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 CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

ORIGINAL

12 COMMODITY FUTURES TRADING) Case No. 01-06926 JFW (RZx)
 13 COMMISSION,)
 14 Plaintiff,)
 15 vs.) [PROPOSED] CONSENT ORDER
) OF PERMANENT INJUNCTION
 16 ACRO INFORMATION SERVICE,) AND OTHER EQUITABLE RELIEF
 INC., a California Corporation,) RE ANDREW WAI, ACRO
 17 PAKCO HOLDINGS LIMITED, a) INFORMATION SERVICE, INC.,
 Nevada Corporation, Dr.) AND PAKCO HOLDINGS LIMITED
 18 FLORENTIUS CHAN, SANDY H.)
 19 CHAN and ANDREW TAI WAI aka)
 20 ANDREW HONGCHOW WAI,)
 Defendants)

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

23 On August 9, 2001, Plaintiff Commodity Futures Trading Commission (the
 24 "Commission") filed a complaint against Andrew Tai Wai a/k/a Andrew
 25 Hongchow Wai ("Wai"), Acro Information Service, Inc., ("Acro"), and Pakco
 26 Holdings Limited ("Pakco") and others seeking injunctive and other equitable
 27 relief, as well as the imposition of civil penalties, for violations of the Commodity
 28 Exchange Act as amended (the "Act"), 7 U.S.C. §§ 1 et seq. (1994)

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 CLERK, U.S. DISTRICT COURT
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I.

CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint against Wai, Acro, and Pakco without a trial on the merits or any further judicial proceedings, Wai, Acro, and Pakco:

1. Without admitting or denying the Findings and Conclusions contained herein, consent to the entry of this Consent Order for Permanent Injunction and Other Equitable Relief (the "Order").

2. Affirm that they have agreed to this 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 Order, other than as set forth specifically herein.

3. Acknowledge service of the Summons and Complaint.

4. Admit 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 (2001).

5. Admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001).

6. Waive:

a. all claims which they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (1994) and 28 U.S.C. § 2412 (1994), as amended by Pub. L. No. 104-121, §§ 231-32, 110 Stat. 862-63, and Part 148 of the Regulations, 17 C.F.R. § 148.1, et seq. (2001), relating to, or arising from, this action;

b. any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing injunctive and any other equitable relief;

c. all rights of appeal from this Order; and

1 d. the entry of Findings of Fact and Conclusions of Law in this action
2 pursuant to Fed. R. Civ. P. 52, except as provided in Part II below.

3 7. Consent to the continued jurisdiction of this Court for the purpose of
4 enforcing the terms and conditions of this Order and for any other purposes
5 relevant to this case.

6 II.

7 FINDINGS AND CONCLUSIONS

8 This Court makes the following Findings and Conclusions:
9

10 8. From at least May 22, 2001, continuing to August 13, 2001, Wai,
11 Acro, and Pakco violated Section 4(a) of the Commodity Exchange Act, 7 U.S.C. §
12 6(a) (2001).
13

14 9. From at least May 22, 2001, and continuing to August 13, 2001, Wai,
15 Acro and Pakco violated Section 4b(a)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(i)
16 and (iii) (2001).
17

18 10. Wai, Acro, and Pakco have consented to the entry of this Consent
19 Order of Permanent Injunction and Other Equitable Relief, which Consent is filed
20 concurrently herewith.
21

22 III.

23 ORDER FOR PERMANENT INJUNCTION

24 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:
25

26 11. Wai, Acro, and Pakco and any person insofar as he or she is acting in
27 the capacity of officer, agent, servant, employee, or attorney of Wai, Acro, and
28 Pakco, and any person insofar as he or she is acting in active concert or participation

1 with Wai, Acro, and Pakco who receives actual notice of this Order by personal
2 service or otherwise, are permanently enjoined from directly or indirectly violating,
3 or aiding and abetting any other person in violating, Section 4(a) of the Act, 7
4 U.S.C. § 6(a)(2001) by offering to enter into, entering into, executing, confirming
5 the execution of, or conducting business for the purpose of soliciting, accepting
6 any order for, or otherwise dealing in any transaction in, or in connection with, a
7 contract for the purchase or sale of a commodity for future delivery, when:
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9
10 (A) such transactions have not been conducted on or subject to the rules of a
11 board of trade which has been designated or registered by the Commission as a
12 contract market or derivatives transaction execution facility for such commodity;
13 and
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15
16 (B) such contracts have not been executed or consummated by or through a
17 member of a contract market.

18 12. Wai, Acro, and Pakco and any person insofar as he or she is acting in
19 the capacity of officer, agent, servant, employee, or attorney of Wai, Acro, or
20 Pakco, and any person insofar as he or she is acting in active concert or
21 participation with Wai, Acro, or Pakco who receives actual notice of this Order by
22 personal service or otherwise, are permanently enjoined from directly or indirectly:
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24
25 A. In or in connection with any order to make, or the making of, any
26 contract of sale of any commodity for future delivery, made, or to be made, for or on
27 behalf of any other person if such contract for future delivery is or may be used for
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1 (A) hedging any transaction in interstate commerce in such commodity or the
2 products or byproducts thereof, or (B) determining the price basis of any transaction
3 in interstate commerce in such commodity, or (C) delivering any such commodity
4 sold, shipped, or received in interstate commerce for the fulfillment thereof:
5

6 (i) Cheating or defrauding or attempting to cheat or defraud such
7 other person, in violation of Section 4b(a)(i) of the Act, 7 U.S.C. § 6b(a)(i) (2001);
8

9 (ii) Willfully deceiving or attempting to deceive such other person by
10 any means whatsoever in regard to any such order or contract or the disposition or
11 execution of any such order or contract, or in regard to any act of agency
12 performed with respect to such order or contract for such person, in violation of
13 Section 4b(a)(iii) of the Act, 7 U.S.C. § 6b(a)(iii) (2001).
14

15
16 13. Wai, Acro, and Pakco and any person insofar as he or she is acting in
17 the capacity of officer, agent, servant, employee, or attorney of Wai, Acro, or
18 Pakco, and any person insofar as he or she is acting in active concert or
19 participation with Wai, Acro, or Pakco who receives actual notice of such order by
20 personal service or otherwise, are permanently enjoined from directly or indirectly:
21

22 A. Trading on or subject to the rules of any registered entity as defined by the
23 Act and any other entity subject to the jurisdiction of the Commission;
24

25 B. Engaging in, controlling, or directing the trading of any futures or options
26 account for or on behalf of any other person or entity, whether by power of
27 attorney or otherwise;
28

1 C. Soliciting or accepting any funds from any person in connection with the
2 purchase or sale of any commodity futures or option on futures ("commodity
3 interest") contract, placing orders, giving advice or price quotations or other
4 information in connection with the purchase or sale of commodity interest
5 contracts for himself or others, introducing customers to any other person engaged
6 in the business of commodity interest trading issuing statements or reports to
7 others concerning commodity interest trading, and otherwise engaging in any
8 business activities relating to commodity interest trading; and
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12 D. Applying for registration or claiming exemption from registration with
13 the Commission in any capacity, or engaging in any activity requiring registration
14 or exemption from registration, except as provided for in Section 4.14(a)(9) of the
15 Commission's Regulations, 17 C.F.R. § 4.14(a)(9)(2001); or acting as a principal,
16 agent or officer of any person registered, required to be registered, or exempted
17 from registration with the Commission, unless such exemption is pursuant to
18 Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. § 4.14(a)(9)(2001).
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21 IV.

22 **ORDER FOR OTHER EQUITABLE RELIEF**

23 IT IS FURTHER ORDERED THAT:
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25 14. Wai shall pay a civil monetary penalty in the amount of \$110,000 as
26 follows: an annual payment to an account designated by the National Futures
27 Association, which shall act as Monitor, on or before July 31 of each calendar year
28 (the "Annual Payment"), beginning in calendar year 2003 and continuing for ten

1 years (or until the \$110,000 is paid in full, if that happens first). Payments shall be
2 made by electronic funds transfer or by U.S. postal money order, certified check,
3 bank cashier's check, or bank money order, made payable to the Commodity
4 Futures Trading Commission and sent to Dennese Posey, or her successor, Three
5 Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581, under cover
6 letter that identifies defendants Wei, Acro, and Pakco and the name and docket
7 number of the proceeding. Wai shall simultaneously transmit a copy of the cover
8 letter and the form of payment to the National Futures Association, , and to the
9 Director, Division of Enforcement, Commodity Futures Trading Commission,
10 Three Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581.
11 The amount of Wai's Annual Payment shall consist of a portion of: (1) his
12 adjusted gross income (as defined by the Internal Revenue Code) earned or
13 received by Wai during the preceding calendar year, plus (2) all other net cash
14 receipts, net cash entitlements or net proceeds of non-cash assets received by Wai
15 during the preceding calendar year. The Annual Payment will be determined as
16 follows:
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Total Adjusted Gross Income plus Net	Percent of Total to be Paid by Wais:
Cash Receipts:	
\$0 -- \$25,000	0%
\$25,000--\$50,000	20% of the amount between \$25,000 and \$50,000
\$50,000 -- \$100,000	20% of the amount between \$25,000 and \$50,000 plus 30% of the amount between \$50,000 and 100,000

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\$100,000 and up

20% of the amount between \$25,000 and \$50,000 plus 30% of the amount between \$50,000 and \$100,000 plus 40% of the amount above \$100,000

15. Wai shall provide to the Monitor complete copies of his signed income tax returns filed with the Internal Revenue Service ("IRS"), all IRS 1099 forms, and all other schedules and attachments (e.g., IRS Form W-2), as well as any filings he is required to submit to any state tax or revenue authority, on or before June 30 of each calendar year, commencing with June 30, 2003 and ending on June 30, 2013. If, during the same time period, Wai elects to file a joint tax return, he shall provide all documents called for by this Paragraph 15, including the signed and filed joint tax return, plus a draft individual tax return prepared on IRS Form 1040 containing a certification by a licensed certified public accountant that the "Income" section (currently lines 7-22 of Form 1040) truly, accurately and completely reflects all of the Wai's income, that the "Adjusted Gross Income" section truly, accurately and completely identifies all deductions that Wai has a right to claim, and that the deductions contained in the "Adjusted Gross Income" section are equal to or less than 50% of the deductions that Wai is entitled to claim on the joint tax return; provided, however, that Wai may claim 100% of the deductions contained in the "Adjusted Gross Income" section that are solely his. Such individual tax return shall include all schedules and attachments thereto (e.g., IRS Forms W-2) and Forms 1099, as well as any filings required to be submitted to

1 any state tax or revenue authority. If Wai does not file a return, he shall provide his
2 sworn financial statement on June 30 and December 31 of each calendar year,
3
4 starting on December 31, 2003 and continuing through and including June 30, 2013.

5 The financial statements shall provide:

- 6
- 7 a. A true and complete itemization of all of Wai's rights, title and
8 interest (or claimed interest) in any asset, wherever, however and
9 by whomever held;
 - 10 b. An itemization, description and explanation of all transfers of
11 assets with a value of \$1,000 or more made by or on behalf of
12 Wai over the preceding six-month interval; and
 - 13 c. A detailed description of the source and amount of all of Wai's
14 income or earnings, however generated.

15 16. Based on the information contained in Wai's tax returns (and, to the
16 extent they are provided, his sworn financial statements) and further instructions
17 that may be issued by this Court regarding the method of calculating payments, the
18 Monitor shall calculate the Annual Payment to be paid by Wai for that year. On or
19 before July 31 of each year, the Monitor shall send written notice to Wai with
20 instructions to immediately pay the Annual Payment to the Monitor.

21 17. Wai shall cooperate fully with the Monitor and the Commission in
22 explaining Wai's financial income and earnings, status of assets, financial
23 statements, asset transfers and tax returns, and shall provide such additional
24 information and documents with respect thereto as may be requested by the
25 Monitor or the Commission. Wai shall also cooperate fully and expeditiously with
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1 the Monitor and the Commission in carrying out all other aspects of his obligations
2 described in this Order.

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4 18. Wai shall not transfer or cause others to transfer funds or other
5 property to the custody, possession, or control of any member of his family or any
6 other person for the purpose of concealing such funds or property from the Court,
7
8 the Monitor or the Commission.

9 19. Any failure by Wai to carry out any of the terms, conditions or
10 obligations under any paragraph of this Order shall constitute an Event of Default.

11 If any Event of Default occurs, the Commission (or its designee) shall be entitled
12 to:
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- 14 a. an order requiring immediate payment of any unpaid portion of
15 the civil monetary penalty set forth above in Paragraph 14
16 above; and/or
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18 b. move the Court for imposition of all other available remedies,
19 including, but not limited to, an order holding Wai in contempt
20 for violation of this Order.
21

22 20. Upon the occurrence of an Event of Default based upon a claim or
23 cause of action that Wai failed to make any Annual Payments when due, Wai will
24 be barred from asserting any defense, including the expiration of any statute of
25 limitations, waiver, estoppel or laches, where such defense is based on the alleged
26 failure of the Commission to pursue such claims or causes of action during the
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1 pendency of this civil action, during the negotiation of the Wai's Consent to this
2 Order or while this Order remains in effect. The only issue that Wai may raise in
3 defense is whether he has made the Annual Payments as directed by the Monitor.
4 Any motion by the Commission for entry of an order pursuant to this paragraph
5 requiring payment of less than the full amount of the civil monetary penalty set
6 forth in paragraph 14 above, or any acceptance by the Commission of partial
7 payment of the Annual Payments made by the Wai, shall not be deemed a waiver
8 of the Commission's right to require Wai to make further payments pursuant to the
9 payment plan set forth above, or, in the event of a further Event of Default, a
10 waiver of the Commission's right to require immediate payment of the entire
11 remaining balance or any unpaid portion of the civil monetary penalty set forth in
12 paragraph 14 above.
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17 21. Based upon Wai's representations in his Financial Disclosure
18 Statement and other evidence provided by Wai to the Commission regarding his
19 financial condition, the Court is not ordering payment of a civil monetary penalty
20 other than as required by paragraphs 14 through 16 above. This determination is
21 contingent upon the accuracy and completeness of Wai's Financial Disclosure
22 Statement, other evidence provided by Wai regarding his financial condition, and
23 other information provided to the Commission. If at any time following the entry
24 of this Order, the Commission obtains information indicating that Wai's
25 representations to the Commission concerning his financial condition or
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1 accounting were fraudulent, misleading, inaccurate or incomplete in any material
2 respect as of the time such representations were made, the Commission may move
3 this Court for an order requiring Wai to make immediate payment of his entire
4 civil monetary penalty, or of any portion thereof, the amount of which shall be
5 determined by the Commission. In connection with any such motion, the only
6 issues shall be whether the financial information provided by Wai was fraudulent,
7 misleading, inaccurate or incomplete in any material respect as of the time such
8 representations were made. In its motion, the Commission may move this Court to
9 consider all available remedies, including, but not limited to, ordering Wai to pay
10 funds or transfer assets or directing the forfeiture of any assets, and the
11 Commission may also request additional discovery. Wai may not, by way of
12 defense to such motion, challenge the validity of his Consent or this Order, or
13 contest any of the Findings set forth in this Order, assert that payment of a civil
14 monetary penalty should not be ordered, or contest the amount of the civil
15 monetary penalty to be paid. If in such motion, the Commission moves for, and
16 the Court orders, payment of less than the full amount of the civil monetary
17 penalty, such motion will not be deemed a waiver of the Commission's right to
18 require Wai to make further payment pursuant to the payment plan set forth above.

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25 22. Upon the entry of this Order, the provisions of the Court's August 10,
26 2001, Order of Preliminary Injunction and Other Equitable Relief entered against
27 Wai, Acro and Pakco imposing a freeze on their assets shall no longer be in effect.
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1 Upon being served with copies of this Order after entry by the Court, financial
2 institutions and other entities holding frozen funds or other property previously
3 controlled by Wai, Acro, and Pakco shall tender the funds to the Monitor. The
4 Monitor shall distribute the funds frozen in the following Acro and Pakco accounts
5 as restitution to customers of Acro during Wai's ownership:
6

- 7 a. Bank of America Account #06518-04014
- 8
- 9 b. Bank of America Account #06513-04187

10 The identity of these customers is contained in "Exhibit A" filed under seal with
11 this Court simultaneously with the filing of this Order.V.
12

13 **OTHER PROVISIONS**

14
15 23. IT IS FURTHER ORDERED THAT:

16 Notices: All notices required by this Order shall be sent by certified mail,
17 return receipt requested, as follows:

- 18 Notice to the Commission:
- 19 Director, Division of Enforcement
- 20 Commodity Futures Trading Commission
- 21 1155 21st St. NW
- 22 Washington, DC 20581
- 23 Notice to Monitor:
- 24 Vice President, Compliance
- 25 National Futures Association
- 26 200 West Madison Street
- 27 Chicago, IL 60606
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Notice to Wai :
#15 Gogolya Street, Flat #6
Postal Code 480100
Almaty, Republic of Kazakhstan

24. In the event that Wai changes his residential or business telephone number(s) and/or address(es) at any time, he shall provide written notice of the new number(s) and/or address(es) to the Monitor and to the Commission within ten (10) calendar days thereof.

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

26. This Order shall inure to the benefit of and be binding upon the successors, assigns, heirs, beneficiaries, and administrators of the parties hereto.

27. If any provision of this Order or the application of any provisions or circumstances 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.

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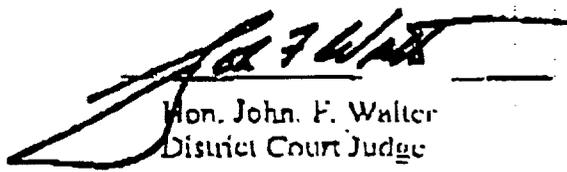
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4 28. This Court shall retain jurisdiction of this cause to assure compliance
5 with this and for all other purposes related to this action.

6 29. Upon being served with copies of this Order after entry by this Court,
7 Wai, Acro, and Pakco or their designated agent shall sign an acknowledgment of
8 such service and serve such acknowledgment on this Court and the Commission
9 within seven (7) calendar days.
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11 30. Upon being served with copies of this Order after entry by the Court,
12 the Commission shall serve a copy of the Order upon the Monitor within seven (7)
13 calendar days.
14

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16
17 DATED 7/1, 2003


Hon. John F. Walter
District Court Judge

18
19
20 Approved for Entry by:
21  Andrew Tai Wai

22 Dated: 6-5-2003

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25 June 17, 2003


Myrna D. Morganstern
Attorney for Plaintiff
Commodity Futures
Trading Commission

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Dated:

Andrew Tai Wai

Andrew Tai Wai, President
Acro Information Service, Inc.

Dated: 5.5.2003

Andrew Tai Wai

Andrew Tai Wai, President
Pakco Holdings Limited

Dated: 5.5.2003

APPROVED AS TO FORM AND CONTENT:

Dated: May 8, 2003

David K.W. Chang

David K.W. Chang, Esq.
Attorney for Andrew Tai Wai,
Acro Information Service, and
Pakco Holdings Limited