

("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2009). The Court entered a Statutory Restraining Order on June 30, 2009, and a Consent Order of Preliminary Injunction and Other Equitable Relief on August 3, 2009.

II. CONSENTS AND AGREEMENTS

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

1. Consent to entry of this Consent Order of Permanent Injunction and Equitable Relief Against Defendants ("Consent Order");
2. Affirm that Defendants have read and agreed to this Consent Order voluntarily, and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order, other than as set forth specifically herein;
3. Acknowledge proper service of the summons and Complaint;
4. Admit the jurisdiction of this Court over them and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006);
5. Admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006);
6. Waive:
 - a. any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or Part 148 of the Regulations, 17 C.F.R. § 148.1, *et seq.* (2009), relating to, or arising from, this action;
 - b. any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847,

857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-207 (2007), relating to, or arising from, this action;

c. any and all claims 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; and

d. any and all rights of appeal in this action;

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

8. Agree that neither the Defendants nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or Findings of Fact or Conclusions of Law contained in this Consent Order, or creating, or tending to create, the impression that the Complaint or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect the Defendants': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. The Defendants shall undertake all steps necessary to ensure that all of their agents and employees under their authority or control understand and comply with this agreement; and

9. By consenting to the entry of this Consent Order, the Defendants neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law contained in this Consent Order, except as to jurisdiction and venue, which they admit. However, Defendants agree and intend that the allegations of the Complaint shall be taken as true and correct and be given preclusive effect, without further proof, in the course of: (i) any

current or subsequent bankruptcy proceeding filed by, or on behalf of, or against either of the Defendants; (ii) any proceeding to enforce this Consent Order; and (iii) any proceeding pursuant to Sections 8a(1)-(2) of the Act, 7 U.S.C. §§ 12a(1)-(2) (2006), and/or Part 3 of the Regulations, 17 C.F.R. §§ 3.1 *et seq.* (2009). Each Defendant shall provide immediate notice of any bankruptcy filed by, on behalf of, or against that Defendant and shall provide immediate notice of any change of address, telephone number, or contact information in the manner required by Part VI of this Consent Order.

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

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of findings of fact, conclusions of law and a permanent injunction and equitable relief, pursuant to § 6c of the Act, 7 U.S.C. § 13a-1 (2006), as set forth herein.

A. Jurisdiction and Venue

11. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006).

12. This Court has personal jurisdiction over Defendants, who acknowledge service of the summons and Complaint and consent to the Court's jurisdiction over them.

13. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), in that Defendants are found in, inhabit, and/or transact business in this district, and the acts and practices in violation of the Act, the Act, as amended by the CRA, and

Regulations have occurred, are occurring, or are about to occur within this district, among other places.

B. The Parties

14. The United States Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2006), the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* (2009).

15. Defendant Strongbow Investments GP LLC is a Delaware limited liability company formed on June 17, 2005, with its principal place of business at 614 S. Capital of Texas Highway, Austin, Texas 78746. Strongbow has been registered as a Commodity Trading Advisor ("CTA") and has been the registered commodity pool operator ("CPO") for Strongbow Investments Fund II ("Fund II" or "the Pool"), since December 2006. Strongbow Investments GP LLC is also the CPO for Strongbow Investments Fund III ("Fund III"). Fund II and Fund III are both commodity pools established by Strongbow. However, Fund III never commenced operations.

16. Defendant Patrick J. Dailey resides in Dana Point, California, and is Strongbow's Managing Member and principal. Dailey is the Chief Executive Officer ("CEO"), President, fund manager and listed principal of Strongbow, but is not registered as an Associated Person ("AP") of Strongbow.

C. Factual Background

17. From at least July 2005, Defendants solicited at least \$17 million from approximately 22 investors, including Dailey and entities related to Dailey, for the purported

purpose of investing in Strongbow and trading in the Pool. Defendants provided prospective pool participants a single private placement memorandum for both Strongbow and the Pool. Almost all pool participants also deposited money in Strongbow. Defendants told prospective pool participants that the part of their money to be deposited in the Pool would be used to trade futures, options and securities.

18. Defendants instructed pool participants to send money directly to an account in the name of Strongbow rather than to an account in the name of the Pool. Defendants then took some pool participant funds and deposited them into trading accounts in the name of Fund III, a separate pool managed by Strongbow and unrelated to the Pool.

19. Defendants lost millions of dollars trading futures and options in the Pool.

20. Since at least January 2007, Defendants commingled millions of dollars of pool participant funds intended as an investment in the Pool with funds in bank and trading accounts held in the names of Strongbow, Dailey and Dailey Family Limited Partnership ("DFLP") and Suzi Dailey (collectively "Relief Defendants").

21. Defendants did not tell pool participants that their funds intended as an investment in the Pool would be commingled with funds held in bank or trading accounts in the names of Strongbow and Dailey.

22. Dailey frequently borrowed money from pool participant assets for his personal benefit. For example, Dailey borrowed as much as \$1 million to pay off his personal home equity line of credit. Just before the end of the calendar year, Dailey would repay the loans by borrowing on his personal equity home line of credit. Then, after the first of the year, Dailey would again borrow money from the Pool to pay off his personal line of credit.

23. Defendants failed to properly disclose to pool participants that pool participant funds were borrowed by Dailey for his personal use for extended periods of time and that those funds would be paid back, purportedly with interest, by Dailey at the end of the calendar year. These transactions were hidden from pool participants because the loans were not disclosed in account statements, disclosure documents, or otherwise discussed with pool participants.

24. Those loans were identified as notes receivable in Strongbow's corporate books and on the Pool's certified financial statements. The notes receivable recorded unsubstantiated deposits or withdrawals as orally reported by Dailey. No supporting documentation or records to corroborate either the loan or the loan activity was provided to Strongbow's bookkeeper.

25. On June 1, 2009, the National Futures Association ("NFA") commenced an unannounced audit of Strongbow. The NFA is a not-for-profit membership corporation formed as a futures industry self-regulatory organization under Section 17 of the Act and designated a "registered futures association" by the CFTC. NFA performs several regulatory activities pursuant to the authority delegated to it by the CFTC under Section 17 of the Act. During the audit and subsequent investigation, NFA asked Defendants to produce all financial and corporate records relating to the Pool, balance sheets and income statements for the Pool with supporting documentation, monthly account statements sent to pool participants, a list of all future commission merchants and introducing brokers with which Strongbow conducted business and cash receipts and disbursement journals. The NFA also requested written documentation pertaining to the loans made to Dailey.

26. Defendants, however, could not produce all of the documents requested by the NFA, despite the fact that Defendants were required by CFTC Regulations to do so, and

provided incomplete and inconsistent information and documentation relating to the financial condition of Strongbow and the Pool.

D. Defendants Violated the Act, the Act as Amended by the CRA, and Regulations

27. From at least January 2007, in or in connection with futures contracts made or to be made, for or on behalf of other persons, Defendants cheated or defrauded or attempted to cheat or defraud pool participants or prospective pool participants and willfully deceived or attempted to deceive pool participants or prospective pool participants by, among other things, knowingly (1) omitting to tell pool participants that their funds would be commingled with funds held in bank or trading accounts in the names of Strongbow and Dailey; (2) using pool participant funds for Dailey's personal use; and (3) paying back the purported loans in such a way that the pool participants would not discover that the loans had ever occurred, in violation of Section 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(1)(A) and (C).

28. From at least January 2007, Defendants violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2006), and Regulations 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c) (2009), by engaging in options transactions and, among other things, knowingly (1) omitting to tell pool participants that their funds would be commingled with funds held in bank or trading accounts in the names of Strongbow, Dailey, and Relief Defendants; (2) using pool participant funds for Dailey's personal use; and (3) paying back the purported loans in such a way that the pool participants would not discover that the loans had ever occurred.

29. From at least January 2007, Strongbow acted as a CPO and Dailey acted as an AP of a CPO by soliciting, accepting or receiving funds from others and engaging in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, for the purpose of trading in futures. From at least January 2007, Defendants employed a device,

scheme or artifice to defraud pool participants and prospective pool participants or engaged in a transaction, practice or course of business, which operated as a fraud or deceit upon pool participants and prospective pool participants in violation of Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006).

30. Since at least January 2007, Dailey has been associated with a registered CPO, Strongbow, and has solicited or been involved in the solicitation of funds for participation in pools while failing to register as an AP of the CPO, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006). Strongbow permitted Dailey to become and remain associated with Strongbow and knew, or should have known, that Dailey was not registered as an AP of Strongbow, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006).

31. Strongbow failed to make and keep books and records in an accurate, current or orderly manner and, in some instances, failed to keep many of the books and records as required by Section 4n(3)(A) of the Act, 7 U.S.C. § 6n(3)(A) (2006), and Regulation 4.23, 17 C.F.R. § 4.23 (2009).

32. Despite operating from at least January 2007, Strongbow did not establish separate bank and trading accounts in the name of the Pool until June 2009. Up until June 2009, Strongbow accepted and deposited pool participants' funds in accounts in Strongbow's name and in the name of Fund III, a non-operating and inactive fund. Strongbow thereby failed to operate the Pool separate from Strongbow, in violation of Regulation 4.20(a), 17 C.F.R. § 4.20(a) (2009).

33. Strongbow violated Regulation 4.20(b) and (c), 17 C.F.R. § 4.20(b) and (c) (2009), by receiving pool participant funds in its own name, rather than in the name of the Pool, and by commingling pool participant funds in accounts held in the names of Strongbow and Dailey.

34. Dailey repeatedly borrowed substantial funds from pool assets, used them for, among other things, his personal uses, and, purportedly, returned the funds with interest at the end of each calendar year. Until June 2009, Defendants failed to properly disclose this material business dealing to pool participants in Account Statements, Disclosure Documents or in any other manner, in violation of Regulation 4.22(a)(3), 17 C.F.R. § 4.22(a)(3) (2009).

35. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

36. Dailey controls Strongbow, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Strongbow's conduct. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Dailey is liable for Strongbow's violations of Sections 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), Sections 4c(b), 4o(1), 4k(2) and 4n(3)(A) of the Act, 7 U.S.C. §§ 6c(b), 6o(1), 6k(2) and 6n(3)(A) (2006), and Regulations 33.10(a) and (c), 4.23 and 4.20, 17 C.F.R. §§ 33.10(a) and (c), 4.23 and 4.20 (2009).

37. The foregoing acts and omissions by Dailey, as well as other Strongbow employees, occurred within the scope of their employment with Strongbow; therefore, Strongbow is liable for these acts and omissions pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

38. Plaintiff has demonstrated good cause why equitable remedies, including restitution and trading bans, should be imposed on Defendants as set forth below.

IV. ORDER OF PERMANENT INJUNCTION AND ANCILLARY RELIEF

IT IS HEREBY ORDERED THAT:

39. Defendants shall be permanently restrained, enjoined and prohibited from directly or indirectly engaging in conduct that violates: Sections 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), Sections 4c(b), 4q(1), 4k(2) and 4n(3)(A) of the Act, 7 U.S.C. §§ 6c(b), 6q(1), 6k(2) and 6n(3)(A) (2006), and Regulations 33.10(a) and (c), 4.23 and 4.20, 17 C.F.R. §§ 33.10(a) and (c), 4.23 and 4.20 (2009).

40. Strongbow is permanently restrained, enjoined, and prohibited from engaging, directly or indirectly, in:

- 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) (2006));
- b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2009)) ("commodity options"), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B), 2(c)(2)(C)) ("forex contracts") for its own account or for any account in which it has a direct or indirect interest;
- c. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on its behalf;
- d. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;

- e. soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
- f. 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) (2009); and
- g. acting as a principal (as that term is defined in Regulation 3.1(a)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2009).

41. Dailey is permanently restrained, enjoined, and prohibited from engaging, directly or indirectly, in:

- 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) (2006), on behalf of any person or entity other than himself;
- b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2009)) ("commodity options"), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B), 2(c)(2)(C)) ("forex contracts") for any account in the name of Strongbow or for any account of any person or entity, whether by

- power of attorney or otherwise, on behalf of any person or entity other than himself;
- c. controlling or directing the trading for or on behalf of any person or entity other than himself, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts on behalf of any person or entity other than himself;
 - d. soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts on behalf of any person or entity other than himself;
 - e. 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) (2009); and
 - f. acting as a principal (as that term is defined in Regulation 3.1(a)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2009).

42. The Court accepts Defendants' consents, undertakings and agreements set forth in Part II, and based thereupon, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2009), Defendants are ordered to comply with each of the consents, undertakings and agreements set forth in Part II of this Consent Order.

43. The injunctive provisions of this Consent Order shall be binding upon Defendants, upon any person who acts in the capacity of an agent, employee, representative, and/or assign of Defendants 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 Defendants.

**V. ORDER OF RESTITUTION, CIVIL MONETARY PENALTY
AND ANCILLARY RELIEF**

IT IS FURTHER ORDERED THAT:

44. Defendants shall comply fully with the following terms, conditions and obligations relating to the payment of restitution and a civil monetary penalty. The equitable and statutory relief provisions of this Consent Order shall be binding upon Defendants and any person who is acting in the capacity of officer, agent, employee, servant, or attorney of Defendants, and any person acting in active concert or participation with Defendants.

A. Restitution

45. Restitution Obligation: Defendants are hereby jointly and severally liable to pay restitution in the amount of \$1,955,110.10, plus post-judgment interest. Defendants shall pay this restitution obligation by the earlier of ninety (90) days of the date of entry of this Consent Order, or November 5, 2010. Post-judgment interest on this restitution obligation shall accrue beginning on the eleventh (11th) day after the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

46. Appointment of Monitor and Collection and Distribution of Restitution: To effect payment by Defendants and distribution of restitution, the Court appoints the NFA as Monitor. The Monitor shall collect the restitution payment from the Defendants, including the frozen

funds identified in paragraph 51, below, and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, the Monitor shall not be liable for any action or inaction arising from its appointment as Monitor, other than actions involving fraud.

47. Defendants shall cooperate with the Monitor as appropriate to provide such information as the Monitor deems necessary and appropriate to identify Defendants' participants, whom the Monitor, in its sole discretion, may determine to include in any plan for distribution of any restitution payments.

48. Defendants shall make restitution payments under this Consent Order in the name of the "Dailey/Strongbow – Restitution Fund" and shall send such restitution payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to and sent to the Office of Administration, National Futures Association, 300 S. Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under a cover letter that identifies the paying Defendant and the name and docket number of this proceeding. The paying Defendant shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, United States Commodity Futures Trading Commission, at the following address: 1155 21st Street, N.W., Washington, DC 20581, and to the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

49. The Monitor shall oversee Defendants' restitution obligation and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to Defendants' participants identified in Exhibit A to this Consent Order. In the event that the amount of restitution payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative costs of the making a restitution distribution is impractical, the Monitor

may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part V.B., below.

50. Nothing herein shall be construed in any way to limit or abridge the rights of any customer that exist under federal, state, or common law to assert a claim for recovery against Defendants subject to any offset or credit that Defendants may be entitled to claim under the law governing that customer's claim. Subsequent to the entry of this Consent Order, each Defendant shall provide the Commission and the Monitor with immediate notice of any filing or compromise and settlement of any private or governmental actions relating to the subject matter of this Consent Order in the manner required by Part VI of this Consent Order.

51. Frozen Accounts, Transfer of Funds, and Partial Satisfaction of Restitution

Obligation: Upon the entry of this Consent Order, the Commission shall promptly provide each of the financial institutions identified in this paragraph with a copy of this Consent Order. Within thirty (30) days of receiving a copy of this Consent Order, each of the financial institutions identified in this paragraph are specifically directed to liquidate and release any and all funds held by Strongbow in any account number identified below, whether the account is held singly or jointly with Dailey, or in any other capacity, and to convey by wire transfer only to an account designated by the Monitor, any and all funds contained in those accounts, less any amounts required to cover the banks' outstanding administrative or wire transfer fees. The transfer of such funds shall satisfy in part the Defendants' aggregate joint and several restitution obligation identified in paragraph 45. At no time during the liquidation, release and/or wire transfer of these funds pursuant to this Consent Order shall the Defendants be afforded any access to, or be provided with, any funds from these accounts. Defendants, as well as all banks

and financial institutions listed in this Consent Order, shall cooperate fully and expeditiously with the Commission and Monitor in the liquidation, release and wire. The accounts to be liquidated, released and transferred are:

- A. All accounts held by, or on behalf of, or in the name of Strongbow at Fidelity Investments in the approximate amount of \$147,794.60, including, but not limited, to the account identified specifically as account number ZXX-XX3846;
- B. All accounts held by, or on behalf of, or in the name of Strongbow at JP Morgan Chase in the approximate total amount of \$206,397.52, identified specifically as account numbers XXXXX7949, XXXXX6412 and XXXXX2780; and
- C. All accounts held by, or on behalf of, or in the name of Defendant Strongbow at MF Global in the approximate total amount of \$857,944.00, identified specifically as account numbers MXX XX091, MXX XX097, MXX XX267, MXX XX113, and GXX XX185.

52. Accrual of Funds to U.S. Governmental Entities: To the extent that any funds accrue to any U.S. governmental entity, including but not limited to the U.S. Treasury, as a result of the restitution obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in this Part V.A of the Consent Order.

B. Civil Monetary Penalty

53. Pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Regulation 143.8(a)(1)(i), 17 C.F.R. § 143.8(a)(1)(i) (2009), this Court may impose an order directing Defendants, jointly and severally, to pay a civil monetary penalty ("CMP"), to be assessed by the Court, in amounts of not more than the greater of (1) triple the monetary gain to Defendants for each violation of the Act, the Act, as amended by the CRA, and Regulations; or (2) \$130,000 for

each violation of the Act, the Act, as amended by the CRA, and Regulations occurring from October 23, 2004 through October 22, 2008, and \$140,000 for each violation of the Act, the Act, as amended by the CRA, and Regulations occurring on or after October 23, 2008.

54. In determining the amount of the CMP to be paid by the Defendants, the Court has considered the egregiousness, duration, and scope of the fraud and violations of the Act, the Act, as amended by the CRA, and Regulations. A proper showing having been made, Defendants are hereby assessed, jointly and severally, a total CMP in the amount of \$850,000.00, plus post-judgment interest. Defendants shall pay this CMP by the earlier of ninety (90) days of the date of entry of this Consent Order, or November 5, 2010. Post-judgment interest shall accrue beginning on the eleventh (11th) day after the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961.

55. Defendants shall pay the CMP 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 by other than electronic funds transfer, the payment shall be made payable to the United States Commodity Futures Trading Commission and sent to the address below:

United States Commodity Futures Trading Commission
Division of Enforcement
ATTN: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Boulevard
Oklahoma City, Oklahoma 73169
Telephone: (405) 954-6569

If the payment is to be made by electronic funds transfer, contact Marie Bateman, or her successor, at the above address for payment instructions, and shall fully comply with those instructions. Defendants shall accompany the payment of the CMP with a cover letter that

identifies the paying Defendant and the name and docket number of this proceeding. Defendants shall simultaneously transmit copies of the cover letter and the form of payment to the Director, Division of Enforcement, United States Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, DC 20581; and to the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

C. Provisions Related to Monetary Sanctions

56. Satisfaction: Upon full satisfaction of the Defendants' restitution and CMP obligations, satisfaction of judgment will be entered as to the Defendants.

57. Priority of Payments: All payments by Defendants pursuant to this Consent Order shall first be applied to satisfaction of the restitution obligation ordered in Part V.A of this Consent Order. After satisfaction of the restitution obligation ordered in Part V.A of this Consent Order, payments by Defendants pursuant to this Consent Order shall be applied to satisfy the CMP ordered in Part V.B of this Consent Order.

58. Partial Satisfaction: Any acceptance by the CFTC and/or Monitor of partial payment of the restitution obligation or CMP obligation ordered in this Consent Order shall not be deemed a waiver of the Defendants' requirement to make further payments pursuant to this Consent Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

VI. MISCELLANEOUS PROVISIONS

59. Upon execution of this Consent Order by the Court, the asset freeze in the Statutory Restraining Order and Consent Order of Preliminary Injunction and Other Equitable Relief is lifted and shall have no further force and effect with respect to all of Defendants' accounts, with the exception of those accounts described in paragraph 51 of this Consent Order.

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

Notice to Commission:

Director of Enforcement
U.S. Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Elizabeth L. Davis
Division of Enforcement
U.S. Commodity Futures Trading
Commission
1155 21st Street, N.W.
Washington, DC 20581

Notice to Defendants:

Brian E. Spears
Cheryl Johnson
Levett Rockwood P.C.
33 Riverside Avenue
Westport, CT 0688

61. Entire Agreements 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.

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

63. Waiver: The failure of any party hereto at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be or

construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

64. Acknowledgements: Upon being served with copies of this Consent Order after entry by the Court, Defendants shall sign acknowledgements of such service and serve such acknowledgements on the Court and the Commission within seven (7) calendar days.

65. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this case to assure compliance with this Consent Order and for all other purposes related to this action.

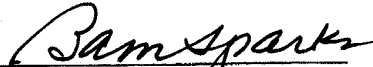
66. Authority: Dailey hereby warrants that he is the President of Strongbow, and that this Consent Order has been duly authorized by Strongbow and he has been duly empowered to sign and submit this Consent Order on behalf of Strongbow.

67. 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.

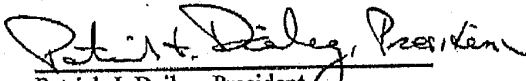
There being no just reason for delay, the Clerk of the Court is hereby directed to enter this *Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants.*

ORDERED AND ADJUDGED.

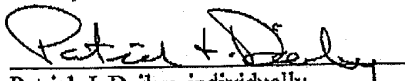
DONE AND ORDERED at Austin, Texas, this 8th day of December, 2010.


HONORABLE SAM SPARKS
United States District Judge


CONSENTED AND APPROVED BY:


Patrick J. Dailey, President
Strongbow Investments GP, LLC

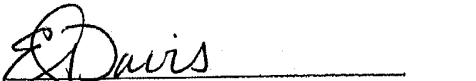
Date: 9/2/2010


Patrick J. Dailey, individually

Date: 9/2/2010


Brian E. Spears
Cheryl Johnson
Counsel for Patrick J. Dailey and Strongbow Investments GP, LLC
Levett Rockwood P.C.
33 Riverside Avenue
Westport, CT 06880
Telephone: (203) 222-0885

Date: 9/8/10


Elizabeth L. Davis, Senior Trial Attorney
Kenneth W. McCracken, Chief Trial Attorney
Counsel for Plaintiff
U.S. Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581
Telephone: (202) 418-5301

Date: 12/7/10

Case No: 1:09cv497

Filed: 12/07/10
Doc. #62

	6/30/09 NAV Allocation	Restitution Allocation	Total Distribution
Bill & Paula Harris Trust	\$65,803.00	\$26,318.06	\$92,165.51
Calden Holdings, LP	\$0.00	\$5,345.00	\$5,345.00
Cliff Mountain	\$78,647.15	\$37,479.65	\$116,179.93
Convergence Institute	\$109,413.23	\$58,833.10	\$168,320.24
Dailey FLP	\$0.00	\$0.00	\$0.00
GA Strongbow Partners	\$0.00	\$0.00	\$0.00
GA Strongbow Partners II	\$0.00	\$0.00	\$0.00
James & Donna Herd	\$79,153.51	\$42,897.19	\$122,104.17
Joseph Feigen	\$57,849.46	\$31,653.79	\$89,542.33
Lloyd Charton	\$41,564.05	\$22,614.11	\$64,206.24
Mansoor Ghori	\$18,392.61	\$10,265.36	\$28,670.39
Mark Chandik	\$152,805.44	\$78,580.67	\$231,489.33
N. Kirby Alton	\$184,114.56	\$99,000.42	\$283,239.35
Nordam, Inc.	\$196,421.36	\$107,474.11	\$304,028.16
NYROY	\$0.00	\$102,976.00	\$102,976.00
P&J Investments	\$0.00	\$0.00	\$0.00
Paul Foreman	\$53,427.29	\$29,233.63	\$82,697.01
Strongbow LLC*	\$812.95	\$0.00	\$0.00
Yocom Family Trust	\$165,041.09	\$90,303.67	\$255,456.25
TOTAL	\$1,203,445.70	\$742,974.76	\$1,946,419.91

*Per firm records, \$812.95 was allocated to Strongbow LLC as of 6/30/09. This amount has been allocated to partic

Case No: 1:09cv497

Filed: 12/07/10
Doc. #62

Participants based on the 6/30/2009 pro rata NAV and included in the final Distribution amount