar, CA, the same address listed by
28

1 claimant Ji on the submitted claim form. However, the claims package was
2 addressed to "Lee Hoo Ja," not Mi Sook Ji. Nevertheless, the envelope was never
3 returned to the CFTC. As evidenced by Ji's form, it appears that the address
4 remains current and that claimant Ji had notice in August 2005 of the process and
5 the November 15, 2005, deadline for submitting claims. In any case, the claim
6 appears to be against I.B. Funds, not Victco.
7
8

9 **Soon Nou Yoon – Exh. 54**

10 This claim is for \$380,000 and consists of a claim form dated September 15,
11 2006, and seven purported I.B. Funds "Agreements" dated between November
12 2002, and September 2003, and are signed by claimant Yoon and Kang Soo Yoon
13 on behalf of "Borrower," I.B. Funds. Ouyang's signature appears below Yoon's.
14 Claimant Yoon also includes a wire transfer of \$210,000 from Yoon to IBF
15 Capital Limited in the United Kingdom.
16
17

18 Plaintiff's records do not indicate that a claims package was sent to this
19 claimant. However, on November 1, 2002, claimant Yoon executed a release
20 against Victco which, according to the document, paid Yoon \$212,100, and closed
21 Yoon's Victco account.
22
23

24 **Andrew Y. Kim – Exh. 22**

25 Mr. Kim's claim is for \$80,000 and appears to be based on a subrogation
26 agreement in which he is the "Assignee" and Suck Joo Kang and SG Kang are the
27 "Assignors," and the purported holders of a "Promissory Note" for \$80,000 with
28

1 I.B. Funds. As with most of these purported I.B. Funds "Agreements," Plaintiff
2 does not know when these documents were executed or whether they are valid. In
3 any case, this appears to be a private agreement, which should not be part of the
4 distribution plan.
5

6 **Remaining I.B. Funds Claims**

7
8 The following round out the claims against I.B. Funds: Byung In Chun
9 (\$20,000), Ma Sung Ja (\$50,000), and Kun Soon An (\$30,000). The claim forms
10 for Ja, Yoon and An are each dated September 15, 2006. Chun's form is dated
11 September 14, 2006. Their claims consist of purported I.B. Funds "Agreements"
12 previously described for other claimants. Given Yoon's \$380,000 claim against
13 I.B. Funds, Yoon's submission contains seven such agreements dated between
14 November 2002 and September 2003. Yoon also includes a \$210,000 wire
15 transfer from California Bank & Trust to I.B.F. Capital Ltd. Based on Plaintiff's
16 records, it appears that these individuals were not sent claims packages.
17
18 Nonetheless, these claims appear to be against I.B. Funds, not Victco.
19
20

21 3. LATE OBJECTIONS

22 Following the September 15, 2006, deadline for submitting objections or
23 comments to the distribution plan, Plaintiff received submissions from Jorge H.
24 Hernandez, Andrew Montalbano, Ruben Mendoza and Jose Martin Garcia.
25 Plaintiff also received an additional submission from Pong Re Shin. These
26 submissions have been separately filed with the Court as exhibits A through E.
27
28

1
2 **Andrew Montalbano**

3
4 Mr. Montalbano's submission was received by Plaintiff on September 27,
5 2006, notwithstanding that the CFTC business reply envelope he used is
6 postmarked, in three places, September 15, 2006. Plaintiff's records indicate that
7 he was not sent a claims package and Mr. Montalbano states in his letter that he
8 heard about the distribution plan through Robert Seitz, another claimant. Mr.
9 Montalbano also represented this fact during a September 8, 2006, telephone
10 conversation.
11
12

13 With the exception of a single generic Victco Financial Service, Inc.
14 document which is intended to look like an account statement listing dates and
15 amounts, Mr. Montalbano's submission consists of Money World documents, a
16 copy of Francisco Rocha's Money World business card identifying Rocha as
17 "owner," FXCM documents, and copies of checks payable to Francisco Rocha and
18 Robert Seitz, which represent Mr. Montalbano's "investments." It appears that
19 Mr. Montalbano is a Money World customer.
20
21

22 **Jorge H. Hernandez**

23
24 On August 12, 2005, pursuant to the claims process, Plaintiff sent Mr.
25 Hernandez a claims package to the Commerce, California address Mr. Hernandez
26 wrote on his envelope and which also appears on the CFTC's business reply
27 envelope, as his return address. Mr. Hernandez's submission, received by Plaintiff
28

1 on October 2, 2006, consists of a single letter which poses questions about Money
2 World, and indicates that he invested \$10,000 with Money World, despite the fact
3 that the solicitation “sounded to [sic] good to be true.” It appears that Mr.
4 Hernandez is a Money World customer
5

6 **Jose Martin Garcia**

7
8 On August 12, 2005, pursuant to the claims process, Plaintiff sent Mr.
9 Martin a claims package. Mr. Martin’s submission, received by Plaintiff on
10 September 27, 2006, consists of a short letter, dated September 19, 2006, a wire
11 transfer for \$5,000 to FXCM and an FXCM Account Application Form. It appears
12 that he was a Money World customer.
13
14
15

16 LEGAL DISCUSSION

17 **Notice of Claims Process**

18 Following the Court’s establishment of the claims process, Plaintiff mailed
19 claim forms, along with the Court’s Order Establishing Claims Process, to
20 potential claimants. The addresses used by Plaintiff came from records and
21 documents acquired before and after this matter was filed. Some envelopes were
22 returned and, in some instances, Plaintiff was able to resend them to new
23 addresses. Plaintiff’s mailing resulted in many claims submissions. It is presumed
24 that when a mailing is “properly addressed, stamped and deposited into the mails”
25 that it is received by the addressee. *In re Bucknum*, 951 F.2d 204, 207 (9th Cir.
26
27
28

1 1991). “This presumption can only be overcome by clear and convincing evidence
2 that the mailing was not, in fact, accomplished.” *Id. at 207.*

3
4 The evidence adduced during the period in which potential claimants filed
5 their objections and comments to the distribution plan indicates that the
6 overwhelming majority of claimants who submitted objections received timely
7 notice of the plan. Several claims list addresses different from those which
8 Plaintiff mailed notices to originally. Some of those packages were returned as
9 undeliverable, but others were not. It can be presumed that the envelopes not
10 returned as undeliverable were received by the addressees.
11

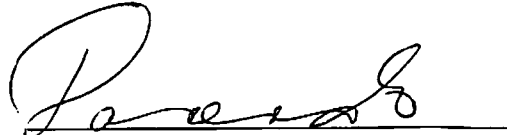
12
13 It also became apparent during the objections period that persons claiming
14 not to have received direct notice, nonetheless received notice from other
15 claimants they know. This fact was admitted by potential claimant in the many
16 telephone conversations with the undersigned. Some potential claimants simply
17 chose not to participate until they heard that there was over one million dollars to
18 be distributed.
19

20
21 The district courts are afforded “broad deference” in their supervision of
22 investor distribution plans, *CFTC v. Topworth Intern., Ltd.*, 205 F.3d 1107, 1115
23 (9th Cir.1999), and they are authorized to use “summary proceedings” to resolve
24 conflicting claims to investment proceeds, *SEC v. Hardy*, 803 F.2d 1034, 1040 (9th
25 Cir. 1986). “Reasonable administrative procedures, crafted to deal with the complex
26 circumstances of each case, will be upheld.” *Id. at 1038.*
27
28

1 Plaintiff respectfully requests that the Court exercise its equitable discretion
2 in evaluating this matter.
3
4

5 Respectfully submitted,

6
7
8 Dated: November 20, 2006



9 David Acevedo
10 Attorney for Plaintiff Commodity Futures
11 Trading Commission
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PROOF OF SERVICE

I, Michael Berlowitz, hereby certify that I am over the age of 18 and that I am not a party in the action CFTC v. Ouyang, et al., 08-0833 DSF (Mcx). On November 20, 2006, I served a copy of **CLAIMANTS' OBJECTIONS AND COMMENTS TO PLAINTIFF'S PROPOSED DISTRIBUTION PLAN**

via U.S. Mail on the counsel of record below:

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



Michael Berlowitz

SUPPLEMENTAL DECLARATION OF LINDA SANTIAGO

I, Linda M. Santiago, do hereby declare pursuant to 28 U.S.C. §1746:

1. I am an Auditor with the Audit and Financial Review Branch of the Division of Clearing and Intermediary Oversight of the Plaintiff, the U.S. Commodity Futures Trading Commission ("Commission"). I make this supplemental declaration at the request of the Commission's Division of Enforcement.

2. I have served as an Auditor with the Commission since June 1989. I am assigned to the Commission's Eastern Regional Office located at 140 Broadway, New York, New York 10005. My responsibilities as an Auditor for the Commission include the regular review of financial documents and required filings by registered and unregistered commodity firms and individuals in order to ensure compliance with the Commodity Exchange Act (the "Act") and the rules and regulations promulgated thereunder. In that role, I regularly employ standard auditing procedures to test and examine evidence supporting the amounts and disclosures in financial statements. Prior to joining the Commission, I held various positions in the fields of public accounting and internal audit.

3. I am a licensed Certified Public Accountant by the State of California (Cert. # 41868-E) and have been since 1984. I am also a member in good standing of the American Institute of Certified Public Accountants.

1 4. I have been assigned to assist the Commission's Division of
2 Enforcement to compile a list of former Victco/Ouyang ("Victco") customers
3 obtained from carrying broker statements, bank statements, photocopies of checks,
4 wire transfer advices and deposit slips for various banks. On May 18, 2006, I
5 prepared a declaration and a proposed distribution plan for this case, which was
6 filed with Plaintiff's Motion For A Proposed Distribution Plan. More recently – in
7 September 2006 – I reviewed various documents submitted by claimants who had
8 comments and objections to the proposed distribution plan.
9

10
11
12 5. In reviewing the documents for this case, I note that Forex Capital
13 Markets, LLC is the Futures Commission Merchant for the customers of Money
14 World. I also note that Gain Capital Inc. and IBF Capital Limited are the Futures
15 Commission Merchants for the Victco customers. Additionally, I note that IBF
16 Capital Limited, based in England, is not the same entity as I.B. Funds, Inc.
17

18 6. Exhibits B and C attached represent my work product. Column 1 of
19 Exhibit B sets forth the name of each individual who has responded with a claim.
20 Columns 2, 3 and 4 in the spreadsheet set forth the customer deposits and
21 withdrawals and net amount claimed.
22

23 7. Column 5 of Exhibit B sets forth (in dollars) the Plaintiff's
24 recommendation as to how much of each amount claimed should be allowed by
25 the Court.
26
27
28

1 8. Column 6 of Exhibit B sets forth Plaintiff's comments on each
2 submitted claim, with a brief explanation of why Plaintiff recommends that the
3 claim be allowed, reduced or disallowed.
4

5 9. Based on the calculations and comments set forth in Exhibit B, I have
6 prepared a Proposed Updated Distribution Plan, attached as Exhibit C.
7

8 10. Column 1 of Exhibit C sets forth the name of each customer who filed
9 a claim. Column 2 sets forth the Recommended Allowable Claim for each (in
10 dollars). Column 3 sets forth the Percentage of the Allowable Claims that each
11 customer's Recommended Allowable Claim represents.
12

13 11. Column 4 of Exhibit C sets forth the Pro Rata Amount of the
14 Distributable Funds for each claimant. This amount is calculated by multiplying
15 the Total Distributable Funds (\$1,040,980.62) by the percentage set forth in
16 Column 3.
17

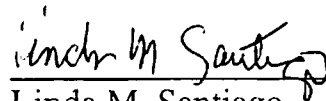
18 12. Several months ago, I prepared a database for my declaration dated
19 May 18, 2006. I now note that the original proposed distribution for Bertha
20 Galindo was incorrect. [Ms. Galindo is customer number 12 on Exhibits B and C
21 attached]. Ms. Galindo submitted documentation to Plaintiff during the comments
22 and objections period (September 2006) which I have reviewed. Based on this
23 new documentation, I have recalculated Ms. Galindo's proposed distribution.
24 Thus, I have changed the calculations for Ms. Galindo's proposed distribution
25
26
27
28

1 which will slightly affect all of the other proposed distributions (see Exhibits B
2 and C attached).

3
4 13. The original proposed distribution plan called for customers to
5 received 92.71%. Under this proposed updated distribution plan (Exhibit C),
6 Victco customers will receive 92.22%, still better than ninety two cents on the
7 dollar (\$0.92 of every \$1.00), of the Recommended Allowable Claims.
8

9
10 I declare under the penalty of perjury that the foregoing declaration is true and
11 correct.
12

13
14 Executed in New York, New York, this 17th day of November, 2006.
15

16
17 
18 Linda M. Santiago

UPDATED SPREADSHEET OF OUYANG (VICTCO) CUSTOMER CLAIMS AND RECOMMENDED ALLOWABLE CLAIMS WITH COMMENTS

Prepared by L. Santiago
Revised 11/2/06

EXHIBIT B

1	2	3	4	5	6
	VICTO-GAIN CAPITAL-IBF CAPITAL LTD.			RECOMMENDED	
# CUSTOMER	CLAIMED DEPOSIT	CLAIMED WITHDRAWAL	NET AMOUNT CLAIMED	ALLOWABLE CLAIM	COMMENTS
1 Bebenek, Guadalupe/ Canales, Rosa M.	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim (Also claimed by Yanez, F \$ 2500)
2 Brceno, Ernesto & Mana	\$7,500.00	\$3,100.00	\$4,400.00	\$4,400.00	Valid claim
3 Chapa-Lopez, Orvilia Elva	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim (Also claimed by Yanez, F \$2,500)
4 Chavez, Jose Luis	\$15,000.00	\$5,025.00	\$9,975.00	\$9,975.00	Valid claim
5 Chavez, Ofelia	\$10,000.00	\$4,000.00	\$6,000.00	\$6,000.00	Valid claim (Also claimed by Yanez, F \$10,000)
6 Chavez, Silvia/ Santos, Nelly	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	Valid claim
7 Cheong, Kuai Peng	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
8 Contreras, Robert/ Elizabeth	\$9,000.00	\$0.00	\$9,000.00	\$9,000.00	Valid claim
9 Curtade, Clemen	\$5,000.00	\$0.00	\$5,000.00	\$3,500.00	Reduce claim by Victco BoA ch#5036 for \$1,500 not claimed by Curtade on claim form.
10 Escobar, Jorge/ Luz Magdalena	\$30,000.00	\$0.00	\$30,000.00	\$30,000.00	Valid claim (Also claimed by Yanez, F\$30,000)
11 Flores, Daniel	\$7,874.67	\$0.00	\$7,874.67	\$7,874.67	Valid claim
12 Galindo, Berna	\$20,000.00	\$5,000.00	\$14,000.00	\$14,000.00	Reduce withdrawal by \$6000 based on additional information - Allow \$20,000 - \$6,000 = \$14,000
13 Garcia, Maria	\$20,000.00	\$7,618.00	\$12,382.00	\$12,382.00	Valid claim
14 Gershenson, Joseph Kevin	\$10,000.00	\$280.95	\$9,719.05	\$9,719.05	Valid claim
15 Godjabashian, Arshak	\$7,950.00	\$0.00	\$7,950.00	\$7,805.71	Reduce claim by (\$344.29) returned to Godjabashian per Victco's bank records.
16 Gonzalez, Ernesto	\$2,500.00	\$500.00	\$2,000.00	\$2,000.00	Valid claim
17 joint with Siezar, Ernesto	\$2,500.00	\$1,000.00	\$1,500.00	\$1,500.00	Valid claim
18 Guerra, Dario Gonzalez	\$15,000.00	\$0.00	\$15,000.00	\$12,128.05	Reduce claim by Victco ch#1429 for (\$1,463.39) & ch#1401 for (\$1,408.56) returned to Guerra.
19 Guerrero, Leonardo	\$5,000.00	\$0.00	\$5,000.00	\$4,647.00	Reduce claim by Victco ch#1502 for (\$353) returned to Guerrero.
20 Gupta, Rajeev	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Of Gupta's \$81,000 claimed deposit, \$5,000 was invested in Victco and \$76,000 was wired to FXCM (Money World)
21 Gutierrez, Ignacio/ Leticia	\$10,000.00	\$5,515.00	\$4,485.00	\$4,485.00	Valid claim
22 Gutierrez, Jose & Beatriz	\$10,000.00	\$1,000.00	\$9,000.00	\$8,839.11	Reduce claimed deposit of \$10,000 by Victco BoA ch #1430 for (\$923.87) and ch# 1396 for (\$237.02) returned to Gutierrez.
23 Huang, James Zhiqian	\$40,000.00	\$0.00	\$40,000.00	\$0.00	Allow \$0 Withdrawal per Victco's bank records totaled (\$71,330.50) which exceeded deposit of \$40,000.00
Jeno, Harold/Escareso,C. (See Escareso, Cynthia/ Jeno, Harold	\$0.00	\$0.00			

UPDATED SPREADSHEET OF OUYANG (VICTCO) CUSTOMER CLAIMS AND RECOMMENDED ALLOWABLE CLAIMS WITH COMMENTS

Prepared by L. Santiago
Revised 11/2/06

EXHIBIT B

#	CUSTOMER	VICTO-GAIN CAPITAL-IBF CAPITAL LTD.			RECOMMENDED	COMMENTS
		CLAIMED DEPOSIT	CLAIMED WITHDRAWAL	NET AMOUNT CLAIMED	ALLOWABLE CLAIM	
24	Kong, Stephanie LiWen	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
25	Kort, Gary	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
26	Lopez, Jose & Lucila	\$19,452.00	\$0.00	\$19,452.00	\$16,617.00	Reduce claim by Victco BoA ch#1717 for (\$2,835) returned by Victco to Lopez not claimed on claim form.
27	Lopez, Gustavo	\$25,000.00	\$0.00	\$25,000.00	\$25,000.00	Valid claim
28	Lora, Dora	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
29	Luna, Maria	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	Valid claim
30	Luna, Mayra	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	Of Luna's net claim of \$27,474.38, Luna indicated on the claim form that \$10,000 was invested in Victco. \$18,000 was wired to FXCM (Money World) and \$525.62 was returned by FXCM to Luna. \$10,000 is valid claim on Victco.
31	Luva, Victor	\$9,000.00	\$0.00	\$9,000.00	\$9,000.00	Valid claim
32	Machado, David	\$17,500.00	\$11,452.01	\$6,047.99	\$6,047.99	Valid claim
33	Maldonado, Hector	\$10,000.00	\$1,000.00	\$9,000.00	\$9,000.00	Of Maldonado's \$37,000 net claim, \$28,000 was wired to FXCM (Money World). \$9,000 is valid claim on Victco.
34	Mendoza, Ruben	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
35	Monroy, Myrna & Lauro	\$31,000.00	\$0.00	\$31,000.00	\$31,000.00	Valid claim
36	Naveja, Ana (Naveja, Jose)	\$5,000.00	\$1,283.50	\$3,716.50	\$3,716.50	Valid claim
37	Paredes, Martha	\$1,000.00	\$0.00	\$1,000.00	\$1,000.00	Valid claim. (Also claimed by Yanez, F \$1,000)
38	Pena, Hector	\$6,000.00	\$1,016.40	\$6,981.60	\$6,981.60	Of \$16,981.60 net claimed, \$10,000 was invested in FXCM (Money World). The net deposit of \$6,981.60 is valid claim on Victco.
39	Qiu, Jie	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
40	Quan, Franklin	\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	Of Quan's \$14,691.14 net claim, \$10,000 was wired to IBF Capital Limited (Victco) and \$4,691.14 represents net investment in FXCM (Money World). \$10,000 is valid claim on Victco.
41	Reyes, Guillermina	\$11,972.62	\$3,819.91	\$8,152.71	\$1,180.09	Reduce claim by (\$6,972.62) - not a deposit but account balance as of 10/1/02 of Gain Capital Inc. broker statement.
42	Rocha, Rosendo	\$38,900.00	\$0.00	\$38,900.00	\$38,510.00	Reduce claim by Victco BoA ch#1484 for (\$390) - withdrawal not on claim form.
43	Rodgers, Earnest & Mane	\$20,231.00	\$0.00	\$20,231.00	\$16,793.00	Reduce claim by (\$2,500) deposit on 8/1/02 with no support, and by (\$938) paid by IBF's Universal Bank on 4/12/02 not claimed as withdrawal on claim form.
	Saldivar, Manuel Serrano	no amount claimed				
44	Santillano, Bernarda	\$2,500.00	\$0.00	\$2,500.00	\$2,500.00	Valid claim
45	Santos, Carlos & Nelly	\$25,000.00	\$0.00	\$25,000.00	\$25,000.00	Valid claim
46	Seitz, Robert	\$20,000.00	\$0.00	\$20,000.00	\$20,000.00	Of the 35,682 net claimed, \$20,000 was invested in Victco and \$15,682 represents net investment in FXCM (Money World). \$20,000 is valid claim on Victco.

Prepared by L. Santiago
Revised 11/2/06

EXHIBIT B

#	CUSTOMER	VICTO-GAIN CAPITAL-IBF CAPITAL LTD.			RECOMMENDED	COMMENTS
		CLAIMED DEPOSIT	CLAIMED WITHDRAWAL	NET AMOUNT CLAIMED	ALLOWABLE CLAIM	
	Siezar, Ernesto See Gonzalez, Ernesto					
47	Topete, Felipe	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Of Topete's \$12,600 total claim, \$5,000 was wired to IBF Capital Ltd(Victo) and the \$7,600 was invested in Money World. \$5,000 is valid claim on Victco
48	Valles, Mano	\$2,500.00	\$0.00	\$2,500.00	\$2,500.00	Valid claim (Also claimed by Yanez, F \$2,500)
49	Vargas, Esther/ Juan Gerardo	\$33,500.00	\$15,000.57	\$18,499.43	\$18,499.43	Of Vargas' \$208,499.43 net claim, \$190,000 was wired to FXCM (Money World). \$18,499.43 is valid claim on Victco. (Also claimed by Yanez, F \$2,500)
50	Wong, Chi Yuen	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
51	Yanez, Ruben	\$34,400.00	\$0.00	\$34,400.00	\$34,400.00	Valid claim
52	Yanez, Francisco	\$75,800.00	\$7,126.93	\$68,673.07	\$0.00	Exclude (\$51,000) (Bebenek \$2500, Valles, M. \$2,500, Vargas, JG \$2,500 Paredes, M \$1,000, Chapa-Lopez \$2,500, Chavez, Ofelia \$10,000 & Escobar \$30,000); Exclude \$20,500 claims submitted by Francisco Yanez on behalf of the customers who did not submit separate claims - #53- \$5,000.#54-\$3,500.#55-\$1,500.#56 - \$2,500, #57-\$1,000, #58-\$2,000 and #59-\$5,000 or total of \$20,500. Reduce the net claim by Yanez, F. of \$68,673.07 by (\$51,000) for customers who submitted their own claim, by (\$20,500) for customers who did not submit separate claims = (\$2,826.93) net to Yanez, Francisco or \$0.
53	Yanez, Arturo by Yanez, Francisco	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim
54	Martinez, Maria by Yanez, Francisco	\$3,500.00	\$0.00	\$3,500.00	\$3,500.00	Valid claim
55	Martinez, Francisco by Yanez, Francisco	\$1,500.00	\$0.00	\$1,500.00	\$1,500.00	Valid claim
56	Esparza, Martha by Yanez, Francisco	\$2,500.00	\$0.00	\$2,500.00	\$2,500.00	Valid claim
57	Del Castillo, Teresa by Yanez, Francisco	\$1,000.00	\$0.00	\$1,000.00	\$1,000.00	Valid claim
58	Cervantes, Zulema by Yanez, Francisco	\$2,000.00	\$0.00	\$2,000.00	\$2,000.00	Valid claim
59	Esparza, Hector by Yanez, Francisco	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	Valid claim \$20,500.00
60	Shin, Pong Re	\$2,578,750.00	\$1,180,000.00	\$1,398,750.00	\$505,250.00	Reduce net claimed \$1,398,750 by undocumented deposits of (\$410,000), funds invested in IB Funds Inc. (\$100,000 & \$100,000) and (\$1,463,500) returned by Victco to Shin or net allowable amount of \$505,250
61	Young Hee Kim	\$300,000.00	\$0.00	\$300,000.00	\$83,680.00	Reduce net claimed \$300,000 by amounts invested in IB Funds Inc. (\$16,000, \$124,000 & \$36,000) & (\$40,320) returned by Victco to Kim or allowable amount of \$83,680

UPDATED SPREADSHEET OF OUTSTANDING (VICTCO) CUSTOMER CLAIMS AND RECOMMENDED ALLOWABLE CLAIMS WITH COMMENTS

Prepared by L. Santiago
 Revised 11/2/06

EXHIBIT B

#	CUSTOMER	VICTO-GAIN CAPITAL-IBF CAPITAL LTD.			RECOMMENDED	COMMENTS
		CLAIMED DEPOSIT	CLAIMED WITHDRAWAL	NET AMOUNT CLAIMED	ALLOWABLE CLAIM	
62	King, Ralph	\$10,000.00	\$1,426.76	\$8,573.24	\$8,573.24	Valid claim
		\$3,622,330.29	\$1,256,167.03	\$2,366,163.26	\$1,128,804.44	subtotals
						Less total amount claimed by Francisco Yanez for customers #54,55,56,57,58, 59 & 60 included in F. Yanez claim form who did not submit separate claims.
		\$20,500.00	\$0.00	\$20,500.00		
		\$3,601,830.29	\$1,256,167.03	\$2,345,663.26	\$1,128,804.44	Totals
					\$1,040,980.62	Frozen funds

OUYANG (VICTCO) PROPOSED UPDATED DISTRIBUTION
PLAN FOR RESTITUTION TO CUSTOMERS OF VICTCO

Prepared by L. Santiago
CFTC-DCIO 11/2/06

EXHIBIT C

	1	2	3	4
		RECOMMENDED	PERCENTAGE	PRO RATA
		ALLOWABLE	OF TOTAL	AMOUNT OF
#	CUSTOMER	CLAIM	ALLOWABLE	DISTRIBUTABLE
			CLAIM	FUNDS
1	Bebenek, Guadalupe/ Canales, Rosa M.	\$5,000.00	0.442947%	\$4,610.99
2	Briceno, Ernesto & Maria	\$4,400.00	0.389793%	\$4,057.67
3	Chapa-Lopez, Orvilia Elva	\$5,000.00	0.442947%	\$4,610.99
4	Chavez, Jose Luis	\$9,975.00	0.883678%	\$9,198.92
5	Chavez, Ofelia	\$6,000.00	0.531536%	\$5,533.18
6	Chavez, Silvia/ Santos, Nelly	\$10,000.00	0.885893%	\$9,221.97
7	Cheong, Kuai Peng	\$5,000.00	0.442947%	\$4,610.99
8	Contreras, Robert/ Elizabeth	\$9,000.00	0.797304%	\$8,299.78
9	Curtade, Clemen	\$3,500.00	0.310063%	\$3,227.69
10	Escobar, Jorge/ Luz Magdalena	\$30,000.00	2.657679%	\$27,665.92
11	Flores, Daniel	\$7,874.67	0.697612%	\$7,262.00
12	Galindo, Bertha	\$14,000.00	1.240250%	\$12,910.76
13	Garcia, Maria	\$12,382.00	1.096913%	\$11,418.65
14	Gershenson, Joseph Kevin	\$9,719.05	0.861004%	\$8,962.88
15	Godjabashian, Arshak	\$7,605.71	0.673785%	\$7,013.97
16	Gonzalez, Ernesto	\$2,000.00	0.177179%	\$1,844.39
17	joint with Siezar, Ernesto	\$1,500.00	0.132884%	\$1,383.30
18	Guerra, Dario Gonzalez	\$12,128.05	1.074416%	\$11,184.46
19	Guerrero, Leonardo	\$4,647.00	0.411674%	\$4,285.45

OUYANG (VICTCO) PROPOSED UPDATED DISTRIBUTION
PLAN FOR RESTITUTION TO CUSTOMERS OF VICTCO

Prepared by L. Santiago
CFTC-DCIO 11/2/06

EXHIBIT C

	RECOMMENDED	OF TOTAL	AMOUNT OF
	ALLOWABLE	ALLOWABLE	DISTRIBUTABLE
# CUSTOMER	CLAIM	CLAIM	FUNDS
20 Gupta, Rajeev	\$5,000.00	0.442947%	\$4,610.99
21 Gutierrez, Ignacio/ Leticia	\$4,485.00	0.397323%	\$4,136.06
22 Gutierrez, Jose & Beatriz	\$8,839.11	0.783051%	\$8,151.41
23 Huang, James Zhiquian	\$0.00	0.000000%	\$0.00
Jeno, Harold/Escareno, C. (See Escareno, Cynthia/ Jeno, Harold		0.000000%	\$0.00
24 Kong, Stephanie LiWen	\$5,000.00	0.442947%	\$4,610.99
25 Kort, Gary	\$5,000.00	0.442947%	\$4,610.99
26 Lopez, Jose & Lucila	\$16,617.00	1.472088%	\$15,324.16
27 Lopez, Gustavo	\$25,000.00	2.214733%	\$23,054.94
28 Lora, Dora	\$5,000.00	0.442947%	\$4,610.99
29 Luna, Maria	\$10,000.00	0.885893%	\$9,221.97
30 Luna, Mayra	\$10,000.00	0.885893%	\$9,221.97
31 Luva, Victor	\$9,000.00	0.797304%	\$8,299.78
32 Machado, David	\$6,047.99	0.535787%	\$5,577.44
33 Maldonado, Hector	\$9,000.00	0.797304%	\$8,299.78
34 Mendoza, Ruben	\$5,000.00	0.442947%	\$4,610.99
35 Monroy, Myrna & Lauro	\$31,000.00	2.746268%	\$28,588.12
36 Naveja, Ana (Naveja, Jose)	\$3,716.50	0.329242%	\$3,427.35
37 Paredes, Martha	\$1,000.00	0.088589%	\$922.20
38 Pena, Hector	\$6,981.60	0.618495%	\$6,438.41
39 Qiu, Jie	\$5,000.00	0.442947%	\$4,610.99

OUYANG (VICTCO) PROPOSED UPDATED DISTRIBUTION
PLAN FOR RESTITUTION TO CUSTOMERS OF VICTCO

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CFTC-DCIO 11/2/06

EXHIBIT C

#	CUSTOMER	RECOMMENDED ALLOWABLE CLAIM	OF TOTAL ALLOWABLE CLAIM	AMOUNT OF DISTRIBUTABLE FUNDS
40	Quan, Franklin	\$10,000.00	0.885893%	\$9,221.97
41	Reyes, Guillermina	\$1,180.09	0.104543%	\$1,088.28
42	Rocha, Rosendo	\$38,510.00	3.411574%	\$35,513.83
43	Rodgers, Earnest & Marie	\$16,793.00	1.487680%	\$15,486.46
44	Santillano, Bernarda	\$2,500.00	0.221473%	\$2,305.49
45	Santos, Carlos & Nelly	\$25,000.00	2.214733%	\$23,054.94
46	Seitz, Robert	\$20,000.00	1.771786%	\$18,443.95
	Siezar, Ernesto	\$0.00	0.000000%	\$0.00
	See Gonzalez, Ernesto			
47	Topete, Felipe	\$5,000.00	0.442947%	\$4,610.99
48	Valles, Mario	\$2,500.00	0.221473%	\$2,305.49
49	Vargas, Esther/ Juan Gerardo	\$18,499.43	1.638852%	\$17,060.13
50	Wong, Chi Yuen	\$5,000.00	0.442947%	\$4,610.99
51	Yanez, Ruben	\$34,400.00	3.047472%	\$31,723.59
52	Yanez, Francisco	\$0.00	0.000000%	\$0.00
53	Yanez, Arturo by Yanez, Francisco	\$5,000.00	0.442947%	\$4,610.99
54	Martinez, Maria by Yanez, Francisco	\$3,500.00	0.310063%	\$3,227.69
55	Martinez, Francisco by Yanez, Francisco	\$1,500.00	0.132884%	\$1,383.30
56	Esparza, Martha by Yanez, Francisco	\$2,500.00	0.221473%	\$2,305.49

OUYANG (VICTCO) PROPOSED UPDATED DISTRIBUTION
PLAN FOR RESTITUTION TO CUSTOMERS OF VICTCO

Prepared by L. Santiago
CFTC-DCIO 11/2/06

EXHIBIT C

		RECOMMENDED	OF TOTAL	AMOUNT OF
		ALLOWABLE	ALLOWABLE	DISTRIBUTABLE
#	CUSTOMER	CLAIM	CLAIM	FUNDS
57	Del Castillo, Teresa by Yanez, Francisco	\$1,000.00	0.088589%	\$922.20
58	Cervantes, Zulema by Yanez, Francisco	\$2,000.00	0.177179%	\$1,844.39
59	Esparza, Hector by Yanez, Francisco	\$5,000.00	0.442947%	\$4,610.99
60	Shin, Pong Re	\$505,250.00	44.759746%	\$465,940.28
61	Young Hee Kim	\$83,680.00	7.413153%	\$77,169.49
62	King, Ralph	\$8,573.24	0.759497%	\$7,906.22
	Totals	\$1,128,804.44	100.000000%	\$1,040,980.62
	All Victco customers would receive 92.22% of allowable net invested funds deposits less withdrawals)			