



futures contracts (“futures”) and options on futures contracts (“options”). Specifically, the Complaint alleges that in order to induce current and prospective pool participants to invest or reinvest, Hudgins, as the unregistered commodity pool operator (“CPO”) and general partner for the pool, 3737 Financial L.P., a Texas limited partnership, aka Hudgins Group aka Hudg- Investments (“3737 Financial” or the “commodity pool”), made numerous material misrepresentations and omissions, including, among others:

a. Falsely representing that the commodity pool had a successful track record trading futures and options since 2001;

b. Falsely representing, and grossly inflating, the total amount of funds under management and traded in the commodity pool;

c. Falsely representing the commodity pool’s purported historical profitability, and grossly inflating any such profitability, when, in fact, Hudgins’ trading in futures and options resulted in losses exceeding \$28 million since December 2003;

d. Failing to disclose that Hudgins was trading pool participant money in his own personal trading accounts and not in any trading account opened in the name of the commodity pool; and

e. Issuing false statements regarding the purported “returns” of the commodity pool in monthly and/or quarterly newsletters and other promotional material.

3. Based on these acts, the Complaint alleges that Hudgins: engaged in commodity pool fraud in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and Regulation 4.41(a), 17 C.F.R. § 4.41(a) (Count I); engaged in fraud in connection with futures in violation of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6(b)(a)(2)(i)-(iii) (Count II); engaged in fraud in connection with options in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and

Regulations 33.10(a)-(c), 17 C.F.R. §§ 33.10(a)-(c) (Count III); and failed to register as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (Count IV).

4. Further, on May 13, 2008, the Commission sought, and this Court entered, an order granting, an *Ex Parte* Statutory Restraining Order (“SRO”) pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), and this Court’s equitable powers, which, among other things, froze the assets of Hudgins, granted the Commission access to the books and records of Hudgins, ordered Hudgins to provide the Commission with an accounting of assets, and ordered Hudgins to appear before the Court on May 22, 2008 to show cause why an order for preliminary injunction should not be granted.

5. On June 9, 2008, the Court entered the *Consent Order of Preliminary Injunction and Other Equitable Relief* (“Consent Order”). The Consent Order, among other matters, appoints Mr. Kelly Crawford of the law firm Scheef & Stone, L.L.P. as Receiver of Hudgins’ assets (“Receiver”).

6. The Consent Order empowers the Receiver to take possession of any legal or equitable interest in, right to, or claim to, any real or personal property of whatever kind and description, wherever situated, of Hudgins (“Receivership Assets”). The ultimate goal of the Receiver and the purpose of the underlying authority granted to the Receiver is marshalling and conserving Receivership Assets for distribution to the victims defrauded by Hudgins.

7. For purposes of distribution of the Receivership Assets to defrauded investors and other parties in interest, on July 9, 2008, the Court entered the *Order Establishing Claims Adjudication Process* (“July 9, 2008 Order”) setting forth the claims procedures pursuant to which claims for the Receivership Assets were required to be submitted to the Court for adjudication, similar to a bankruptcy procedure.

8. On December 15, 2008, after notice to all interested parties and a hearing, the Court entered its *Final Order Adjudicating Claims* in which the Court found, among other things, that the principal amount of the final approved claims of commodity pool participants defrauded by Hudgins totals \$70,816,491. Subsequently, the Court increased the approved claims to \$70,864,679. Moreover, on January 9, 2009, the Court entered its *Order Regarding Petition 15: Order Approving First Interim Distribution* authorizing the Receiver to disburse funds to Hudgins' pool participants, provided that no notice of appeal has been filed with Court on or before sixty (60) days after its January 9, 2009 distribution order.

**I. CONSENTS AND AGREEMENTS**

9. In order to effect settlement of the matters alleged in the Complaint in this action without a trial on the merits or further judicial proceedings, Hudgins:

- a. Consents to the entry of this *Consent Final Order of Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief* ("Order");
- b. Affirms that he has read this Order and agrees to this Order voluntarily, and that no promise or threat of any kind has been made by the CFTC, or any member, officer, agent or representative thereof, or by any other person, to induce his consent to this Order;
- c. Acknowledges proper service of the summons and Complaint;
- d. Admits that this Court has personal and subject matter jurisdiction over him and the subject of this action pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1;
- e. Admits that venue properly lies with this Court pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) and 28 U.S.C. § 1391;
- f. Waives:

i. Any and all claims that he possess under the Equal Access to Justice Act (“EAJA”), 5 U.S.C. § 504 (2004) and 28 U.S.C. § 2412 (2004), and/or Part 148 of the Regulations, 17 C.F.R. §§ 148.1 *et seq.* (2008), relating to or arising from this action;

ii. Any and all claims that he possess under the Small Business Regulatory Enforcement Act, 1996 HR 3136, Pub. L. 104-121, §§ 231-232, 110 Stat. 862-63 (Mar. 29, 1996), as amended by Pub. L. No. 110-28, 121 Stat. 112 (2007), relating to or arising from this action;

iii. The entry of findings of fact and conclusions of law in this action pursuant to Rule 52 of the Federal Rules of Civil Procedure, except as provided below in Section II;

iv. Any claim of double jeopardy based upon the institution of this action or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief; and

v. Any and all rights of appeal from this Order, or the Findings of Fact or Conclusions of Law upon which this Order is predicated;

g. Consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purpose relevant to this action, even if Hudgins now or in the future resides outside the jurisdiction of the United States District Court for the Eastern District of Texas; and

h. Agrees that neither he nor his agents, employees or representatives under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact and Conclusions of Law contained in this Order, or creating, or tending to create, the impression that the Complaint or this

Order is without factual basis; provided, however, that nothing in this provision shall affect Hudgins': (i) testimonial obligations, or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Hudgins shall undertake all steps necessary to ensure that his agents, employees and representatives understand and comply with this agreement.

10. In consenting to the entry of this Order, Hudgins neither admits nor denies the allegations of the Complaint and the Findings of Fact and Conclusions of Law contained in this Order, except as to subject matter and personal jurisdiction, and venue, all of which he admits. Hudgins further agrees and intends that the allegations of the Complaint and the Findings of Fact and Conclusions of Law made by this Court and contained in Section II of this Order shall be taken as true and correct and be given preclusive effect without further proof in any proceeding in bankruptcy filed by or against Hudgins; any proceeding to revoke, restrict or condition Hudgins' registration or attempt to register under the CEA; or any proceeding to enforce the terms of this Order. Hudgins also shall provide immediate notice of bankruptcy filed by or against him by certified mail, in the manner required by Section V of this Order. Hudgins does not consent to the use of this Order, or the findings or conclusions consented to in this Order, by any other party in any other proceeding except as described in this Paragraph 10.

11. No provision of this Order shall in any way limit or impair the ability of any person to seek any legal or equitable remedy against Hudgins or any other person in any other proceeding.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. This Court, being fully advised in the premises, finds that there is good cause for the entry of this Order and that there is no just reason for delay. This Court therefore directs the entry of the following Findings of Fact, Conclusions of Law and the resulting injunctive and

other relief granted in this Order, without a trial on the merits, presentation of evidence, or further judicial proceedings.

**A. Findings of Fact**

**The Parties**

13. The **Commodity Futures Trading Commission** is a federal independent regulatory agency charged with the administration and enforcement of the CEA, 7 U.S.C. §§ 1 *et seq.*, and the Regulations thereunder, 17 C.F.R. §§ 1.1 *et seq.* The CEA and Regulations, among other things, establish a comprehensive system for regulating the solicitation for, and/or the purchase and sale of, futures and options.

14. **George D. Hudgins** is an individual who resides at 3737 Skyline Drive, Nacogdoches, Texas. Hudgins also does business as “George D. Hudgins, L.L.C.,” a Texas limited liability company, created on November 12, 2004 and also located at 3737 Skyline Drive, Nacogdoches, Texas. Hudgins also created on November 12, 2004, the commodity pool, 3737 Financial, which is located at 3737 Skyline Drive, Nacogdoches, Texas. Hudgins, individually and d/b/a as George D. Hudgins LLC (the general partner of 3737 Financial), controlled the day-to-day operations of the commodity pool, including making the commodity pool’s trading decisions and opening personal trading accounts at a registered futures commission merchant (“FCM”) for the purpose of trading on behalf of the commodity pool. Hudgins has never been registered with the Commission as a CPO or in any other capacity.

**Hudgins’ Sale Solicitations and Theft of Customer Funds**

15. Notwithstanding that 3737 Financial was not in existence until 2004, beginning as early as June 2001 until May 14, 2008 (the “relevant time period”), Hudgins fraudulently solicited members of the public to pool together funds to trade futures and options. In particular,

Hudgins solicited pool participants and prospective pool participants to invest, or remain invested, in a commodity pool through promotional packets, newsletters, group presentations and face-to-face meetings. In these solicitation materials and presentations, Hudgins made numerous material misrepresentations and omissions to induce pool participants and prospective participants, to invest, or remain invested in the fund, including, at various times, false representations about the historical profitability of the pool and the size of the commodity pool's assets.

16. For example, beginning in or about December 2004, Hudgins solicited individual participants to write checks to 3737 Financial, told them that their money would be pooled with funds from other pool participants and that Hudgins would use the money to trade futures and options on behalf of all pool participants through a trading account located at Rosenthal Collins Group L.L.C. ("RCG"), a registered FCM.

17. In actuality, rather than opening a commodity trading account at RCG in the name of the commodity pool beginning in December 2003, Hudgins opened multiple trading accounts in his own name at RCG and traded some but not all of the funds invested in 3737 Financial in these accounts.

18. To accomplish his fraudulent scheme, Hudgins accepted funds from pool participants and deposited those funds into various accounts that he owned or controlled at BancorpSouth in Nacogdoches, Texas. Hudgins subsequently wired some but not all of pool participants' funds from those bank accounts to his personal trading accounts at RCG located in Chicago, Illinois, through which Hudgins traded commodity futures and options.

19. Hudgins in January 2005 created and provided to at least one pool participant a promotional packet entitled "Hudg-Investments[:] Making Money in a Bull or Bear Market,"



which discussed, among other things, the purported historical performance of the commodity pool. In the promotional packet, Hudgins stated, among other things, that the commodity pool had gross returns of 46% for 2003, 47% for 2004, and 8.13% for January, 2005.

20. These statements were false and misleading because for the years 2003, 2004, and 2005, Hudgins' RCG trading accounts show that, rather than having the net returns claimed, the trading accounts suffered losses in: December 2003 of \$42,256.26; the full 2004 calendar year of \$1,614,307.97; and January 2005 of \$141,780.51.

21. Hudgins further represented in the promotional packet that 3737 Financial had an investment portfolio of approximately \$23 million when, in fact, as of January 2005, his RCG accounts only had a net value of \$75,713.86.

22. In a further series of deceptive acts in furtherance of his scheme, Hudgins created and provided to pool participants and prospective pool participants monthly and quarterly newsletters entitled "The Hudg-Report" that discussed the purported historical performance of the commodity pool. For example, in the February 2005, February 2006 and Fourth Quarter 2006 Hudg-Reports, Hudgins represented, among other things, that the commodity pool had a net profit of 8.13% for January 2005, approximately 3% for January 2006, and 29.27% for Fourth Quarter 2006, respectively.

23. Similar to the returns listed in the promotional packet, these representations were false and misleading. Hudgins' RCG trading account records show a loss in January 2005 of \$141,780.51, a loss in January 2006 of \$661,977.71 and a loss in Fourth Quarter 2006 of \$988,157.24.

### **The Ponzi Scheme**

24. To lull pool participants into a false sense of security that their funds were secure and not at risk and to prevent pool participants from complaining to federal and/or state authorities, Hudgins mailed false statements to the pool participants. Those account statements, prepared by Hudgins, falsely stated that the pool participants' trading accounts had increased in value.

25. In fact, Hudgins did not generate any profits from trading in futures and options. Rather, Hudgins conducted a large "Ponzi" scheme by paying alleged interest and profits to pool participants with monies paid to Hudgins by other pool participants, instead of profits generated by Hudgins' from trading in futures and options. Nonetheless, Hudgins falsely told pool participants that the interest and profits paid to them were generated from his trading in futures and options.

26. Further, a vast amount of the money Hudgins solicited and received from pool participants was never used by Hudgins to trade futures and options as he had represented. Rather, Hudgins used pool participants' monies to purchase, without pool participants' knowledge or consent, real estate, luxury automobiles, jewelry, and gifts for family and friends, among other personal items and services, to support his lavish lifestyle. As a result of his fraudulent solicitations, Hudgins received and accepted approximately \$88 million from a total of approximately 230 pool participants to trade futures and options. From these commodity pool participants' funds, Hudgins paid back to certain earlier pool participants fictitious "profits" of approximately \$17 million from later pool participants' money.

**The Criminal Action**

27. On June 21, 2008, the United States Attorney for the Eastern District of Texas filed a three count information charging Hudgins with: (i) wire fraud, in violation of 18 U.S.C. § 1343; (ii) embezzlement, in violation of Title 7 U.S.C. § 13(a)(1); and (iii) engaging in monetary transactions using criminally derived property which had been derived from specified unlawful activities, in violation of 18 U.S.C. § 1957(a), *United States v Hudgins*, Cr. No. 9:08-CR-27 U.S.D.C. E.D.Tx (Lufkin) (June 21, 2008). On September 8, 2008, Hudgins entered a plea of guilty to all three charges.

**B. Conclusions of Law**

**Jurisdiction and Venue**

28. This Court has jurisdiction over this action pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1.

29. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the CEA, 7 U.S.C. § 13a-1.

30. Venue properly lies with this Court pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) and 28 U.S.C. § 1391, because Hudgins resides in and transacted business in the Eastern District of Texas, and/or the acts and practices in violation of the CEA occurred within this District, among other places.

31. This Court has personal jurisdiction over Hudgins, who acknowledges service of the Complaint and consents to the Court's jurisdiction over him.

**Violations of the CEA**

32. By the conduct described in Section II.A above, during the relevant time period Hudgins has violated Sections 4o(1), 4b(a)(2)(i)-(iii), 4c(b), and 4m(1) of the Act, 7 U.S.C. §§

60(1), 6(b)(a)(2)(i)-(iii), 6c(b) and 6m(1), and Regulations 4.41(a) and 33.10(a)-(c), 17 C.F.R. §§ 4.41(a) and 33.10(a)-(c).

33. Under the totality of the circumstances, there is a reasonable likelihood of future violations of the CEA and Regulations by Hudgins. Therefore, a permanent injunction should issue in this action.

34. Under the totality of the circumstances, and based upon principles of equity, there is good cause for entry of an order directing Hudgins to make restitution to pool participants, and barring him from registering, trading, soliciting, customers or engaging in any investment, advisory business, as specifically set forth in Sections III and IV below.

35. There is good cause for entry of any order requiring Hudgins to pay a civil monetary penalty.

### **III. ORDER FOR PERMANENT INJUNCTION**

#### **IT IS HEREBY ORDERED THAT:**

36. Hudgins is permanently restrained, enjoined and prohibited from violating Section 40(1) of the Act, 7 U.S.C. § 60(1), and Regulation 4.41(a), 17 C.F.R. § 4.41(a), and, in particular, is permanently restrained, enjoined and prohibited as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce directly or indirectly (A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant, or (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

37. Hudgins, in or in connection with any order to make, or the making of, any contract of sale of any commodity:

- A. in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, or
- B. for any person for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of Section 5a(g) of the Act, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market,

is permanently restrained, enjoined and prohibited from directly or indirectly: cheating or defrauding or attempting to cheat or defraud the other person; and/or willfully deceiving or attempting to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subparagraph (B) above, with the other person in violation of Section 4b(a) of the Act, as amended by The Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 13102, 122 Stat. 1651 (to be codified at 7 U.S.C. § 6b(a)).

38. Hudgins is permanently restrained, enjoined and prohibited from violating Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.10(a)-(c), 17 C.F.R. §§ 33.10(a)-(c), and, in particular, is permanently restrained, enjoined and prohibited from offering to enter into, entering into or confirming the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an “option”, “privilege”, “indemnity”, “bid”, “offer”, “put”, “call”, “advance guaranty”, or “decline guaranty” contrary to any rule, regulation, or order of the Commission prohibiting any such transaction.

39. Hudgins is permanently restrained, enjoined and prohibited from engaging, directly or indirectly, in any activity related to trading in any commodity, as that term is defined

in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (“commodity interest”), including but not limited to, the following:

- a. trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29);
  - b. engaging in, controlling, or directing the trading of any commodity interest accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise;
  - c. soliciting or accepting funds from any person or entity, whether by power of attorney or otherwise, for the purpose of engaging in, controlling, or directing the trading of any commodity interest accounts for or on behalf of any other person or entity ;
  - d. entering into any commodity interest transactions for his own personal account, for any account in which he has a direct or indirect interest and/or having any commodity interests traded on his behalf;
  - e. engaging in any business activities related to commodity interest trading;
- and
- f. applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Commission Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9) (2008), or acting as a principal, agent, officer or employee of any person registered, exempted from registration, or required to be registered with the Commission, except as provided for in Commission Regulation 4.14 (a)(9), 17 C.F.R. §4.14(a)(9) (2008).

40. The injunctive provisions of this Order shall be binding upon Hudgins, and upon any person insofar as he is acting in the capacity of officer, agent, servant, employee, or attorney

of Hudgins, and upon any person who receives actual notice of this Consent Order, by personal service or otherwise, insofar as he or she is acting in active concert or participation with Hudgins.

**IV. RESTITUTION, CIVIL MONETARY PENALTY, AND OTHER  
ANCILLARY RELIEF**

**IT IS FURTHER ORDERED THAT:**

**A. Restitution**

41. Hudgins shall pay restitution in the amount of \$70,864,679.00, plus post-judgment interest (the "Restitution Obligation"). Hudgins shall receive a dollar-for-dollar credit against his Restitution Obligation to the extent that the Receiver is successful in recovering and distributing Receivership Assets to Hudgins' pool participants pursuant to the claims process established by the July 9, 2008 Order or any subsequent modification to that Order.

Accordingly, should the Receiver make distributions to Hudgins' pool participants pursuant to the July 9, 2008 Order, Hudgins' Restitution Obligation will be decreased by the amount of the distribution. Post-judgment interest shall accrue commencing on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry this Order pursuant to 28 U.S.C. § 1961.

**1 Continuation of Appointment of Receiver**

42. To effect payment by Hudgins and distribution of restitution made by him, the Court continues the appointment of the Receiver as described in Paragraphs 5 and 6 above. The Receiver shall collect restitution payments from Hudgins, and make distributions as set forth below and in paragraphs 5 through 15 of the June 9, 2008 Consent Order. The Court shall retain jurisdiction of this cause to assure compliance with this Order, the Restitution Obligation and for other purposes related to this action as set forth in Paragraph 55 below.

43. Hudgins shall send his restitution payments under this Order by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, to the Receiver, Kelly M. Crawford, Scheef & Stone, L.L.P., 500 North Akard Street, Suite 2700, Dallas, Texas 75201 under cover letter that identifies Hudgins and the name and docket number of this proceeding. Hudgins shall simultaneously transmit copies of the cover letter and the form of payment to (a) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and (b) the Chief, Office of Cooperative Enforcement, at the same address.

44. The Receiver shall oversee Hudgins' Restitution Obligation, and shall have the discretion to determine the manner for distribution of funds in an equitable fashion to Hudgins' defrauded customers, or may defer distribution until such time as the Receiver may deem appropriate. In the event that the amount of restitution payments to the Receiver are of a *de minimis* nature such that the Receiver determines that the administrative costs of making a restitution distribution is impractical, the Receiver may, in his discretion, treat such restitution payments as civil monetary penalty payments, which the Receiver shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Section IV.B., below.

45. To the extent that any funds accrue to the U.S. Treasury as a result of the Restitution Obligation in this Order, such funds shall be transferred to the Receiver for disbursement in accordance with the procedures set forth in above.

## 2. Closing of Receiver Estate and Future Restitution Payments

46. Upon the petition by the Receiver to close the Receiver Estate, as defined in Paragraph 6 of the June 9, 2008 Order, the Receiver shall simultaneously provide a final



accounting to the Court and the Parties that, at a minimum, details (i) an accounting of all of the Receivership Assets; and (ii) all distributions made to Hudgins' pool participants pursuant to the claims process established by the July 9, 2008 Order or any subsequent modification to that Order as of that date (the "Final Report"). Within 30 days after an order by the Court closing the Receiver Estate, the Receiver shall provide copies of the Final Report to the United States District Clerk, Fine and Restitution Section, Eastern District of Texas, P.O. Box 570, Tyler, TX 75710 (the "Clerk") and the United States Attorney's Office, Financial Litigation Unit, Eastern District of Texas, P.O. Box 1222, Tyler, TX 75710-1222 (the "FLU").

47. Following an order by the Court closing the Receiver Estate, Hudgins shall send his restitution payments under this Order by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, to the Clerk. The Clerk shall distribute the funds received pursuant to 18 U.S.C. §§ 3611-3612. Should the Clerk make distributions to Hudgins' pool participants identified in the Final Report, Hudgins' Restitution Obligation will be decreased by the amount of the distribution.

48. Upon an order by the Court closing the Receiver Estate, the FLU shall be responsible for enforcement of the outstanding balance of Hudgins' Restitution Obligation. The FLU shall direct that all funds so collected be sent to the Clerk as set forth in paragraph 47, above and the Clerk shall distribute the funds received pursuant to 18 U.S.C. §§ 3611-3612.

49. After entry of the Court's order closing the Receiver Estate and upon a request by the Commission, the FLU shall provide the Commission with a payment history of all restitution payments made by Hudgins or monies collected by the FLU to satisfy the outstanding balance of Hudgins' Restitution Obligation. Any request by the Commission shall be addressed to the

FLU's agents at the United States Attorney's Office, Financial Litigation Unit, Eastern District of Texas, P.O. Box 1222, Tyler, TX 75710-1222, Phone: 903-590-1400, Fax: 903-590-1436.

**B. Civil Monetary Penalty**

50. Hudgins shall pay to the CFTC a civil monetary penalty in the amount of \$15 million plus post-judgment interest (the "CMP Obligation").

51. Post-judgment interest shall accrue beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961(a).

52. Hudgins' CMP Obligation is immediately due and owing.

53. Hudgins shall pay his CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
Attn: Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
(405) 954-6569

If payment is to be made by electronic funds transfer, Hudgins shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Hudgins shall accompany payment of the CMP Obligation with a cover letter that identifies Hudgins, and the name and docket number of this proceeding. Hudgins shall simultaneously transmit copies of the cover letter and the form of payment to: a) the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre,

1151 21<sup>st</sup> Street, NW, Washington, DC 20581; and b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

**C. Priority of Monetary Penalties and Partial Payments**

54. All payments by Hudgins pursuant to this Order shall first be applied to satisfaction of the Restitution Obligation, consistent with the authority granted the Receiver in Part IV.A., above. After satisfaction of the Restitution Obligation in full, payments by Hudgins pursuant to this Order shall be applied to satisfy Hudgins' CMP Obligation.

55. Any acceptance by the Commission and/or the Receiver of partial payment from Hudgins of the Restitution Obligation and/or CMP Obligation shall not be deemed a waiver of Hudgins's obligation to make further payments pursuant to this Order, or a waiver of the Commission's and Receiver's right to seek to compel payment from Hudgins of any remaining balance.

**D. Transfer of Assets**

56. Within five (5) business days following the date of entry of this Order, Hudgins shall (i) transfer to the territory of the United States and deliver according to the procedures established in Section IV herein all funds, documents, and assets located in foreign countries that are held by him, for his benefit, or under his direct or indirect control, whether jointly or singly, and (ii) provide the Receiver access to all records of Hudgins held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records.

57. Hudgins shall not transfer, or cause others to transfer, funds or other property to the custody, possession, or control of any members of his family or any other person or entity for the purpose of concealing such funds from this Court, the Commission or the Receiver until the

Restitution Obligation and the CMP Obligation set forth in Section IV herein have been satisfied in full.

**E. Cooperation**

58. Hudgins shall cooperate fully with the CFTC and any other federal or state government agency seeking to enforce the restitution and civil monetary penalty provisions of this Order by providing any requested information relating to his financial status including, but not limited to, income and earnings, assets, financial statements, asset transfers, tax returns and assets held by him in foreign countries. Hudgins shall also cooperate fully with the Receiver in connection with any actions filed by the Receiver to recover assets of Receivership estate, including claims by the Receiver against certain pool participants for the return of fictitious profits received by such pool participants from Hudgins in excess of the original principal amount of their investments.

**F. Equitable Relief Provision**

59. The equitable relief provisions of this Order shall be binding upon Hudgins and any person who is acting in the capacity of officer, agent, employee, servant, or attorney of Hudgins, and any person acting in active concert or participation with Hudgins who receives actual notice of this Order by personal service or otherwise.

**V. MISCELLANEOUS PROVISIONS**

**IT IS FURTHER ORDERED THAT:**

60. Jurisdiction of this Court: This Court shall retain jurisdiction of this cause to assure compliance with this Order, the Restitution Obligation and for all other purposes related to this action, including for purposes of entertaining any suitable application or motion by the Commission, the Receiver, or Hudgins for additional relief within the jurisdiction of this Court,

including but not limited to, enforcement of paragraphs 5 through 15 of the June 9, 2008 Consent Order of Preliminary Injunction, as well as jurisdiction over all matters related to or arising out of this Court's continuing supervision of the Receivership Assets.

61. Notices: All notices required by this Order shall be sent by certified mail, return receipt requested. Notices to the CFTC shall be sent to the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581. Hudgins shall provide the CFTC with written notice of all changes to his contact telephone number(s) and/or mailing address(es) within ten (10) calendar days of the change(s).

62. Waiver: The failure of any party to this Order or of any customer at any time to require performance of any provision of this Order shall in no manner affect the right of the party or customer to enforce the same or any other provision of this Order at a later time. No waiver in one or more instances of the breach of any provision contained in this Order shall be deemed or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Order.

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

64. Successors and Assigns: This Order shall inure to the benefit of and be binding upon the successors, assigns, heirs, beneficiaries, and administrators of all parties to this Order.

65. Integration: This Order incorporates all of the terms and conditions of the settlement of the parties to this Order. Nothing shall serve to amend or modify this Order in any

respect, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

66. Counterparts and Facsimile Execution: This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered (by facsimile or otherwise) to the other party, it being understood that all parties need not sign the same counterpart. Any counterpart or other signature to this Agreement that is delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Agreement.

67. Entry of Judgment: There being no just cause for delay, the Clerk of the Court shall enter final judgment against Hudgins forthwith and without further delay.

**SO ORDERED**, at Tyler, Texas on the 2<sup>nd</sup> day of April 2009.

A handwritten signature in black ink, appearing to be "L. D. ...", written over a horizontal line.

**UNITED STATES DISTRICT JUDGE**



*Consent Final Order Of Permanent Injunction, Civil Monetary Penalty And Other Equitable Relief* consented to and approved for entry by:

PLAINTIFF UNITED STATES  
COMMODITY FUTURES TRADING  
COMMISSION

/s/ Kathleen M. Banar

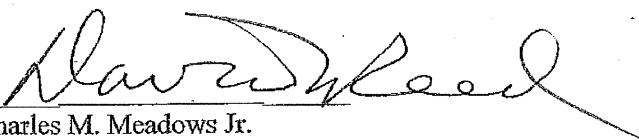
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Commission  
Division of Enforcement  
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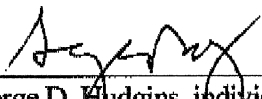
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