

5. On October 9, 2002, the court entered a Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants John O'Herron and O'Herron Asset Management, Inc. ("Consent Order"). Among other things, the Consent Order permanently enjoins O'Herron from:

- a. violating Sections 4b(a)(i), (ii) and (iii), 4m(1), and 4o(1)(B) of the Act, 7 U.S.C. §§ 6b(a)(i), (ii) and (iii) and 6o(1)(B) (2001), and Regulations 4.20(c) and 4.21, 17 C.F.R. §§ 4.20(c) and 4.21 (2002);
- b. participating in the futures industry in any registered or exempt capacity except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2002); and
- c. trading on or subject to any registered entity and engaging in, controlling or directing the trading of any futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise.

The facts set forth in paragraphs 4 and 5 above constitute a basis for statutory disqualification from registration under Section 8a(2)(C) and (E) of the Act, 7 U.S.C. § 12a(2)(C) and (E), pursuant to which the current registrations of O'Herron may be suspended, restricted, or revoked.

II.

Pursuant to Section 3.60(a), 17 C.F.R. § 3.60(a) (2002), O'Herron is hereby notified that a public proceeding shall be conducted in accordance with the provisions of Commission Regulation 3.60, 17 C.F.R. § 3.60 (2002), on the following questions:

1. Whether O'Herron is subject to statutory disqualification under Section 8a(2)(C) and (E) of the Act, as set forth in Section I, above; and
2. If the answer to question 1 is affirmative, whether the registrations of O'Herron as a CTA and AP should be conditioned, suspended, restricted, or revoked. Such proceeding shall be

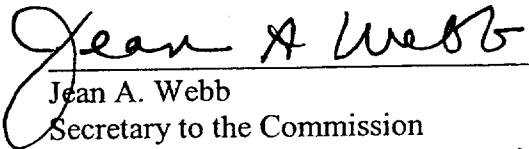
held before an Administrative Law Judge, in accordance with Commission Regulation 3.60, and all post-hearing procedures shall be conducted pursuant to Commission Regulation 3.60(i)-(j), 17 C.F.R. § 3.60(i)-(j) (2002).

In accordance with the provisions of Commission Regulation 3.60(a)(3), 17 C.F.R. § 3.60(a)(3) (2002), O'Herron is entitled to file a response challenging the evidentiary bases of the statutory disqualification or show cause why, notwithstanding the accuracy of the allegation, his registration should not be suspended, revoked, or restricted. Such response must be filed with the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and served upon Mark Bretscher, Senior Trial Attorney, Division of Enforcement at 525 W. Monroe Street, Suite 1100, Chicago, Illinois 60661, within thirty (30) days after the date of service of this Notice upon O'Herron in accordance with the provisions of Commission Regulation 3.60(b). If O'Herron fails to file a timely response to this Notice, the allegations set forth herein shall be deemed to be true and the presiding officer may issue an Order of Default in accordance with the provisions of Commission Regulation 3.60(g), 17 C.F.R. § 3.60(g) (2002).

III.

The Proceedings Clerk shall serve this Notice of Intent to Suspend, Revoke, or Restrict Registration by registered or certified mail pursuant to Commission Regulation 3.50, 17 C.F.R. § 3.50 (2002).

By the Commission.



Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission

Dated: January 7, 2003