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9 **THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12 UNITED STATES COMMODITY
13 FUTURES TRADING COMMISSION,

14 Plaintiff,

15 v.

16 INTELLIGENT TRADES, LLC, and
17 GHASSAN TAWACHI, an individual,

18 Defendants.

Civil Action No. 8:16-cv-00020-AG-
DFM

**CONSENT ORDER FOR
PERMANENT INJUNCTION,
CIVIL MONETARY PENALTY
AND OTHER EQUITABLE
RELIEF AGAINST DEFENDANTS
INTELLIGENT TRADES, LLC
AND GHASSAN TAWACHI**

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22 Plaintiff United States Commodity Futures Trading Commission
23 (“Commission” or “CFTC”) has filed a four-count Complaint against Defendants
24 Intelligent Trades, LLC (“Intelligent Trades”) and Ghassan Tawachi (“Tawachi”)
25 (collectively “Defendants”) seeking injunctive and other equitable relief, as well as the
26 imposition of civil penalties, for violations of the Commodity Exchange Act (“Act”),
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1 7 U.S.C. §§ 1-26 (2012), and the Commission’s Regulations (“Regulations”)
2 promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2015).

3 **I. CONSENTS AND AGREEMENTS**

4 To effect settlement of all charges alleged in the Complaint against
5 Defendants Intelligent Trades and Tawachi without a trial on the merits or any further
6 judicial proceedings, Intelligent Trades and Tawachi:

7 1. Consent to the entry of this Consent Order for Permanent Injunction,
8 Civil Monetary Penalty and Other Equitable Relief Against Defendants Intelligent
9 Trades, LLC and Ghassan Tawachi (“Consent Order”);

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

14 3. Acknowledge service of the summons and Complaint;

15 4. Admit the jurisdiction of this Court over them and the subject matter of
16 this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012);

17 5. Admit the jurisdiction of the Commission over the conduct and
18 transactions at issue in this action pursuant to the Act, 7 U.S.C. §§ 1-26 (2012);

19 6. Admit that venue properly lies with this Court pursuant to Section 6c(e)
20 of the Act, 7 U.S.C. § 13a-1(e) (2012);

21 7. Waive:

22 (a) Any and all claims that they may possess under the Equal Access
23 to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules
24 promulgated by the Commission in conformity therewith, Part 148 of the Regulations,
25 17 C.F.R. §§ 148.1 *et seq.* (2015), relating to, or arising from, this action;

26 (b) Any and all claims that they may possess under the Small Business
27 Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110
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1 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112,
2 204-205 (2007), relating to, or arising from, this action;

3 (c) Any claim of Double Jeopardy based upon the institution of this
4 action or the entry in this action of any order imposing a civil monetary penalty or any
5 other relief, including this Consent Order; and

6 (d) Any and all rights of appeal from this action;

7 8. Consent to the continued jurisdiction of this Court over them for the
8 purpose of implementing and enforcing the terms and conditions of this Consent
9 Order and for any other purpose relevant to this action, even if Defendants now or in
10 the future reside outside the jurisdiction of this Court;

11 9. Agree that they will not oppose enforcement of this Consent Order on the
12 ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of
13 Civil Procedure and hereby waives any objection based thereon;

14 10. Agree that neither they nor any of their agents or employees under their
15 authority or control shall take any action or make any public statement denying,
16 directly or indirectly, any allegation in the Complaint or the Findings of Fact or
17 Conclusions of Law in this Consent Order, or creating or tending to create the
18 impression that the Complaint and/or this Consent Order is without a factual basis;
19 provided, however, that nothing in this provision shall affect their: (a) testimonial
20 obligations, or (b) right to take legal positions in other proceedings to which the
21 Commission is not a party. Defendants shall undertake all steps necessary to ensure
22 that all of their agents and/or employees under their authority or control understand
23 and comply with this agreement;

24 11. By consenting to the entry of this Consent Order, Defendants neither
25 admit nor deny the allegations of the Complaint or the Findings of Fact and
26 Conclusions of Law in this Consent Order, except as to jurisdiction and venue, which
27 they admit. Further, Defendants agree and intend that the allegations contained in the
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1 Complaint and all of the Findings of Fact and Conclusions of Law contained in this
2 Consent Order shall be taken as true and correct and be given preclusive effect,
3 without further proof, in the course of: (a) any current or subsequent bankruptcy
4 proceeding filed by, on behalf of, or against Defendants; (b) any proceeding pursuant
5 to Section 8a of the Act, 7 U.S.C. § 12a (2012), and/or Part 3 of the Regulations, 17
6 C.F.R. §§ 3.1 – 3.75 (2015); and/or (c) any proceeding to enforce the terms of this
7 Consent Order. Defendants do not consent to the use of this Consent Order, or the
8 Findings of Fact and Conclusions of Law in this Consent Order, as the sole basis for
9 any other proceeding brought by the Commission.

10 12. Agree to provide immediate notice to this Court and the Commission by
11 certified mail, in the manner required by paragraph 51 of Part VI of this Consent
12 Order, of any bankruptcy proceeding filed by, on behalf of, or against them, whether
13 inside or outside the United States;

14 13. Agree that no provision of this Consent Order shall in any way limit or
15 impair the ability of any other person or entity to seek any legal or equitable remedy
16 against Defendants in any other proceeding.

17 **III. FINDINGS AND CONCLUSIONS**

18 The Court, being fully advised in the premises, finds that there is good cause for
19 the entry of this Consent Order and that there is no just reason for delay. The Court
20 therefore directs the entry of the following Findings of Fact, Conclusions of Law,
21 permanent injunction, civil monetary penalty, disgorgement and equitable relief
22 pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), as set forth herein.

23 **THE COURT HEREBY FINDS:**

24 **A. Findings of Fact**

25 **The Parties to This Consent Order**

26 14. **Plaintiff Commodity Futures Trading Commission** is an independent
27 federal regulatory agency that is charged with the responsibility for administering and
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1 enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2012), and the Regulations
2 promulgated under it, 17 C.F.R. §§ 1 *et seq.* (2015).

3 15. **Defendant Ghassan Tawachi, a/k/a “Marco” Tawachi**, is an individual
4 who resides in Irvine, California. Tawachi was registered with the Commission as a
5 Commodity Trading Advisor from July 2010 to April 2012.

6 16. **Defendant Intelligent Trades, LLC** is currently an inactive Florida
7 limited liability company. The firm was registered as a limited liability company on
8 October 14, 2011, and maintained an address at 340 Giraldi Ave. in Coral Gables,
9 Florida. Intelligent Trades was wholly owned and managed by Tawachi. Intelligent
10 Trades has never been registered with the Commission.

11 **The April 2012 Commission Order Prohibited Tawachi from Trading**

12 17. On April 26, 2012, the CFTC issued a Commission Order instituting
13 administrative proceedings pursuant to Sections 6(c), 6(d), and 8a of the Act, 7 U.S.C.
14 §§ 9, 13b, and 12a(1) (2012), against Tawachi and simultaneously accepted Tawachi's
15 Offer of Settlement.

16 18. As recited in the Commission Order, in which the CFTC made findings
17 of fact and conclusions of law and imposed remedial sanctions, Tawachi defrauded
18 clients through fraudulent sales of a commodity software trading system he called
19 Bentley trading software. Tawachi touted his Bentley software trading system as the
20 product of his purported expertise as a successful professional commodity trader. In
21 addition, with respect to one client, Tawachi accepted \$40,000, which he
22 misappropriated.

23 19. Tawachi neither admitted nor denied the allegations and conclusions
24 contained in the Commission Order, yet Tawachi consented to the Commission Order
25 which required, among other things, that he cease and desist from violating the
26 provisions of the Act he was found to have violated, required the payment of a civil
27 monetary penalty and restitution, and required him to refrain from certain trading
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1 activity. Specifically, the Commission Order prohibited Tawachi from, directly or
2 indirectly, engaging in trading on or subject to the rules of any registered entity as that
3 term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012).

4 **Tawachi Violated the Commission Order**

5 20. Starting in at least July 2011, Tawachi began promoting his IT Software
6 through licensing agreements offered by his firm Intelligent Trades. Intelligent Trades
7 licensed the software to several entities, but only one entity with multiple clients
8 utilized the IT Software for actual trading. Under the Tawachi licensing agreement,
9 clients using the system paid a monthly fee of approximately ten percent of their
10 account value directly to Intelligent Trades. Clients' commodity futures accounts
11 were then traded through a single master account according to the IT Software system.

12 21. During the relevant period, however, the Intelligent Trades licensee was
13 never given a copy of the software program or autonomous control over the use of the
14 IT Software. Instead, the IT Software, which connected directly to the commodity
15 broker's trading platform, continued to undergo "development" under the control of
16 Tawachi. Acting through his software developer agent, Tawachi directed his agent to
17 start, stop and modify his clients' trading activities. As a result, Tawachi indirectly
18 controlled the trading of the licensee clients' accounts while collecting monthly fees
19 totaling over Four Hundred Seventy Nine Thousand Seven Hundred and Fifty Five
20 dollars (\$479,755).

21 22. Tawachi's indirect trading and control of his licensee clients' accounts
22 continued following the April 2012 Commission Order, which prohibited his
23 commodity futures trading, through June of 2012. In June 2012, trading ceased due to
24 the business failure of the broker/futures commission merchant where the
25 licensees/clients held their trading accounts.

26 **Defendants' Made Fraudulent Solicitations**

27 23. In connection with the promotion of his IT Software, Tawachi made a
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1 series of materially false claims to bolster the credibility of his trading system. He
2 fictitiously maintained to one or more clients or prospective clients that he formulated
3 his IT Software based upon his purported substantial professional commodity futures
4 trading experience. Tawachi further falsely stated that he earned a living using his IT
5 Software to conduct commodity futures trading, and that he earned profits for clients
6 through accounts he managed using his IT Software.

7 24. Tawachi, acting as an agent or officer of Intelligent Trades, marketed the
8 IT Software with untrue claims to support its alleged profitability. Tawachi
9 maintained that testing had established that the IT software had the ability to provide
10 high trading returns ranging from 15% to 20% a month, after fees. Defendants
11 provided charts for IT Software that showed an unbroken line of increasing profits
12 from the hypothetical application of the software. In fact, the actual trading using the
13 IT Software failed to produce any profits for clients.

14 25. While falsely touting the profits that IT Software could allegedly
15 produce, Tawachi acting both individually and as an agent or officer of Intelligent
16 Trades, downplayed the risk of trading losses with the use of the software system by
17 making invalid claims of its safety such as: "We have never seen a sequence that
18 hasn't ultimately resulted in a win," and "...the risk of absolute loss is minimized to
19 virtually zero."

20 26. To gain additional revenues from the trading of clients' funds, Tawachi
21 falsely maintained that the successful operation of the IT Software effectively required
22 an account size of \$1.4 million; thereby requiring additional deposits from clients. In
23 further effort to boost the amount of money under his management, Tawachi
24 guaranteed one client against any loss of funds caused by trading pursuant to IT
25 Software, provided the client placed \$1.1 million in her trading account for a one-year
26 period. After the client added substantial funds to her account, Tawachi failed to sign
27 the written guarantee.
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1 27. Tawachi also deceived his clients in order to prevent their withdrawal of
2 their funds from his IT Software enterprise by giving them a phony account of the
3 then-active CFTC investigation into his commodity futures related activities, which
4 resulted in the Commission Order of April 2012. The Commission Order, once
5 issued, described his fraudulent sales of trading software and proscribed him from any
6 commodity trading. In his deceptive disclosure, Tawachi maintained he was under
7 investigation by a non-government agency, the National Futures Association, and
8 made no mention of his fraudulent sales claims regarding his trading software and
9 trading background. Further, he maintained that a settlement with the National
10 Futures Association would not “hinder or hurt any portion of what we are doing now,”
11 when he knew that his settlement with the CFTC would ban his trading of commodity
12 futures.

13 **Tawachi Acted Without Registration**

14 28. Following the Commission Order of April 2012, Tawachi individually,
15 and through his employees and agents, acted as a Commodity Trading Advisor
16 (“CTA”) when, for compensation or profit, he advised others through his agents and
17 software trading system as to the advisability of trading in commodity futures
18 contracts, by controlling the trading in clients’ accounts.

19 29. Following the April 2012 Commission Order Tawachi was not registered
20 in any capacity with the Commission. Accordingly, during the trading period
21 following the Commission Order, Tawachi acted as a CTA without the required
22 Commission registration.

23 **B. Conclusions of Law**

24 30. This Court has jurisdiction over the subject matter of this action and all
25 parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), which
26 authorizes the Commission to seek injunctive relief in district court against any
27 person whenever it shall appear to the Commission that such person has engaged, is
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1 engaging, or is about to engage in any act or practice constituting a violation of the Act
2 or any rule, regulation, or order thereunder.

3 31. Venue properly lies with this Court pursuant to Section 6c(e) of the Act,
4 7 U.S.C. § 13a-1(e) (2012), because the transactions, acts, practices, and courses of
5 business alleged to have violated the Act have occurred within this District and the
6 Defendant Tawachi resides in this District.

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8 **Tawachi Violated the Commission Order**

9 32. Beginning on April 26, 2012, section VI, paragraphs B and F 3(c) of the
10 Commission Order prohibited Tawachi, from directly or indirectly, trading for or on
11 behalf of any other person or entity, whether by power of attorney or otherwise, in any
12 account involving commodity futures, options on commodity futures, commodity
13 options, security futures products, and/or forex contracts.

14 33. Beginning on the day following the issuance of the Commission Order,
15 Tawachi violated Section VI, paragraphs B and F 3(c) of the Commission Order when
16 he continued to indirectly trade the commodity futures accounts of his licensee clients
17 through his control of the IT Software through the purchase and sale of commodity
18 futures contracts through July 2012, when the trading stopped.

19 34. Tawachi's indirect trading of commodity futures contracts directly
20 violated Section VI, paragraphs B and F 3(c) of the Commission Order.

21 **Defendants Made Fraudulent Solicitations**

22 35. By the conduct described above, Defendants violated Section 4b(a)(1)(A)
23 and (C) of the Act, 7 U.S.C § 6b(a)(1)(A), (C) (2012), which makes it unlawful for
24 any person, in or in connection with any order to make, or the making of, any contract
25 of sale of any commodity in interstate commerce or for future delivery that is made, or
26 to be made, on or subject to the rules of a designated contract market for or on behalf
27 of, or with, any other person: (A) to cheat or defraud or attempt to cheat or defraud
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1 the other person; or (C) willfully to deceive or attempt to deceive the other person by
2 any means whatsoever in regard to any order or contract or the disposition or
3 execution of any order or contract, or in regard to any act of agency performed, with
4 respect to any order or contract for or . . . with the other person[.]

5 36. As set forth above, during the relevant period in connection with
6 contracts for future delivery made on or subject to the rules of a designated contract
7 market for or on behalf of other persons, Tawachi knowingly or recklessly made the
8 material misrepresentations set forth above, to induce members of the public to use
9 through licensing, or to purchase, commodity trading software, that generates specific
10 buy and sell signals for commodity futures trading, including but not limited to:
11 (1) misrepresenting Tawachi's purported substantial professional commodity futures
12 trading experience; (2) misrepresenting that Tawachi earned profits for clients through
13 accounts he managed using his IT Software; (3) misrepresenting IT Software had the
14 ability to provide high trading returns ranging from 15% to 20% a month, after fees;
15 (4) misrepresenting that the risk of absolute loss using IT Software as virtually zero;
16 (5) misrepresenting the fact that operation of the IT Software effectively required an
17 account size of \$1.4 million; (6) falsely guaranteeing one client against any loss of
18 funds caused by trading pursuant to IT Software; and (7) misrepresenting the facts and
19 circumstances regarding the CFTC investigation into Tawachi's commodity futures
20 software trading system activities.

21 37. Tawachi, acting both individually and as agent and officer of Intelligent
22 Trades, engaged in the acts and practices described above knowingly, willfully or with
23 reckless disregard for the truth using instrumentalities of interstate commerce,
24 including but not limited to, the use of interstate wires for the transfer of funds and
25 other electronic communication devices.

26 38. The forgoing fraudulent acts of Tawachi occurred within the scope of his
27 employment, office or agency with Intelligent Trades. Therefore, pursuant to Section
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1 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012) and Regulation 1.2, 17 C.F.R.
2 § 1.2 (2015), Intelligent Trades is liable for Tawachi's violations of Sections
3 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A), (C) (2012).

4 39. Each act of fraudulent misrepresentation during the relevant period
5 constituted a separate and distinct violation of Section 4b(a)(1)(A) and (C) of the Act,
6 7 U.S.C. § 6b(a)(1)(A),(C) (2012).

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8 **Acting as a Commodity Trading Advisor Without Registration**

9 40. Section 1a (12) of the Act, 7 U.S.C. § 1a (12) (2012), defines a Commodity
10 Trading Advisor ("CTA") as any person who, for compensation or profit, engages in the
11 business of advising others, either directly or through publications, writings, or electronic
12 media, as to the value of or the advisability of trading in any contract of sale of a
13 commodity for future delivery made or to be made on or subject to the rules of a contract
14 market.

15 41. Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), makes it unlawful for
16 any CTA, unless registered with the Commission, to make use of the mails or any
17 means or instrumentality of interstate commerce in connection with his business as a
18 CTA.

19 42. Following the Commission Order prohibiting trading, Tawachi
20 individually, and through his employees and agents, acted as a CTA when for
21 compensation or profit, he advised others through his software trading system as to
22 the advisability of trading in commodity futures contracts by controlling the trading in
23 their accounts, while failing to register with the Commission as a CTA, in violation of
24 Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

25 **Fraud by a Commodity Trading Advisor**

26 43. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), makes it unlawful for a
27 CTA, or an associated person of a CTA, by use of the mails or any means or
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1 instrumentality of interstate commerce, directly or indirectly- (A) to employ any
2 device, scheme, or artifice to defraud any client or participant or prospective client or
3 participant; or (B) to engage in any transaction, practice, or course of business which
4 operates as a fraud or deceit upon any client or participant or prospective client or
5 participant.

6 44. Through the foregoing conduct described above Tawachi, while acting as
7 a CTA, by using the mails or instrumentalities of interstate commerce, (i) employed
8 devices, schemes, or artifices to defraud clients or prospective clients; and (ii) engaged
9 in transactions, practices, or courses of business which operated as a fraud or deceit
10 upon clients, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012).

11 45. During the relevant period, Tawachi, acting both individually and as
12 agent and officer of Intelligent Trades, acted as a CTA, when for compensation or
13 profit, he engaged in the business of advising others, either directly or through the
14 control of his Intelligent Trading software, as to the value of or the advisability of
15 trading in commodity futures contracts.

16 46. During the relevant period, the foregoing fraudulent acts,
17 misrepresentations, and other unlawful conduct of Tawachi occurred within the scope
18 of his employment, office, or agency of Intelligent Trades. Therefore, pursuant to
19 Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17
20 C.F.R. § 1.2 (2015), Defendant Intelligent Trades is liable for Tawachi's violations of
21 Sections 4o(1) of the Act, 7 U.S.C. §6o(1) (2012).

22 47. Each fraudulent act and misrepresentation during the relevant period
23 constituted a separate and distinct violation of Section 4o(1) of the Act, 7 U.S.C.
24 § 6o(1) (2012).

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1 **V. ORDER OF PERMANENT INJUNCTION**

2 **Accordingly, IT IS HEREBY ORDERED THAT:**

3 48. Based upon and in connection with the foregoing conduct, pursuant to
4 Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Tawachi is permanently restrained,
5 enjoined and prohibited from directly or indirectly:

6 a. Violating Section VI, paragraphs B and F 3(c) of the 2012 Commission
7 Order by trading "commodity interests" (as that term is defined in
8 Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2015), on behalf of any other
9 person; and

10 b. Violating Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012) by acting as
11 a Commodity Trading Advisor without being registered as such by the
12 Commission.

13 49. Based upon and in connection with the foregoing conduct, pursuant to
14 Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendants are permanently restrained,
15 enjoined and prohibited from directly or indirectly:

16 a. Violating Section 4b(a)(1)(A) and (C), of the Act, 7 U.S.C.
17 § 6b(a)(1)(A), (C), by cheating or defrauding, or attempting to cheat or
18 defraud, other persons, or by willfully deceiving or attempting to deceive
19 other persons by any means whatsoever, in or in connection with any
20 order to make, or the making of, any contract of sale of any commodity
21 for future delivery that is made, or to be made, for or on behalf of, or
22 with, any other person by making material misrepresentations or
23 omissions; and

24 b. Violating 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012) when acting as a
25 commodity trading advisor, or associated person of a commodity trading
26 advisor by use of the mails or any means or instrumentality of interstate
27 commerce, by directly or indirectly employing any device, scheme, or
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1 artifice to defraud any client or prospective client, or by engaging in any
2 practice, or course of business which operates as a fraud or deceit upon
3 any client or prospective client by making fraudulent misrepresentation
4 and omissions.

5 50. Defendants are permanently restrained, enjoined and prohibited from
6 directly or indirectly:

- 7 a. Trading on or subject to the rules of any registered entity (as that term is
8 defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));
- 9 b. Entering into any transactions involving "commodity interests" for
10 Defendants' personal or proprietary account or for any account in which
11 Defendants have a direct or indirect interest;
- 12 c. Having any commodity interests traded on any Defendants' behalf;
- 13 d. Controlling or directing the trading for, or on behalf of, any other person
14 or entity, whether directly or indirectly, by power of attorney or
15 otherwise, in any account involving commodity interests;
- 16 e. Soliciting, receiving, or accepting any funds from any person for the
17 purpose of purchasing or selling any commodity interests;
- 18 f. Applying for registration or claiming exemption from registration with
19 the Commission in any capacity, and engaging in any activity requiring
20 such registration or exemption from registration with the Commission,
21 except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)
22 (2015); and
- 23 g. Acting as a principal (as that term is defined in Regulation 3.1(a), 17
24 C.F.R. § 3.1(a) (2015)), agent or any other officer or employee of any
25 person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C.
26 § 1a(38) (2012)), or entity registered, exempted from registration or
27 required to be registered with the Commission

1 51. If Defendant Tawachi acts as a commodity trading advisor as provided
2 for in Regulation 4.14(a)(9) (*i.e.* a commodity trading advisor, as that term is defined
3 in Section 1a(12) of the Act, 7 U.S.C. § 1a(12) (2012) (“CTA”) that does not direct
4 client accounts or provide commodity trading advice based on, or tailored to, the
5 commodity interest or cash positions or other circumstances or characteristics of
6 particular clients):

7 a. Defendant Tawachi shall first:

- 8 i. Provide a copy of this Consent Order, along with a copy of
9 the Commission’s April 26, 2012 Order to any prospective
10 client; and
11 ii. Obtain and keep a record of an acknowledgement signed and
12 dated by the prospective client stating that the client received
13 the Disclosure.

14 b. Defendant Tawachi shall produce such written acknowledgements to any
15 Commission representative upon the representative’s request.

16 **VI. DISGORGEMENT, CIVIL MONETARY PENALTY,
17 AND ANCILLARY RELIEF**

18 **IT IS FURTHER ORDERED THAT:**

19 **Disgorgement**

20 52. Defendants shall pay, jointly and severally, disgorgement in the amount
21 of four hundred seventy nine thousand, seven hundred fifty-five dollars [\$479,755.00]
22 (“Disgorgement Obligation”), plus post-judgment interest, within ten days of the date
23 of the entry of this Consent Order. If the Disgorgement Obligation is not paid in full
24 within ten (10) days of the date of entry of this Consent Order, then post-judgment
25 interest shall accrue on the Disgorgement Obligation beginning on the date of entry of
26 this Consent Order and shall be determined by using the Treasury Bill rate prevailing
27 on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961 (2012).
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1 53. To effect payment by Defendants and the distribution of disgorgement to
2 Defendants' clients, the Court appoints the National Futures Association ("NFA") as
3 Monitor ("Monitor"). The Monitor shall collect payments of the Disgorgement
4 Obligation from Defendants and make distributions as set forth below. Because the
5 Monitor is acting as an officer of this Court in performing these services, the NFA
6 shall not be liable for any action or inaction arising from NFA's appointment as
7 Monitor, other than actions involving fraud

8 54. Defendants shall make their payments of the Disgorgement Obligation
9 under this Consent Order to the Monitor in the name of the "Intelligent Trades, LLC
10 and Ghassan Tawachi Settlement Fund" and shall send such payments by electronic
11 funds transfer, or U.S. postal money order, certified check, bank cashier's check, or
12 bank money order, to the Office of Administration, National Futures Association, 300
13 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under a cover letter that
14 identifies the paying Defendants and the name and docket number of this proceeding.
15 Defendants shall simultaneously transmit copies of the cover letter and the form of
16 payment to the Chief Financial Officer, Commodity Futures Trading Commission,
17 Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, as well as to
18 Senior Trial Attorney Thomas J. Kelly, CFTC, 1155 21st Street, NW, Washington,
19 D.C. 20581.

20 55. The Monitor shall oversee the Defendants' Disgorgement Obligation and
21 shall have the discretion to determine the manner of distribution of such funds in an
22 equitable fashion to Defendants' clients identified by the Commission or may defer
23 distribution to eligible clients until such time as the Monitor deems appropriate. In the
24 event that the amount of Disgorgement Obligation payments to the Monitor are of a *de*
25 *minimis* nature, such that the Monitor determines that the administrative cost of
26 making a disgorgement distribution is impractical, the Monitor may, in its discretion,
27 treat such disgorgement payments as civil monetary penalty payments, which the
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1 Monitor shall forward to the Commission following the instructions for civil monetary
2 penalty payments set forth in Part B below.

3 56. Defendants shall cooperate with the Monitor as appropriate to provide
4 such information as the Monitor deems necessary and appropriate to identify
5 Defendants' clients to whom the Monitor, in its sole discretion, may determine to
6 include in any plan for distribution of any Disgorgement Obligation payments.

7 Defendants shall execute any documents necessary to release funds that they have in
8 any repository, bank, investment or other financial institution, wherever located, in
9 order to make partial or total payment toward the Disgorgement Obligation.

10 57. The Monitor shall provide the Commission at the beginning of each
11 calendar year with a report detailing the disbursement of funds to Defendants' clients
12 during the previous year. The Monitor shall transmit this report under a cover letter
13 that identifies the name and docket number of this proceeding to the Chief Financial
14 Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st
15 Street, NW, Washington, D.C. 20581.

16 58. The amounts payable to each client shall not limit the ability of any client
17 from proving that a greater amount is owed from Defendants or any other person or
18 entity, and nothing herein shall be construed in any way to limit or abridge the rights
19 of any client that exist under state or common law.

20 59. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each client
21 of Defendants who suffered a loss is explicitly made an intended third-party
22 beneficiary of this Consent Order and may seek to enforce obedience of this Consent
23 Order to obtain satisfaction of any portion of the disgorgement that has not been paid
24 by Defendants to ensure continued compliance with any provision of this Consent
25 Order and to hold Defendants in contempt for any violations of any provision of this
26 Consent Order.

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1 60. To the extent that any funds accrue to the U.S. Treasury for satisfaction
2 of Defendants' Disgorgement Obligation, such funds shall be transferred to the
3 Monitor for disbursement in accordance with the procedures set forth above.

4 **Civil Monetary Penalty**

5 61. Defendants shall pay, jointly and severally, a civil monetary penalty
6 ("CMP Obligation") in the amount of one million dollars (\$1,000,000), plus post-
7 judgment interest, within ten (10) days of the date of the entry of this Consent Order.
8 Post-judgment interest shall accrue on the CMP Obligation beginning on the date of
9 entry of this Consent Order and shall be determined by using the Treasury Bill rate
10 prevailing on the date of entry of this Consent Order pursuant to 28 U.S.C. § 1961
11 (2012).

12 62. Defendants shall pay the CMP Obligation by electronic funds transfer,
13 U.S. postal money order, certified check, bank cashier's check or bank money order.
14 If payment is to be made other than by electronic funds transfer, then the payment
15 shall be made payable to the Commodity Futures Trading Commission and sent to
16 the address below:

17
18 Commodity Futures Trading Commission
19 Division of Enforcement
20 ATTN: Accounts Receivables
21 DOT/FAA/MMAC/AMZ-341
22 CFTC/CPSC/SEC
23 6500 S. MacArthur Blvd.
24 Oklahoma City, OK 73169
25 (405) 954-7262 office
26 (405) 954-1620 fax
27 nikki.gibson@faa.gov
28

24 If payment by electronic funds transfer is chosen, Defendants shall contact Nikki
25 Gibson or her successor at the address above to receive payment instructions and shall
26 fully comply with those instructions. Defendants shall accompany payment of the
27 CMP Obligation with a cover letter that identifies Defendants and the name and
28

1 docket number of this proceeding. Defendants shall simultaneously transmit copies of
2 the cover letter and the form of payment to the Chief Financial Officer, Commodity
3 Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW,
4 Washington, D.C. 20581.

5 63. Partial Satisfaction: Any acceptance by the Commission and/or Monitor
6 of partial payment of Defendants' CMP Obligation and/or civil monetary penalty shall
7 not be deemed a waiver of their respective obligation requirement to make further
8 payments pursuant to this Consent Order, or a waiver of the Commission's and/or
9 Monitor's right to seek to compel payment of any remaining balance.

10 VII. MISCELLANEOUS PROVISIONS

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

13 Notice to Commission:

14 Aitan Goelman
15 Director, Division of Enforcement
16 Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

17 Notice to Defendants Intelligent Trades, LLC and Ghassan Tawachi:

18 c/o Ron Cordova, Esq.
19 16520 Bake Parkway, Suite 280
Irvine, CA 92618

20 All such notices to the Commission shall reference the name and docket number of
21 this action.

22 65. Change of Address/Phone: Until such time as Defendants satisfy in full
23 their Disgorgement Obligation and CMP Obligation as set forth in this Consent Order,
24 Defendants shall provide written notice to the Commission by certified mail of any
25 change to their telephone number and mailing address within ten (10) calendar days of
26 the change.
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1 66. Entire Agreement and Amendments: This Consent Order incorporates all
2 of the terms and conditions of the settlement among the parties hereto to date.
3 Nothing shall serve to amend or modify this Consent Order in any respect whatsoever,
4 unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by
5 order of this Court.

6 67. Invalidation: If any provision of this Consent Order or if the application
7 of any provision or circumstance is held invalid, then the remainder of this Consent
8 Order and the application of the provision to any other person or circumstance shall
9 not be affected by the holding.

10 68. Waiver: The failure of any party to this Consent Order or of any client at
11 any time to require performance of any provision of this Consent Order shall in no
12 manner affect the right of the party or client at a later time to enforce the same or any
13 other provision of this Consent Order. No waiver in one or more instances of the
14 breach of any provision contained in this Consent Order shall be deemed to be or
15 construed as a further or continuing waiver of such breach or waiver of the breach of
16 any other provision of this Consent Order.

17 69. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction
18 of this action to ensure compliance with this Consent Order and for all other purposes
19 related to this action, including any motion by Defendants to modify or for relief from
20 the terms of this Consent Order.

21 70. Injunctive and Equitable Relief Provisions: The injunctive and equitable
22 relief provisions of this Consent Order shall be binding upon Defendants, upon any
23 person under their authority or control, and upon any person who receives actual notice
24 of this Consent Order, by personal service, e-mail, facsimile or otherwise insofar as he
25 or she is acting in active concert or participation with Defendants.

26 71. Authority: Ghassan Tawachi hereby warrants that he is the Principal and
27 owner of Intelligent Trades LLC, and that this Consent Order has been duly
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1 authorized by Intelligent Trades LLC and he has been duly empowered to sign and
2 submit this Consent Order on behalf of Intelligent Trades LLC.

3 72. Contempt: Defendants understand that the terms of the Consent Order
4 are enforceable through contempt proceedings, and that, in any such proceedings they
5 may not challenge the validity of this Consent Order.

6 73. Agreements and Undertakings: Defendants shall comply with all of the
7 undertakings and agreements set forth in this Consent Order.

8
9 There being no just reason for delay, the Clerk of the Court is hereby ordered to
10 enter this *Consent Order for Permanent Injunction, Civil Monetary Penalty and Other*
11 *Equitable Relief against Defendants Intelligent Trades LLC and Ghassan Tawachi*
12 forthwith and without further notice.

13
14
15 DONE and ORDERED in chambers in Los Angeles, California this 29th day of
16 July, 2016.



17
18
19
20 Andrew J. Guilford
21 **UNITED STATES DISTRICT JUDGE**

22 CONSENTED TO AND APPROVED BY:

23 _____

24 Ghassan Tawachi, Defendant

25 Date: _____

26
27
28 _____

1 Ghassan Tawachi, on behalf of Defendant Intelligent Trades, LLC

2 Date: _____

3

4 PLAINTIFF

5 _____

6 Date: _____

7 James H. Holl, III,
8 Thomas J. Kelly
9 Attorneys for Plaintiff
10 U.S. Commodity Futures Trading Commission
11 Three Lafayette Centre
12 1155 21st N.W.
13 Washington, D.C. 20581

14 Approved as to form:

15

16 _____

17 Ron Cordova, Esq.
18 Attorney for Defendants Ghassan Tawachi and Intelligent Trades, LLC

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