

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION

and

CASE NO. 03-CV-603-KI

STATE OF OREGON *EX REL* CORY
STREISINGER, DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND
BUSINESS SERVICES, in her official
capacity,

FINAL JUDGMENT ORDER OF
PERMANENT INJUNCTION,
ANCILLARY EQUITABLE RELIEF,
AND CIVIL MONETARY PENALTY
AGAINST RUSSELL B. CLINE

Plaintiffs,

v.

ORION INTERNATIONAL, INC.,
RUSSELL B. CLINE,
APRIL DUFFY,
BANGONE VORACHITH, and
NANCY HOYT,

Defendants.

I.

INTRODUCTION

On May 7, 2003, the United States Commodity Futures Trading Commission ("CFTC") and the State of Oregon Department of Consumer and Business Services ("DCBS") filed the complaint in this civil action against Orion International, Inc. ("Orion"), Russell B. Cline ("Cline"), April Duffy ("Duffy"), Samantha B. Lewis formerly known as Bangone Vorachith ("Vorachith"), and Nancy Hoyt ("Hoyt"). The Complaint seeks injunctive and other equitable relief for violations of the antifraud and contract market provisions of the Commodity Exchange

Act, as amended ("Act"), 7 U.S.C. § 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.*, as well as violations of the registration and antifraud provisions of the Oregon Securities Law, Oregon Revised Statutes §§ 59.055, 59.165, and 59.135.

On September 7, 2004, the Court entered consent orders of permanent injunction, ancillary equitable relief, and civil monetary penalties against Duffy, Hoyt, and Vorachith. On June 16, 2006, the Court entered an order of default judgment against Orion.

On November 27, 2006, the Court entered an Opinion and Order granting Plaintiffs' Motion for Summary Judgment against Cline. Consistent with the directives in its Opinion and Order, the Court herein enters findings of fact, conclusions of law, and orders of permanent injunction, restitution, civil monetary penalty, and ancillary equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1.

II.

JURISDICTION AND VENUE

This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the CFTC that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order promulgated thereunder, the CFTC may bring an action against such person to enjoin such practice or to enforce compliance with the Act.

The CFTC has jurisdiction over the transactions in foreign currency alleged herein. Pursuant to Sections 2(c)(2)(B) of the Act and 4(a), 7 U.S.C. §§ 2(c)(2)(B) and 6(a), an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery, that is offered to, or entered into with a person that is not an eligible contract participant must be conducted on or subject to the rules of a board of trade designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, and executed or consummated by or through a contract market, unless the counterparty to the transaction one of the six regulated entities designated under Section 2(c)(2)(B)(ii) of the Act, 7 U.S.C. § 2. Orion was not a proper counterparty who could offer and/or enter into foreign currency futures transactions with persons who are not eligible contract participants, i.e., retail customers.

This Court also has jurisdiction over this action pursuant to Section 6d(1) of the Act, 7 U.S.C. § 13a-2, which provides that whenever it shall appear to any State that the interests of the residents of the State have been, are being, or may be threatened or adversely affected because of such violations of the Act, the State may bring a suit in the district courts of the United States to enjoin such acts or practices and to enforce compliance with the Act, or to obtain such other and further relief as the court deems appropriate, including the Oregon Securities Law claims brought pursuant to Section 12(e) of the Act, 7 U.S.C. § 16(e), over which this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).

Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because Cline resides in and transacted business in the District of Oregon, and the acts and practices in violation of the Act and the Oregon Securities Law occurred within this District, among other places.

III.

FINDINGS OF FACT

A. Cline Controlled Orion International, Inc.

1. Cline founded Orion International, Inc. (“Orion”) in 1998 for the purpose of trading investor's funds in foreign currencies. From 1998 to late 2002, Cline was the President of Orion and had ultimate control over Orion’s bank accounts, finances and statements to the public.
2. Cline opened Orion’s trading accounts with CMC, signing the account opening documents as Orion’s President and Director. Cline had sole authority to trade Orion’s accounts and held himself out to investors as Orion’s Head Trader. He opened bank accounts, directed that checks be signed, authorized wire transfers, signed

correspondence, dealt with investors, hired staff, solicited customers, and directed expenditure of investors' funds. .

3. Cline directed the creation and had ultimate control over the content of Orion's Internet website having an address of www.orionfx.com ("Orion Website").

B. Cline Committed Fraud

1. Cline Fraudulently Solicited Customers

4. Cline solicited customers to participate in an investment pool called the Orion Fund through the Orion Website, brochures, seminars, and personal contacts to engage in foreign currency transactions.
5. Cline solicited customers to send funds to domestic and foreign accounts under his control including accounts at Bank of America in the United States and various accounts at Australian New Zealand Bank in Samoa.
6. Cline falsely told customers that customer funds would be transferred immediately to Orion's trading account at Currency Management Corporation PLC ("CMC") in London, England and used for trading foreign currency.

a. Misrepresentations of Profit

7. Cline falsely represented to customers that the Orion Fund had been profitable every month between December 1998 and May 2002 and had either met or exceeded its expected annual earnings of at least 96% in the first four years since its inception and commencement of trading. Cline further falsely represented to investors that Orion had a history of earning 8% a month and that "based on trades and the compounding principle, Orion has provided an average return in excess of 150% per year for its members." Cline

admitted that these false representations were material to investors' decisions to invest with Orion.

8. Contrary to Cline's representations of profits, many investors were unable to receive trading profits because their funds were not transferred to CMC for the purpose of trading foreign currencies. To the extent that customer funds were transferred to Orion's accounts at CMC, trading in those accounts resulted in numerous monthly trading losses and, in those few months where trading resulted in profits, those profits were offset by substantial losses.

b. Misrepresentations of Risk

9. Cline claimed through the Orion Website that the Forex market "mathematically conforms to technical analysis charting and obeys technical rules, which presents the opportunity to trade with minimal risk." Cline further represented to potential investors that risk is "substantially minimized" because Orion only commits an average of 20% of its pool of funds to any trade positions in progress. Cline also have represented that "Orion's trading protocol determines and then verifies minimum risk before execution of a trade" and that "Orion always places stop loss protection orders simultaneously when a position is opened so no open trade can ever experience severe or unexpected loss." Cline admitted that these false representations were material to investors' decisions to invest with Orion.

2. Cline Misappropriated Investor Funds

10. Cline used much of the investor's money to pay for houses, furniture, cars, entertainment and other personal expenses, as well as to pay others who participated in the scheme to defraud Orion's investors.

11. Cline fraudulently solicited persons to send funds totaling \$40,148,112.98 to bank accounts under his control for the purpose of engaging in foreign currency transactions and misappropriated substantially all those funds. Cline misappropriated funds totaling \$13,150,651.49 by sending them back to some customers and falsely representing that those funds were profits from trading. Of this amount, Cline made overpayments to some customers that amounted to \$1,825,572.41 and do not constitute a reduction in the amount of losses to customers. Cline misappropriated the remaining funds by failing to return those funds to customers and, accordingly, the total customer losses amount to \$28,823,033.90.

3. Cline Issued False Trading Reports

12. During the period 1998 to 2002, Cline provided false trading information and reports to investors through the Orion Website and through personal contacts with investors. Cline directed the posting of false information on Orion's website regarding trading profits, market conditions and opportunities, the balances in the individual investor's accounts, and the reasons for delays in paying investor's withdrawals. These representations were material to the investors' decisions to invest with Orion.

B. Cline Solicited Illegal Off-Exchange Futures Contracts

13. Cline solicited members of the general public to trade futures contracts on foreign currency. The foreign currency investments that Cline marketed concerned the purchase or sale of commodities for future delivery at prices, or using pricing formulas that were established at the time the contracts are initiated and that could be fulfilled through offset, cancellation, cash settlement, or other means to avoid delivery. Investors had no commercial need for the foreign currency. Indeed, investors did not anticipate, and in

fact did not take, delivery of the foreign currencies they purchased as a consequence of their investments. Instead, investors entered into these transactions to speculate and profit from anticipated price fluctuations in the markets for these currencies.

14. In those situations where customer funds were transferred to Orion's trading account at CMC, Cline used those funds to trade foreign currency futures contracts. Cline did not conduct the foreign currency futures transactions on or subject to the rules of a board of trade that was designated by the CFTC as a contract market, nor did he execute or consummate those transactions by or through a member of such a contract market or on a facility registered as a derivatives transaction execution facility. As a result, the contracts were illegal off-exchange futures contracts.
15. Cline offered and/or entered into foreign currency futures contracts with the Orion Fund and through the Orion Fund with the individual customers. The Orion Fund was not an eligible contract participant. At least some, if not most of, the underlying individual investors in the Orion Fund were not eligible contract participants. Neither Cline, nor Orion, nor CMC was a proper counterparty for retail foreign currency transactions.

C. Cline Offered and Sold Unregistered Securities

16. From at least December 1998 to at least August 2002, Cline solicited members of the public to purchase interests or investments in the Orion Fund. Cline offered and sold investments in the Orion Fund by informing customers that their funds would be pooled with the funds of others in the Orion Fund, that gains created by trading would be applied to the total value of the pool of money, and that the gain would be pro-rated to each customer's account based on the percentage of the pool which the investor's funds represented.

17. The investments in the Orion Fund offered and sold to members of the public by Cline involved persons investing money in a common enterprise with other investors and with the investors expecting profits on their investments to be made through the management and control of Cline.
18. The offer and sale of such investment contracts were securities interests that were not registered with the Securities and Exchange Commission. Cline did not register these security interests with the DCBS as securities required to be licensed under the Oregon Securities Law. Cline was not licensed with the DCBS as a broker-dealer, investment adviser, or salesperson under the Oregon Securities Law.

D. Cline Engaged in Securities Fraud

19. The foregoing oral and written fraudulent representations and the misappropriation of funds by Cline were made in connection with the purchase or sale of a security, or by a person who receives consideration from another person primarily for advising the other person as to the value or securities or their purchase or sale. In connection with the offer and sale of Orion Fund securities, Cline employed a scheme to defraud investors by making false oral and written representations as detailed above and misappropriating investors' funds.

E. Liability of Cline

Direct Liability

20. Cline is directly liable for the unlawful conduct as set forth in the findings of fact herein. Cline made fraudulent representations to investors, issued false trading reports, and misappropriated customer funds.

Controlling Person Liability

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21. Cline is a controlling person of Orion. He incorporated Orion in 1998. He opened its trading account with CMC, signing the account opening documents as Orion's President and Director. He has had sole authority to trade Orion's trading accounts at CMC and has held himself out to investors as Orion's Head Trader. He opened bank accounts, directed that checks be signed, authorized wire transfers, signed correspondence, dealt with investors, hired staff, solicited customers, and directed the movement and expenditure of the investors' funds. Directly or indirectly, he either knowingly induced or failed to act in good faith in connection with Orion's unlawful conduct alleged herein.

Aiding and Abetting Liability

22. Cline participated and/or aided and abetted the illegal conduct set forth in the findings of facts herein. Cline knowingly associated himself with the illegal scheme and sought by his actions to make the scheme succeed.

23. Cline was directly involved in soliciting individuals to invest in the Orion Fund. He made direct misrepresentations to investors in furtherance of the unlawful scheme. He induced individuals to invest in Orion by assuring profits and minimizing risks. He also wrongfully received millions of dollars in customer funds intended for investment in the Orion Fund. Cline aided the misappropriation of investor funds by falsely assuring investors that their funds had been transferred to Orion's trading account when, in fact, only a portion of customer funds were invested with CMC.

Principal/Agent Liability

24. During the time of the findings of illegal activity set forth in the findings of fact herein, Cline was acting within the scope of his employment or office as an officer and agent of Orion.

IV.

CONCLUSIONS OF LAW

A. Fraud in Connection with Futures Transactions

1. From at least December 21, 2000 to at least March 2003, Cline, either directly or through other persons or entities either under his employ, supervision and control or acting in combination or concert with him, in or in connection with the orders to make, or the making of, contracts of sale of commodities for future delivery, made or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a) of the Act, 7 U.S.C. § 6b(a), cheated or defrauded or attempted to cheat or defraud customers or prospective customers, willfully made or caused to be made false statements to customers or prospective customers, and willfully deceived or attempted to deceive customers or prospective customers by, among other things, misrepresenting the profits and risk of loss associated with commodity futures trading, issuing false statements and reports, and misappropriating customer funds all in violation of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b).
2. From at least December 21, 2000 and to at least March 2003, Cline directly or indirectly controlled Orion and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C.

§ 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b). Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Cline is therefore liable for Orion's violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b).

3. Cline willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b), or acted in combination or in concert with defendant Orion, or willfully caused acts to be done or omitted which when directly performed or omitted constituted defendant Orion's violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b).

Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), Cline therefore violated Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b).

4. Cline engaged in the violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), and Regulation 1.1(b), 17 C.F.R. § 1.1(b) within the scope of his office or employment as agent of defendant Orion.

B. Offer and Sale of Illegal Off-Exchange Futures Contracts

5. From at least December 21, 2000 to at least March 2003, Cline, either directly or through other persons or entities either under his employ, supervision and control or acting in combination or concert with him, offered to enter into, entered into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery

when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, and (b) such contracts have not been executed or consummated by or through a member of such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a).

6. From at least December 21, 2000 to at least March 2003, Cline directly or indirectly controlled Orion and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting the violations of Section 4(a) of the Act, 7 U.S.C. § 6(a) described in this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Cline is therefore liable for Orion's violations of Section 4(a) of the Act, 7 U.S.C. § 6(a).
7. Cline engaged in violations of Section 4(a) of the Act, 7 U.S.C. § 6(a), within the scope of his office or employment as an agent of defendant Orion.

C. Sale of Unregistered Securities

8. From at least December 1998 to March 2003, within or from the State of Oregon, Cline, either directly or through other persons or entities either under his employ, supervision and control or acting in combination or concert with him, offered and sold securities as that term is defined in ORS § 59.015(19)(a) in the form of investment contracts or certificates of interest or participation in a profit sharing agreement.
9. The securities sold by Cline were not registered under ORS §§ 59.065 through 59.095, were not exempt securities under ORS § 59.025, were not offered or sold in exempt transactions under ORS § 59.035, were not securities exempt under any rule or order promulgated by DCBS, and were not subject to notice filing under ORS § 59.049.
Therefore, Cline violated ORS § 59.055.

D. Sales and Advisor Activity by Unlicensed Person

10. In connection with offers to sell and the sale of securities within or from the State of Oregon, Cline acted as a broker-dealer and/or salesperson, although not licensed pursuant to the provisions of the Oregon Securities Law or exempt therefrom. Therefore, Cline violated ORS § 59.165(1).
11. In managing an investment or trading account in securities for other persons, for compensation, Cline acted as an investment adviser or investment adviser representative, although not licensed pursuant to the provisions of the Oregon Securities Law, nor exempt therefrom. Therefore, Cline violated ORS § 59.165(4).

E. Securities Fraud

12. In connection with the purchase and sale of any security, the conduct of a securities business, or while advising, for a fee, other persons as to the value of securities or the purchase or sale of securities, Cline directly or indirectly violated ORS § 59.135 by (1) employing a device, scheme, or artifice to defraud; (2) making untrue statements of material fact or omitting to state material facts which were necessary in light of the circumstances under which they were made; and (3) engaging in acts, practices, or a course of business which operated or would operate as a fraud or deceit upon any person in violation of ORS § 59.135.

V.

PERMANENT INJUNCTION

A. IT IS HEREBY ORDERED that Cline is permanently restrained, enjoined, and prohibited from directly or indirectly:

1. Cheating or defrauding or attempting to cheat or defraud other persons and willfully deceiving or attempting to deceive other persons by making false,

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deceptive or misleading representations of material facts, by failing to disclose material facts, and by misappropriating customer funds in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made or to be made for or on behalf of any other person in violation of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b);

2. Offering to enter into, entering into, executing, confirming the execution of, or conducting an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity, and (b) such contracts have not been executed or consummated by or through a member of such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a);
3. Offering or selling unregistered securities in violation of Oregon Securities Law, Oregon Revised Statutes § 59.055;
4. Acting as an unlicensed broker-dealer and/or salesperson in violation of the Oregon Securities Law, Oregon Revised Statutes § 59.165; and
5. Directly or indirectly, in connection with the purchase or sale of any security or the conduct of a securities business: (1) to employ any device, scheme or artifice to defraud; (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; (3) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; or (4) to make or file, or cause to be made or filed, to or with the Director of the Department of Consumer and Business Services any statement, report or document which is known to be false in any material respect or matter in violation of Oregon Securities Law, Oregon Revised Statutes § 59.135.

B. IT IS HEREBY FURTHER ORDERED that Cline is permanently restrained, enjoined, and prohibited from directly or indirectly engaging in any activity related to the trading of commodity futures contracts, options on commodity futures contracts, and agreements, contracts, and transactions in foreign currency that are subject to the CFTC's jurisdiction pursuant to 7 U.S.C. § 2 ("commodity interest"), and any activity related to trading in any security, as that

term is defined in Section § 59.015(19)(a) of the Oregon Securities Law (“security interest”)

other than personal investment of Cline’s own funds including, but not limited to, the following:

1. 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);
2. Engaging in, controlling, or directing the trading of any commodity interest account for or on behalf of any other person or entity, whether by power of attorney or otherwise;
3. Soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity interest contract;
4. Placing orders or giving advice or price quotations, or other information in connection with the purchase or sale of commodity interest contracts for themselves and others. This language does not prohibit Cline from engaging in transactions that fall outside the jurisdiction of the CFTC, such as spot and forward transactions, and securities transactions that fall outside the jurisdiction of the State of Oregon;
5. Introducing customers to any other person engaged in the business of commodity interest trading;
6. Issuing statements or reports to others concerning commodity interest trading;
7. Applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent, officer or employee of any person registered, required to be registered, or exempted from registration, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9);
8. Engaging in any business activities related to commodity interest trading;
9. Soliciting or accepting any funds from any person in connection with the purchase or sale of any security interest;
10. Placing orders or giving advice or price quotations, or other information in connection with the purchase or sale of any security interest for themselves and others;
11. Introducing customers to any other person engaged in the business of securities;
12. Issuing statements or reports to others concerning any security interest; and

13. Engaging in any business activities related to securities.

C. IT IS HEREBY FURTHER ORDERED that Cline is restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing, or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or the business or personal finances of any of the defendants in this case.

D. IT IS HEREBY FURTHER ORDERED that the injunctive provisions of this Order shall be binding upon Cline, any person insofar as he or she is acting in the capacity of officer, agent, servant, or attorney of Cline, and any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in active concert or participation with Cline.

VI.

RESTITUTION, CIVIL MONETARY PENALTY, AND ANCILLARY RELIEF

IT IS HEREBY ORDERED that Cline shall comply fully with the following terms, conditions and obligations relating to the payment of restitution and the submission of financial information.

A. RESTITUTION

1. Cline shall make restitution in the amount of \$16,567,905. The principal restitution amount represents the amount of restitution ordered by the Court to be paid to certain identified investors in *U.S. v. Cline*, No. CR-04-205-KI (D. Ore. judgment entered May 8, 2006). The restitution obligation hereunder shall in no way limit the ability of any investor from seeking recovery from Cline or any other person or entity, including all investors not identified in connection with the restitution order in *U.S. v. Cline*. Further, the amounts payable to each investor identified in the restitution order in *U.S. v. Cline* shall not limit the ability of any

investor from proving that a greater amount is owed from Cline or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any investor that exist under state or common law.

2. The amount of restitution directed under this Order shall be reduced by any payments made by Cline pursuant to this Court's restitution order in *U.S. v. Cline*.

3. Restitution payments under this Order shall be made in the same manner as the restitution payments required in the judgment for restitution entered against Cline in *U.S. v. Cline*. Upon further order of the Court, restitution payments under this Order shall be made to the National Futures Association ("NFA") by tendering payments to the Executive Vice President and Chief Operating Officer, or his successor, at the following address: National Futures Association, 200 West Madison, Street, Chicago, IL 60606. The NFA shall oversee Cline's restitution obligation and shall make periodic distributions of funds to investors as appropriate. Based upon the amount of funds available, the NFA may defer distribution until such time as it deems appropriate. Restitution payments shall be made in an equitable fashion as determined by the NFA.

4. The Court reserves jurisdiction to monitor and change the process for payment of funds presently in the possession of the Receiver and which are received hereafter.

B. CIVIL MONETARY PENALTY

Pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, Cline shall pay to the CFTC a civil monetary penalty in the amount of \$16,567,905.20. Cline shall pay the civil monetary penalty upon full satisfaction of his restitution obligation. Cline shall pay this penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order made payable to the CFTC and sent to the attention of the Office of Cooperative

Enforcement, Division of Enforcement, CFTC, 1155 21st Street, N.W., Washington, D.C. 20581. Cline shall accompany payment of the penalty with a cover letter that identifies Cline and the name and docket number of this proceeding. Cline shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, CFTC, 1155 21st N.W., Washington, D.C. 20581.

C. TRANSFER OF ASSETS

Cline shall not transfer, or cause others to transfer, funds or other property to the custody, possession, or control of any members of his family or any other person or entity for the purpose of concealing such funds from this Court, the CFTC, or the DCBS until his restitution and civil monetary penalty obligations have been satisfied under this Order.

D. DELIVERY OF DOCUMENTS

Cline shall immediately, or within such time as permitted by the CFTC and the DCBS, deliver to the CFTC and the DCBS all documents in the possession and custody of Cline relating or referring to Orion or Cline, or any of the allegations of the complaint, including but not limited to, all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers.

E. COOPERATION

Cline shall cooperate fully with the CFTC, DCBS, NFA, and any government agency seeking to enforce the provisions of this Order in carrying out all duties with respect to his obligations to make restitution and pay a civil monetary penalty payment. Cline shall cooperate fully with the CFTC, DCBS, NFA, and any government agency seeking to enforce the provisions of this Order in explaining his financial income and earnings, status of assets, financial

statements, asset transfers and tax returns, and shall provide any information as may be required by the CFTC, DCBS, NFA, and any government agency seeking to enforce the provisions of this Order.

VII.

SCOPE OF ORDER

A. **IT IS HEREBY ORDERED** that this Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action. This Order shall be interpreted and enforced according to the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the District of Oregon, and all provisions of the Act, CFTC Regulations, and, as appropriate, the Oregon Securities Law relating or referring to the obligations hereunder.

B. **IT IS HEREBY FURTHER ORDERED** that the following provisions shall apply to the terms and conditions of this Order:

1. **Notices:** All notices required by this Order shall be sent by certified mail, return receipt requested. Cline shall provide the CFTC, DCBS, and NFA with written notice of all changes to his contact telephone number(s) and/or mailing address(es) within ten (10) calendar days of the change(s).
2. **Waiver:** The failure of any party to this Order or of any investor at any time to require performance of any provision of this Order shall in no manner affect the right of the party or investor to enforce the same or any other provision of this Order at a later time. No waiver in one or more instances of the breach of any provision contained in this Order shall be deemed or construed as a further or

continuing waiver of such breach or waiver of the breach of any other provision of this Order.

3. **Acknowledgements:** Upon being served with a copy of this Order after entry by this Court, Cline shall sign an acknowledgment of service and serve the acknowledgment on this Court, the CFTC, and the DCBS within seven (7) calendar days. Upon being served with a copy of this Order after entry by the Court, the CFTC shall serve a copy of the Order upon the NFA within seven (7) calendar days.
4. **Invalidation:** If any provision, or the application of any provision of this Order, is held invalid, the remainder of this Order and the application of the provision to any other person or circumstance shall not be affected by the holding.
5. **Integration:** This Order incorporates all of the terms and conditions of the settlement of the parties to this Order. Nothing shall serve to amend or modify this Order in any respect, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

Done and Ordered this 19th day of Dec. 2006, at Portland,

Oregon.



GARR M. KING
UNITED STATES DISTRICT JUDGE