

FILED

2008 FEB 13 AM 10:59

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY _____ DEPUTY

1 Louis V. Traeger – California State Bar No. 38714
 2 William P. Janulis – IL ARDC No. 1326449
 3 Rosemary Hollinger – IL ARDC No. 03123647
 4 Attorneys for Plaintiff Commodity Futures Trading Commission
 5 525 W. Monroe St., Suite 1100
 6 Chicago, Illinois 60661
 7 312-596-0563 (Traeger); ltraeger@cftc.gov
 8 312-596-0545 (Janulis); wjanulis@cftc.gov
 9 312-596-0520 (Hollinger); rhollinger@cftc.gov

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 **COMMODITY FUTURES**
 13 **TRADING COMMISSION,**

14 **Plaintiff,**

15 **v.**

16 **CHARLES A. DEFAZIO, and**

17 **GALAXY RESOURCES 2000, LLC,**

18 **Defendants.**

CIVIL ACTION NO: 06 CV 020
BEN MWc

19 **CONSENT ORDER OF PERMANENT INJUNCTION AND OTHER EQUITABLE**
 20 **RELIEF AGAINST DEFENDANTS CHARLES A. DEFAZIO AND GALAXY**
 21 **RESOURCES 2000, LLC**

22 **I. INTRODUCTION**

23 On January 5, 2006, Plaintiff Commodity Futures Trading Commission (“Commission”
 24 or “CFTC”) filed the complaint in this action against Defendants Charles A. DeFazio and Galaxy
 25 Resources 2000, LLC (collectively; “Defendants”) seeking injunctive and other equitable relief
 26 for violations of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 1 et seq.
 27 (2002), and the Commission’s Regulations (“Regulations”) promulgated thereunder, 17 C.F.R.
 28

1 §§ 1 et seq. (2006). The Court entered an Agreed Order of Preliminary Injunction and Other
2 Ancillary Relief against Defendants on January 10, 2006.
3

4 **II. CONSENTS AND AGREEMENTS**

5 To effect settlement of the matters alleged in the Complaint against Defendants without a
6 trial on the merits or any further judicial proceedings, Defendants:

7 1. Consent to the entry of this Consent Order of Permanent Injunction and Other
8 Equitable Relief ("Consent Order");
9

10 2. Affirm that Defendants have agreed to this Consent Order voluntarily, and that no
11 threat, or promise other than as specifically contained herein, has been made by the Commission
12 or any member, officer, agent or representative thereof, or by any other person, to induce consent
13 to this Consent Order;
14

15 3. Acknowledge service of the summons and Complaint;

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

18 5. Admit that venue properly lies with this Court pursuant to Section 6c of the Act,
19 7 U.S.C. § 13a-1;
20

21 6. Waive:

22 a. all claims that they may possess under the Equal Access to Justice Act
23 ("EAJA"), 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), relating to, or arising from, this
24 action and any right under EAJA to seek costs, fees and other expenses relating to, or arising
from, this action;

25 b. any claim of Double Jeopardy based upon the institution of this proceeding or
the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;
26 and

27 c. all rights of appeal from this Consent Order;
28

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

4 8. Agree that neither the Defendants nor their agents, employees or representatives
5 acting under their control shall take any action or make any public statement denying, directly or
6 indirectly, any allegations in the Complaint, or findings in this Consent Order, or creating or
7 tending to create the impression that the Complaint, and this Consent Order are without factual
8 basis; provided, however, that nothing in this provision shall affect Defendants': i) testimonial
9 obligations, or ii) rights to take legal positions in other proceedings to which the Commission is
10 not a party. Defendants will undertake all steps necessary to assure that their agents, employees
11 and representatives understand and comply with this agreement; and

12 9. In consenting to the entry of this Consent Order, Defendants neither admit nor
13 deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law contained
14 in this Consent Order, except as to jurisdiction and venue, which they admit. Defendants do not
15 consent to the use of this Consent Order, or the Findings of Fact or Conclusions of Law in Parts
16 III and IV of this Consent Order, as the sole basis for any other proceeding brought by the CFTC,
17 other than a proceeding in bankruptcy relating to Defendants, a Commission registration
18 proceeding relating to Defendants, or to enforce the terms of this Consent Order. Solely with
19 respect to any bankruptcy proceeding relating to Defendants, a Commission registration
20 proceeding related to Defendants and any proceeding to enforce this Consent Order, Defendants
21 agree that the allegations of the Complaint and all of the Findings of Fact and Conclusions of
22 Law in Parts III and IV of this Consent Order shall be taken as true and correct and be given
23 preclusive effect, without further proof. Furthermore, Defendants agree to provide immediate
24
25
26
27
28

1 notice to this Court and the CFTC by certified mail, in the manner required by Part VI of this
2 Consent Order, of any bankruptcy proceeding filed by, on behalf of, or against either of them.
3
4 No provision of this Consent Order shall in any way limit or impair the ability of any other
5 person or entity to seek any legal or equitable remedy against Defendants in any other
6 proceeding.

7
8 **III. FINDINGS OF FACT**

9 **A. Jurisdiction and Venue**

10 10. This Court has jurisdiction over this action pursuant to Section 6c of the Act,
11 7 U.S.C. § 13a-1, which authorizes the CFTC to seek injunctive relief against any person who
12 has engaged, is engaging, or is about to engage in any act or practice constituting a violation of
13 any provision of the Act or any rule, regulation or order promulgated thereunder.
14

15 11. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C.
16 § 13a-1(e), because DeFazio is a resident of this district and both Defendants transacted business,
17 among other places, in this district, and the acts and practices in violation of the Act have
18 occurred, among other places, within this district.

19
20 **B. Parties to this Consent Order**

21 12. Plaintiff, Commodity Futures Trading Commission, is an independent federal
22 regulatory agency that is charged with responsibility for administering and enforcing the
23 provisions of the Act, 7 U.S.C. §§ 1 et seq. (2002), and the Regulations promulgated thereunder,
24 17 C.F.R. §§ 1 et seq. (2006). The CFTC is authorized by Section 6c of the Act, 7 U.S.C. § 13a-
25 1 (2002), to bring a civil action to enjoin any act or practice constituting a violation of the Act, to
26 enforce compliance with the Act, and to seek civil penalties.
27
28

1 13. Defendant Charles A. DeFazio resides in Oceanside, California. DeFazio is the
2 manager and person in sole control of defendant Galaxy Resources 2000, LLC, which acted as a
3 commodity pool operator ("CPO"). DeFazio committed the acts alleged herein individually and
4 as an agent and controlling person of Galaxy Resources 2000, LLC. DeFazio previously was
5 registered with the Commission as an associated person ("AP") for brief periods in 1988 and
6 1989. Since that time, he has not been registered with the Commission in any capacity.
7

8 14. Defendant Galaxy Resources 2000, LLC ("Galaxy") is a Nevada limited liability
9 company established in July 2000. Galaxy's listed business address is identical to DeFazio's
10 listed residential address in Oceanside, California. DeFazio filed an online application with the
11 National Futures Association ("NFA") for Galaxy to be registered as a CPO and commodity
12 trading advisor ("CTA") on October 6, 2005, but that application has never been approved.
13 Consequently, Galaxy has never been registered with the Commission in any capacity.
14 Additionally, neither Galaxy nor DeFazio is a member of the NFA.
15

16
17 **C. Defendants Falsely Represented That DeFazio Was A Successful Trader**

18 15. From 1999 through February 2005, the period prior to formation and trading of
19 the Galaxy commodity trading pool, DeFazio controlled and traded at least six commodity
20 trading accounts at two futures commission merchants ("FCMs"). DeFazio's trading in those
21 accounts resulted in losses of approximately \$1 million. DeFazio did not disclose his history of
22 prior trading losses when soliciting and accepting funds from prospective Galaxy pool
23 participants. Rather, he knowingly misrepresented to at least two pool participants that he had
24 recent trading successes, and provided to at least five participants a document that claimed that
25 his trading techniques enabled him to "enjoy a very high degree of success in trading commodity
26 futures markets."
27
28

1 **D. Defendants Made Other Misrepresentations Of Material Facts To Pool**
2 **Participants**

3 16. From April 2005 through October 2005, DeFazio sent pool participants and
4 prospective pool participants a number of documents and statements, in which he knowingly or
5 recklessly misrepresented:
6

7 a. that he was "a licensed Series 3 Futures and Options Specialist who is
8 registered with the National Futures Association and Commodity Futures Trading
9 Commission," when he never was so licensed or registered;

10 b. that participants' investments in the pool were profitable when they were not.
11 For example, for the months April through June 2005, DeFazio sent the participants
12 statements showing profits, even though he knew that the Galaxy trading accounts
13 had net losses in each of those months;

14 c. that in September 2005, "the Galaxy Resources Pool got wiped out completely"
15 and "[t]here is no residual balance left in the accounts," when the Defendants still
16 possessed at least \$96,000 of pool participant funds.

17 **E. Defendants Misappropriated Pool Participants Funds**

18 17. DeFazio misappropriated at least \$122,500 of pool participant funds and used
19 those funds for purposes other than trading on participants' behalf, including using some funds to
20 pay a mortgage, credit card charges and other personal expenses.

21 **F. Defendants Commingled Participant Funds**

22 18. From at least May 2005 through September 2005, Galaxy, through DeFazio,
23 maintained two bank accounts in the name of Galaxy at Wells Fargo Bank in which DeFazio
24 deposited participant funds. Galaxy, through DeFazio, commingled participant funds in those
25 bank accounts with funds of unknown origin and used the commingled funds to pay a mortgage,
26 credit card charges and other personal expenses.

27 **G. Galaxy Acted as a CPO Without Registration**

28 19. From at least March or April 2005 to September 2005, Galaxy acted as a CPO by
engaging in a business that is of the nature of an investment trust, syndicate, or similar form of

1 enterprise and in connection therewith, solicited, accepted or received funds, securities or
2 property from others for the purpose of trading in commodities for future delivery on or subject
3 to the rules of contract markets or derivatives transaction execution facilities.
4

5 20. During the relevant time, DeFazio, as principal and manager of Galaxy, directly
6 and indirectly controlled Galaxy and did not act in good faith or knowingly induced, directly or
7 indirectly, Galaxy's actions as a CPO.
8

9 **H. DeFazio Acted as an AP of a CPO Without Registration**

10 21. From at least March or April 2005 to September 2005, DeFazio acted as an AP of
11 a CPO by associating with Galaxy as a partner, officer, employee, consultant, or agent (or as a
12 person occupying a similar status or performing similar functions), in a capacity that involved
13 (i) the solicitation of funds, securities, or property for a participation in a commodity pool or
14 (ii) the supervision of any person or persons so engaged, without being registered with the
15 Commission as an associated person of such CPO.
16

17 **IV. CONCLUSIONS OF LAW**

18 22. The actions and omissions of DeFazio described herein were done within the
19 scope of his office with Galaxy. Therefore, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C.
20 § 2(a)(1)(B), Galaxy also is liable for DeFazio's violations of the Act.
21

22 23. By making material misrepresentations and giving false statements to pool
23 participants and by misappropriating participant funds, Defendants violated Sections 4b(a)(2)(i),
24 (ii), and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i), (ii), and (iii), which make it unlawful for any
25 person to cheat or defraud or attempt to cheat or defraud; or willfully make or cause to be made
26 to other persons false reports or statements, or willfully enter or cause to be entered for other
27 persons false records; or willfully deceive or attempt to deceive by any means whatsoever other
28

1 persons in or in connection with orders to make, or the making of, contracts of sale of
2 commodities, for future delivery, made, or to be made, for or on behalf of such other persons
3 where such contracts for future delivery were or may have been used for (a) hedging any
4 transaction in interstate commerce in such commodity, or the produce or byproducts thereof, or
5 (b) determining the price basis of any transaction in interstate commerce in such commodity, or
6 (c) delivering any such commodity sold, shipped or received in interstate commerce for the
7 fulfillment thereof.
8

9
10 24. By making material misrepresentations and giving false statements to pool
11 participants and by misappropriating participant funds through the use of the Internet and other
12 instrumentalities of interstate commerce, Galaxy, as a CPO, and DeFazio, as the AP of a CPO,
13 also violated Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B), by:
14 (i) employing devices, schemes or artifices to defraud clients or prospective clients, and (ii)
15 engaging in transactions, practices or courses of business which operated as a fraud or deceit
16 upon clients or prospective clients.
17

18 25. By commingling pool funds with other funds of unknown origin, Galaxy, through
19 its agent, DeFazio, violated Regulation 4.20(c), 17 C.F.R. § 4.20(c), and DeFazio is also liable
20 for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).
21

22 26. By engaging in activities as a CPO without the benefit of registration, Galaxy
23 violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1), and DeFazio is also liable for these
24 violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).
25

26 27. By engaging in activities as an AP of a CPO without the benefit of registration,
27 DeFazio violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2).
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

V. NEED FOR A PERMANENT INJUNCTION AND OTHER ANCILLARY RELIEF

28. Defendants Galaxy and DeFazio engaged in acts and practices that violate Sections 4b(a)(2)(i), (ii), and (iii), and 4o(1)(A) and 4o(1)(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(i), (ii), and (iii), 6o(1)(A) and 6o(1)(B), and Regulation 4.20(c), 17 C.F.R. § 4.20(c). Additionally, defendants Galaxy and DeFazio engaged in acts and practices that violate Section 4m(1) of the Act, 7 U.S.C. 6m(1), and defendant DeFazio engaged in acts and practices that violate Section 4k(2) of the Act, 7 U.S.C. § 6k(2). Unless restrained and enjoined by this Court, there is a reasonable likelihood that defendants will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the Act. Other ancillary equitable relief is imposed to carry out the goals of the Act.

VI. PERMANENT INJUNCTION

IT IS HEREBY ORDERED THAT:

A. PROHIBITIONS AGAINST VIOLATIONS OF THE ACT

29. Defendants Galaxy and DeFazio, and all persons who act in the capacity of agents, employees, successors and assigns of either of them, and all persons who actively participate in concert with them, who receive actual notice of this Consent Order by personal service or otherwise, including facsimile transmission, are prohibited and permanently enjoined from directly or indirectly:

- a. cheating or defrauding, or attempting to cheat, or defraud other persons in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity futures transaction, in violation of Section 4b(a)(2)(i) of the Act, 7 U.S.C. § 6b(a)(2)(i);
- b. making or causing to be made to any other person any false report or statement thereof or causing to be entered for any person any false record thereof, in violation of Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii);
- c. willfully deceiving or attempting to deceive by any means whatsoever other persons by any means whatsoever in regard to any order or contract, or in regard to

1 any act of agency performed with respect to any order or contract, in violation of Section
2 4b(a)(2)(iii) of the Act, 7 U.S.C. § 6b(a)(2)(iii);

3 d. employing any device, scheme or artifice to defraud any client or
4 participant or prospective client or participant or engaging in any transaction, practice, or
5 course of business which operates as a fraud or deceit upon any client or participant or
6 prospective client or participant by use of the mails or any means or instrumentality of
7 interstate commerce, in violation of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C.
8 §§ 6o(1)(A) and (B);

9 e. engaging in activities as a CPO without the benefit of registration, in
10 violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1); and

11 f. commingling the property of any pool that they operate or that they intend
12 to operate with the property of any other person in violation of Regulation 4.20(c),
13 17 C.F.R. § 4.20(c).

14 30. Defendant DeFazio, and all persons who act in the capacity of agents, employees,
15 successors and assigns of him, and all persons who actively participate in concert with him, who
16 receive actual notice of this Consent Order by personal service or otherwise, including facsimile
17 transmission, are prohibited and permanently enjoined from directly or indirectly from engaging
18 in activities as an AP of a CPO without the benefit of registration, in violation of Section 4k(2)
19 of the Act, 7 U.S.C. § 6k(2).

20 31. Defendants DeFazio and Galaxy also are permanently prohibited from engaging,
21 directly or indirectly, in any activity related to trading in any commodity, as that term is defined
22 in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) ("commodity interest"), including but not limited to,
23 the following:

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

26 b. engaging in, controlling or directing the trading for any commodity
27 interest account for or on behalf of any other person or entity, whether by power of
28 attorney or otherwise;

c. soliciting or accepting any funds from any person in connection with the
purchase or sale of any commodity interest;

d. applying for registration or claiming exemption from registration with the
Commission in any capacity, and engaging in any activity requiring such registration or
exemption from registration with the Commission, except as provided for in Regulation
4.14 (a)(9), 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent or any other officer or
employee of any person registered, exempted from registration or required to be

1 registered with the Commission, except as provided for in Regulation 4.14 (a)(9),
2 17 C.F.R. § 4.14(a)(9);

3 e. entering into any commodity interest transactions for their own personal
4 accounts, for any account in which they have a direct or indirect interest and/or having
5 any commodity interests traded on their behalf; and

6 f. engaging in any business activities related to commodity interest trading.

7 **B. RESTITUTION**

8 32. Upon entry of this Order, Defendants DeFazio and Galaxy are jointly and
9 severally liable for and a judgment is entered against them in the amount of \$1,035,470 plus
10 post-judgment interest for restitution to pool participants (the "Restitution Amount"). The
11 Restitution Amount shall be reduced by the amount of any distribution ordered by this Court as
12 partial restitution of funds already deposited into the Registry of this Court. Post-judgment
13 interest shall accrue commencing on the date of entry of this Consent Order and shall be
14 determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order
15 pursuant to 28 U.S.C. § 1961.

16 33. Appointment of Monitor: To effect payment by Defendants and distribution of
17 restitution to defrauded customers, the Court appoints Daniel Driscoll, Executive Vice-President
18 of the National Futures Association ("NFA") or his successor, as Monitor ("Monitor"). The
19 Monitor shall collect restitution payments from Defendants; compute *pro rata* allocations to
20 injured customers identified in Attachment A to this Consent Order, and make distributions as
21 set forth below. Because the Monitor is not being specially compensated for these services, and
22 these services are outside the normal duties of the Monitor, he shall not be liable for any action
23 or inaction arising from his appointment as Monitor, other than actions involving fraud.

24 34. Defendants shall make restitution payments under the Consent Order in the name
25 "DeFazio – Galaxy International Settlement Fund" and shall send such restitution payments by
26 electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's, or bank
27
28

1 money order, to Daniel Driscoll, Monitor, National Futures Association, 200 W. Madison Street
2 #1600, Chicago, Illinois 60606-3447 under cover letter that identifies the paying Defendant and
3 the name and docket number of the proceeding. The paying Defendant shall simultaneously
4 transmit copies of the cover letter and the form of payment to Gregory Mocek, Director, Division
5 of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1152 21st
6 Street, N.W., Washington, D.C. 20581, and to the Chief, Office of Cooperative Enforcement, at
7 the same address. The NFA shall oversee Defendants' restitution obligation, shall make periodic
8 distribution of funds to customers as appropriate, or may defer distribution until such time as it
9 deems appropriate. Restitution payments shall be made in an equitable fashion as determined by
10 the NFA to the persons identified on Exhibit A.

13
14 35. All payments by the Defendants pursuant to this Consent Order shall first be
15 applied to satisfaction of the Restitution Amount. After satisfaction of the Restitution Amount,
16 payments by the Defendants pursuant to this Consent Order shall be applied to satisfy the civil
17 monetary penalty described below.

18
19 36. The amounts payable to each investor identified in Exhibit A shall not limit the
20 ability of any investor from proving that a greater amount is owed from Defendants or any other
21 person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of
22 any investor that exist under state or common law.

23
24 37. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each customer of
25 Defendants is explicitly made an intended third-party beneficiary of this Consent Order and may
26 seek to enforce obedience of this Consent Order to obtain satisfaction of any portion of the
27 restitution that has not been paid by Defendants, to ensure continued compliance with any
28

1 provision of this Consent Order and to hold Defendants in contempt for any violations of any
2 provision of this Consent Order.
3

4 **C. CIVIL MONETARY PENALTY**

5 38. Upon entry of this Order, Defendants DeFazio and Galaxy are jointly and
6 severally liable for and a judgment is entered against them for a civil monetary penalty in the
7 amount of \$400,000 plus post-judgment interest. Post-judgment interest shall accrue beginning
8 on the date of entry of this Consent Order and shall be determined at the Treasury Bill rate
9 prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.
10

11 39. Defendants shall pay this civil monetary penalty by making electronic funds
12 transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order,
13 made payable to the Commodity Futures Trading Commission and sent to the address below:
14

15 Commodity Futures Trading Commission
16 Division of Enforcement
17 ATTN: Marie Bateman - AMZ-300
18 DOT/FZZ/MMAC
19 6500 S. MacArthur Blvd.
20 Oklahoma City, OK 73169
21 Telephone: (405) 954-6569

22 If payment by electronic transfer is chosen, the paying Defendant shall contact Marie Bateman or
23 her successor at the address above to receive payment instructions and shall fully comply with
24 those instructions. The paying Defendant shall accompany payment of the civil monetary
25 penalty with a cover letter that identifies the paying Defendant and the name and docket number
26 of this proceeding. The paying Defendant shall simultaneously transmit a copy of the cover
27 letter and the form of payment to:

28 Office of Cooperative Enforcement
Division of Enforcement
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

D. LIMITATIONS ON TRANSFER OF RESIDENCE

40. Defendant DeFazio acknowledges that he has an ownership interest in a residence commonly known as 1584 Via Botero, Oceanside, California 920056-6005. Defendant DeFazio, and all persons who act in the capacity of agents, employees, successors and assigns of him, and all persons who actively participate in concert with him, who receive actual notice of this Consent Order by personal service or otherwise, including by facsimile transmission, are prohibited and permanently enjoined from voluntarily transferring his ownership interest in this residence for less than fair market value.

E. OTHER PROVISIONS

41. Notices: All notices required to be given by any provision in this Consent Order to the Commission shall be sent certified mail, return receipt requested, as follows:

Notice to Plaintiff Commission:
Director of the Division of Enforcement
Commodity Futures Trading Commission
Commodity Futures Trading Commission
1155 21st Street NW, Washington, DC 20581

Notice to Defendant DeFazio:
Charles A. DeFazio
1584 Via Botera
Oceanside, CA 92056

42. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

43. Invalidation: If any provision of this Consent Order, or if the application of any provisions or circumstances is held invalid, the remainder of the Consent Order and the

1 application of the provisions to any other person or circumstance shall not be affected by the
2 holding.
3

4 44. Waiver: The failure of any party hereto at any time or times to require
5 performance of any provision hereof shall in no manner affect the right of such party at a later
6 time to enforce the same or any other provision of this Consent Order. No waiver in one or more
7 instances of the breach of any provision contained in this Consent Order shall be deemed to be or
8 construed as a further or continuing waiver of such breach or waiver of the breach of any other
9 provision of this Consent Order.
10

11 45. Authority: DeFazio hereby warrants that he is the principal and manager of
12 Galaxy, that this Consent Order has been duly authorized by Galaxy, and that he has been duly
13 empowered to sign and submit this Consent Order on behalf of Galaxy.
14

15 46. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this
16 action in order to implement and carry out the terms of this Consent Order and any suitable
17 application or motion for additional relief within the jurisdiction of the Court.
18

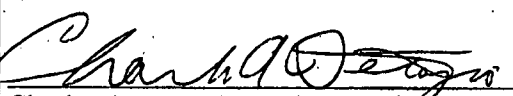
19 47. Counterparts and Facsimile Execution. This Agreement may be executed in two
20 or more counterparts, all of which shall be considered one and the same agreement and shall
21 become effective when one or more counterparts have been signed by each of the parties and
22 delivered (by facsimile or otherwise) to the other party, it being understood that all parties need
23 not sign the same counterpart. Any counterpart or other signature to this Agreement that is
24
25
26
27
28

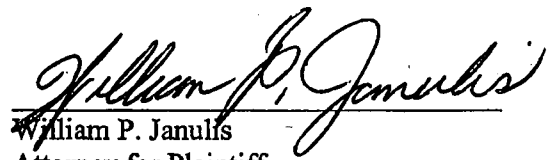
1 delivered by facsimile shall be deemed for all purposes as constituting good and valid execution
2 and delivery by such party of this Agreement.
3

4
5 IT IS SO ORDERED on this 12 day of Feb, 2008

6
7
8 
9 UNITED STATES DISTRICT JUDGE

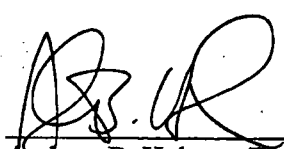
10 CONSENTED TO AND APPROVED BY:

11
12 
13 Charles A. DeFazio, Defendant, individually and
14 on behalf of Galaxy Resources 2000, LLC

15 
16 William P. Janulis
17 Attorney for Plaintiff
18 Commodity Futures Trading Commission

19 Dated: September 19, 2007

20 Dated: January 31, 2008

21 
22 Andrew B. Holmes, Esq.
23 Attorney for Defendants
24 Beck, DeCorso, Daly, Kreindler & Harris
25 601 West Fifth St., 12th Floor
26 Los Angeles, CA 90071
27 213-683-2007

28 Dated: 9/25/07

EXHIBIT A TO TALLARICO DECLARATION DATED 1/30/08

NAME	TOTAL AMOUNT INVESTED	TOTAL AMOUNT RETURNED	TOTAL RESTITUTION OWED	PRO RATA % of RESTITUTION
Andrews, Florence E.	\$ 2,000.00		\$ 2,000.00	0.18%
Berg, Beverly	\$ 20,000.00		\$ 20,000.00	1.79%
Bollock, Stephen L.	\$ 20,000.00		\$ 20,000.00	1.79%
Boswell, Paul	\$ 4,000.00		\$ 4,887.40	0.44%
Brewer, Ruth *	\$ 500.00		\$ -	0.00%
Brion Capital Group	\$ 2,000.00		\$ 2,000.00	0.18%
Bullock, Bernice	\$ 3,500.00		\$ 3,500.00	0.31%
Chambers, James & Teresa	\$ 5,000.00		\$ 5,000.00	0.45%
Clayton, Phil	\$ 2,000.00	\$ 2,000.00	\$ -	0.00%
Cobb, Bud	\$ 10,000.00		\$ 10,000.00	0.89%
Corrales, Jolene	\$ 2,000.00		\$ 2,000.00	0.18%
Cross, John	\$ 2,000.00		\$ 2,000.00	0.18%
Dawson, Gregory A.	\$ 9,479.47	\$ 2,759.47	\$ 6,720.00	0.60%
Dotson, Keith	\$ 2,000.00	\$ 2,000.00	\$ -	0.00%
Emard, Bill	\$ 10,000.00		\$ 10,000.00	0.89%
Enos, Lon	\$ 2,000.00		\$ 2,000.00	0.18%
Feinberg, Marlene	\$ 8,600.00	\$ 4,200.00	\$ 4,400.00	0.39%
Flansaas, Arturo	\$ 10,000.00	\$ 500.00	\$ 9,500.00	0.85%
Forte, Dija	\$ 2,007.00		\$ 2,007.00	0.18%
Forte, James	\$ 5,000.00		\$ 5,000.00	0.45%
Forte, Louis	\$ 5,507.00		\$ 5,507.00	0.49%
Fundacion La Mission a/k/a Gabino Palafox	\$ 59,000.00		\$ 59,000.00	5.28%
Garcia, Imelda	\$ 4,500.00		\$ 4,500.00	0.40%
Garcia, Leobardo	\$ 5,000.00		\$ 5,000.00	0.45%
Gonzales, Christopher	\$ 30,000.00	\$ 12,500.00	\$ 17,500.00	1.57%
Gumm Family Trust	\$ 50,000.00	\$ 10,000.00	\$ 40,000.00	3.58%
Gumm, Bill	\$ 5,000.00		\$ 5,000.00	0.45%
Gumm, Preston	\$ 5,000.00		\$ 5,000.00	0.45%
Halbert, Clifford B.	\$ 5,000.00		\$ 5,000.00	0.45%
Haury, Daryl & Karen	\$ 5,000.00		\$ 5,000.00	0.45%
Haury, Eric	\$ 17,704.21	\$ 5,000.00	\$ 12,704.21	1.14%
Haury, Ken & Cheryl	\$ 2,511.99	\$ 66.00	\$ 2,445.99	0.22%
Haury, Lorica*	\$ 2,000.00		\$ -	0.00%
Hennington, Audie	\$ 2,000.00		\$ 2,000.00	0.18%
Hohler, Eric	\$ 50,000.00	\$ 12,500.00	\$ 37,500.00	3.35%
Howell, Tim	\$ 2,000.00		\$ 2,000.00	0.18%
Huyett, Barbara	\$ 5,000.00		\$ 5,000.00	0.45%
Iracleanos, Sonia	\$ 2,000.00		\$ 2,000.00	0.18%
Jekel, Richard	\$ 2,000.00		\$ 2,000.00	0.18%
Johnson, Val & Greg	\$ 4,000.00		\$ 4,000.00	0.36%
Jordan, Darwyn	\$ 20,000.00		\$ 20,000.00	1.79%
Keller, Michael	\$ 5,000.00		\$ 5,000.00	0.45%
Kelly, Rosalie	\$ 15,000.00		\$ 15,000.00	1.34%
Kingdom Advancement Ministry	\$ 19,000.00		\$ 19,000.00	1.70%
Kraemer, Shirley c/o Kathy Hoaglund	\$ 60,000.00		\$ 60,000.00	5.37%
Landon, Thomas	\$ 14,000.00		\$ 14,000.00	1.25%
Leatherbury, Allan & Patric	\$ 2,500.00		\$ 2,500.00	0.22%
Loomis, Jerry & D'Ann	\$ 22,200.00		\$ 22,200.00	1.99%
Luttrell, David & Ray	\$ 2,500.00		\$ 2,500.00	0.22%
Luttrell, Emmitt	\$ 41,300.00		\$ 41,300.00	3.69%
Luttrell, Jeremy*	\$ 2,500.00		\$ -	0.00%
Luttrell, Jerry & Karen	\$ 6,500.00		\$ 6,500.00	0.58%
Luttrell, Ray & Mary	\$ 15,000.00		\$ 15,000.00	1.34%
McAfee, Rick	\$ 40,000.00	\$ 10,000.00	\$ 30,000.00	2.68%
McKee, Jerry	\$ 25,000.00		\$ 25,000.00	2.24%
McKee, Scott	\$ 7,000.00	\$ 475.00	\$ 6,525.00	0.58%
McKinney, Kimberly	\$ 65,000.00		\$ 65,000.00	5.81%
Morales, Carlos	\$ 10,350.00	\$ 10,350.00	\$ -	0.00%

EXHIBIT A TO TALLARICO DECLARATION DATED 1/30/08

NAME	TOTAL AMOUNT INVESTED	TOTAL AMOUNT RETURNED	TOTAL RESTITUTION OWED	PRO RATA % of RESTITUTION
Moritz, Frederick & Judith	\$ 2,000.00		\$ 2,000.00	0.18%
Mosier, Joel & Tara	\$ 2,000.00		\$ 2,000.00	0.18%
Mott, Richard	\$ 2,000.00		\$ 2,000.00	0.18%
Mueller, Craig & Laura	\$ 2,000.00		\$ 2,000.00	0.18%
Mueller, Scott & Janel	\$ 2,000.00		\$ 2,000.00	0.18%
Murphy, Darci & Leo	\$ 40,000.00		\$ 40,000.00	3.58%
Murrieta, Joseph Alex	\$ 15,000.00		\$ 15,000.00	1.34%
Neff, John	\$ 2,000.00		\$ 2,000.00	0.18%
Neff, Miriam	\$ 2,000.00		\$ 2,000.00	0.18%
Nelson, Ed & Guyla	\$ 8,000.00		\$ 8,000.00	0.72%
Newby, Tom	\$ 2,000.00		\$ 2,000.00	0.18%
O'Day, Edward	\$ 20,000.00	\$ 20,000.00	\$ -	0.00%
Okken, John	\$ 5,000.00		\$ 5,000.00	0.45%
Okken, Monty	\$ 2,000.00		\$ 2,000.00	0.18%
Ostrover, Lewis	\$ 10,000.00		\$ 10,000.00	0.89%
Perez, Abelardo & Juanita	\$ 5,000.00		\$ 5,000.00	0.45%
Phillips, Sandy	\$ 2,000.00		\$ 2,000.00	0.18%
Phillips, William	\$ 4,000.00		\$ 4,000.00	0.36%
Pina, Jose & Doris	\$ 2,000.00		\$ 2,000.00	0.18%
PK Schrader Trust(aka Carol Schrader)	\$ 5,000.00		\$ 5,000.00	0.45%
Pompa, Frank*	\$ 2,000.00		\$ -	0.00%
Ponce, Ysidro	\$ 2,000.00		\$ 2,000.00	0.18%
Richardson, Barbara	\$ 10,000.00	\$ 6,250.00	\$ 3,750.00	0.34%
Rosemont Mission	\$ 147,500.00		\$ 147,500.00	13.19%
Salas, Bina	\$ 5,000.00		\$ 5,000.00	0.45%
Salet, Gerald	\$ 10,000.00	\$ 12,722.36	\$ -	0.00%
Schultz, John*	\$ 8,800.00	\$ 1,268.71	\$ -	0.00%
SeeWest Inc (Seeman, Marvin)	\$ 9,930.00		\$ 9,930.00	0.89%
Sloan, Bobby & Veronica	\$ 2,500.00		\$ 2,500.00	0.22%
Smith, Mark	\$ 20,000.00	\$ 25,106.03	\$ -	0.00%
Stroh, Stephanie	\$ 4,000.00		\$ 4,000.00	0.36%
Sweeney, Elizabeth J	\$ 3,000.00		\$ 3,000.00	0.27%
Tanalski, Joe	\$ 2,000.00		\$ 2,000.00	0.18%
Thompson, James & Lillian	\$ 5,000.00		\$ 5,000.00	0.45%
Tomlin, Jeff	\$ 4,000.00	\$ 4,000.00	\$ -	0.00%
Towe, Marilyn & Frederick	\$ 7,500.00		\$ 7,500.00	0.67%
Trinity Horizon Ltd	\$ 15,000.00		\$ 15,000.00	1.34%
Tydelski, Paul	\$ 35,000.00	\$ 10,000.00	\$ 25,000.00	2.24%
Van Kolken, Joyce	\$ 4,000.00		\$ 4,000.00	0.36%
Vermillion, Greg	\$ 25,000.00		\$ 25,000.00	2.24%
Wehn, Donald	\$ 2,000.00		\$ 2,000.00	0.18%
White, Warwick	\$ 2,000.00		\$ 2,000.00	0.18%
Willet, Nick	\$ 5,000.00		\$ 5,000.00	0.45%
Willet, Monique	\$ 7,000.00		\$ 7,000.00	0.63%
Wolfson, Dr. Rick	\$ 20,000.00		\$ 20,000.00	1.79%
Yates, Darrell & Rowena	\$ 25,000.00		\$ 25,000.00	2.24%
Young, Jonathan*	\$ 750.00	\$ 300.00	\$ -	0.00%
Young, Lester C	\$ 5,000.00	\$ 5,000.00	\$ -	0.00%
Tesoro, Peter	\$ 3,000.00	\$ 4,000.00	\$ -	0.00%
TOTALS	\$ 1,284,139.67	\$ 160,997.57	\$ 1,117,876.60	100.00%
*THE INDIVIDUALS ASTERISKED ABOVE DID NOT PROVIDE ADDITIONAL INFORMATION WITH REGARD TO THEIR SOCIAL SECURITY NUMBERS. THEREFORE, THEY ARE NOT INCLUDED IN THE PRORATA DISTRIBUTION.				