

JS-6

NOTE: CHANGES MADE BY COURT

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT CALIFORNIA  
SOUTHERN DIVISION

_____	)	
UNITED STATES	)	
COMMODITY FUTURES	)	Case No: 8:15-cv-00130
TRADING COMMISISION	)	
	)	<del>PROPOSED</del> ORDER OF
Plaintiff,	)	DEFAULT JUDGMENT
	)	AGAINST DEFENDANTS
vs.	)	CHRISTOPHER VALOIS,
	)	CYNTHIA WONG,
CHRISTOPHER VALOIS,	)	BERTRAM TRADE LLC
CYNTHIA WONG, BERTRAM	)	AND CHURCHHILL
TRADE LLC, and	)	COMMODITIES
CHURCHHILL COMMODITIES	)	TRADING LLC
TRADING LLC,	)	
	)	Hon. Cormac J. Carney
Defendants.	)	
_____	)	

This matter is before the Court on Plaintiff U.S. Commodity Futures Trading Commission's ("Plaintiff" or "Commission") Application For Entry of Final Judgment By Default ("Application") against Defendants Christopher Valois, Cynthia Wong, Bertram Trade LLC ("Bertram Trade") and Churchhill

1 Commodities Trading LLC (“Churchhill”) (collectively “Defendants”). For the  
2 reasons stated below, the Commission’s Application is GRANTED and an Order  
3 of Permanent Injunction together with civil monetary penalties and restitution  
4 relief is contained herein.<sup>1</sup>  
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## 6 I. BACKGROUND

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8 On January 28, 2015, the Commission filed a Complaint for Injunctive and  
9 Other Equitable Relief and Penalties Under the Commodity Exchange Act  
10 (“Complaint”) alleging that Defendants violated the Commodity Exchange Act  
11 (“Act”), as amended, 7 U.S.C § 1 *et seq.* (2012). The Commission’s Complaint  
12 alleges that Defendants solicited, obtained and/or managed \$737,000 from six  
13 customers. According to the Commission’s Complaint, a portion of these funds  
14 were to used to purchase precious metals and a portion was to be traded in futures  
15 trading accounts. The Commision’s Complaint alleges that Defendants defrauded  
16 their customers by claiming that they were purchasing precious metals on behalf of  
17 some of the customers, when they were not; misrepresenting profit potential and  
18 risk of loss associated with the trading of commodity futures contracts and  
19 precious metals; and misappropriating customer funds. Additionally, the  
20 Commission’s Complaint alleges that Defendants were not registered with the  
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27 <sup>1</sup> Having read and considered the papers presented by the Commission, the Court finds this  
28 matter appropriate for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15.  
Accordingly, the hearing set for May 4, 2015 at 1:30 p.m. is hereby vacated and off calendar.

1 Commission as commodity trading advisors (“CTAs”) as required, and therefore,  
2 unlawfully traded customer funds in managed futures accounts.

## 3 4 **II. PROCEDURAL HISTORY**

5 On January 28, 2015, the Commission filed its Complaint. On January 30,  
6 2015, this Court entered an *Ex Parte* Statutory Restraining Order freezing  
7 Defendants’ assets, prohibiting the destruction of, or prevention of CFTC access to  
8 Defendants’ books and records, and providing for other relief. (Dkt. No. 25). On  
9 February 13, 2015, this Court entered an Order of Preliminary Injunction, finding  
10 that there is good cause to believe that the Defendants have engaged, are engaging,  
11 or are about to engage in conduct in violations of the Act, and preliminarily  
12 enjoining Defendants from directly or indirectly violating Sections 4(a) and  
13 4b(a)(2)(A) and (C), 7 U.S.C. § 6(a), 6b(a)(2)(A) and (C) (2012), and from  
14 engaging in activities subject to the Commission’s jurisdiction. (Dkt. No. 33).  
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18 The Commission properly served Defendants with a summons and the  
19 Complaint on February 3, 2015. On that date, the Commission served Valois and  
20 Wong via personal service (Dkt. Nos. 28, 30); and completed service upon Bertram  
21 and Churchill by serving summons upon Valois. (Dkt. No. 29). Defendants failed  
22 to answer, plead, or otherwise respond to the Complaint within 21 days and on  
23 February 25, 2015, this Court entered a default against the Defendants pursuant to  
24 Federal Rule of Civil Procedure (“F.R.Civ.P.”) Rule 55(a) for failure to defend and  
25 failure to comply with the Court’s orders. (Dkt. No. 34). The Court instructed the  
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1 Commission to file a motion for default judgment at its earliest convenience and to  
2 set a hearing date in accordance with local rules 6-1 and 55-1. *Id.*  
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4 The Court has carefully considered the Complaint, the factual allegations  
5 which are well-pled and hereby taken as true, and the Commission’s Application  
6 and the Memorandum and Exhibits in support thereof. Having been fully advised  
7 and familiar with the record in this matter, the Court hereby enters findings of fact  
8 and conclusions of law, and issues a final order of permanent injunction,  
9 restitution, a civil monetary penalty, and other equitable relief pursuant to *Section*  
10 *6c* of the Act, as amended, 7 U.S.C. § 13a-1, as set forth herein.  
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13 **III. FINDINGS OF FACT**

14 **A. Parties**

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16 The U.S. Commodity Futures Trading Commission is an independent federal  
17 regulatory agency charged by Congress with the responsibility for administering and  
18 enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*, and the Commission’s  
19 Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2014).  
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21 Christopher Valois resides in Irvine, California. Valois was registered with  
22 the Commission intermittently between 1998 and 2009 as a CTA, introducing  
23 broker (“IB”) and associated person (“AP”). However, since August 2009, Valois  
24 has not been registered with the Commission in any capacity. In August 2010, the  
25 National Futures Association (“NFA”), the self-regulatory organization designated  
26 by Plaintiff CFTC to register futures industry professionals, permanently barred  
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1 Valois from NFA membership for making deceptive and misleading sales  
2 solicitations, using misleading and deceptive promotional material, and  
3 unauthorized trading of customer accounts, among other things. In the NFA's  
4 decision to permanently bar Valois, it found that "Valois has no regard for the  
5 [futures] regulatory structure . . . and poses a threat to customer protection."  
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8 Cynthia Wong resides in Irvine, California. Wong was never been  
9 registered with the Commission in any capacity. Wong is married to Valois.

10 Wong formed Bertram Trade and operated it with Valois.

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12 Bertram Trade LLC is a California limited liability company which had a  
13 business address of 7 Cobalt Drive, Dana Point, California 92629 from March  
14 2009 to October 2011. Valois and Wong formed Bertram Trade in March 2009  
15 and shut it down in approximately October 2011. During that period Valois and  
16 Wong controlled Bertram Trade and were responsible for Bertram Trade's  
17 operations, solicitation of clients, and receipt and use of customer funds. Bertram  
18 Trade maintained a website at www.bertramtrade.com during the same time  
19 period. Bertram Trade offered leveraged investments in precious metals to retail  
20 customers. Bertram Trade has never been registered with the Commission in any  
21 capacity.  
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25 Churchhill Commodities Trading LLC is a California limited liability  
26 company which has used a business address of 17266 Candleberry, Irvine,  
27 California 92612 since March 2012. Valois and Wong formed Churchill in March  
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1 2012 after shutting Bertram down. During that period Valois controlled Churchill  
2 and was responsible for its operations, solicitation of clients, and receipt and use of  
3 customer funds. Churchill's website at [www.churchillcommoditiestrading.com](http://www.churchillcommoditiestrading.com) is  
4 identical to Bertram Trade's former website and until recently was still active.  
5 Churchill has never been registered with the Commission in any capacity.  
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8 **B. Defendants' Conduct**

9 In 2010, the NFA barred Defendant Valois from NFA membership for  
10 defrauding customers. Valois and his wife, Wong, subsequently formed Bertram  
11 Trade, and then Churchill, through which they fraudulently solicited, managed or  
12 obtained \$737,000 from six customers.  
13

14 Customers tendered \$352,500 of those funds ostensibly to purchase  
15 leveraged purchase precious metals through Bertram Trade and Churchill. The  
16 customer funds went into bank accounts that Valois and Wong controlled.  
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18 Defendants claimed, through the Bertram Trade and Churchill websites, to  
19 buy, store and insure leveraged precious metals for customers and claimed that  
20 customers could access the precious metals at any time. However, Defendants did  
21 not provide any precious metals to customers. Of the \$352,500 invested for the  
22 purpose of purchasing precious metals, customers received only \$8,100 back, and  
23 no customer ever received any precious metals. Instead, Defendants used the  
24 overwhelming majority of the funds—\$344,400—to pay their personal expenses  
25 and Bertram Trade's and Churchill's business and operational expenses.  
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1 injunctive and other relief against any person whenever it shall appear to the  
2 Commission that such person has engaged, is engaging, or is about to engage in  
3 any act or practice constituting a violation of the Act or any rule, regulation, or  
4 order thereunder. Defendants have engaged, are engaging, or are about to engage  
5 in acts or practices that constitute a violation of the Act and Commission  
6 Regulations.  
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9 Venue properly lies with this Court pursuant to Section 6c(e) of the Act,  
10 7 U.S.C. § 13a-1(e), because Defendants reside in and transacted business within  
11 this district and the acts and practices in violation of the Act occurred, are  
12 occurring, or are about to occur, within this district.  
13

14 **B. Entry of Default Judgment Against Defendants is Appropriate**  
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16 After a party's default has been entered, the party who sought the default  
17 may file a motion requesting the entry of a default judgment. *Fed.R.Civ.P. Rule*  
18 *55(b)(2)*. See also *Ring Central, Inc. v. Quimby*, 711 F. Supp. 2d 1048, 1057 (N.D.  
19 Cal. 2010). The decision to grant a motion for default judgment is within the  
20 sound discretion of the district court. *Fed.R.Civ.P. 55(b)*; *Aldabe v. Aldabe*, 616  
21 F.2d 1089, 1092 (9th Cir.1980).  
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24 The Ninth Circuit has identified seven factors courts should consider when  
25 determining whether to grant a default judgment: (1) the possibility of prejudice to  
26 plaintiff; (2) the merits of plaintiff's substantive claim; (3) the sufficiency of the  
27 complaint; (4) the sum of money at stake in the action; (5) the possibility of a  
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1 dispute concerning the material facts; (6) whether the default was due to excusable  
2 neglect, and; (7) the strong policy underlying the Federal Rules of Civil Procedure  
3 favoring decisions on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th  
4 Cir.1986). Failure to make a timely answer to a properly served complaint will  
5 justify the entry of a default judgment. *Benny v. Pipes*, 799 F.2d 489, 492 (9th Cir.  
6 1986).  
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9 In a default, the well-pled factual allegations of the complaint, except those  
10 relating to the amount of damages, will be taken as true. *Geddes v. United Fin.*  
11 *Group*, 559 F.2d 557, 560 (9th Cir. 1977) (citing *Pope v. United States*, 323 U.S. 1,  
12 12 (1944); *Flaks v. Koegel*, 504 F.2d 702, 707 (2d Cir. 1974)). A default judgment  
13 may be entered without a hearing on damages, however, when the amount claimed  
14 is liquidated or capable of ascertainment from the definite figures contained in the  
15 documentary evidence or in detailed affidavits. *See, e.g. Franchise Holding II,*  
16 *LLC v. Huntington Rest. Group, Inc.*, 375 F.3d 922, 929 (9th Cir. 2004); *Davis v.*  
17 *Fendler*, 650 F.2d 1154, 1161 (9th Cir. 1981). Thereafter, the judgment entered by  
18 default is treated as a conclusive and final adjudication of the issues necessary to  
19 justify the relief awarded. *Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir. 1978)  
20 (citing *Thompson*, 114 U.S. at 113-14; *Geddes v. United Fin. Group*, 559 F.2d 557  
21 (9th Cir. 1977)).  
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27 The Commission's Complaint contains well-pled allegations that establish  
28 the necessary elements for each cause of action against the Defendants.

1 Defendants were served with the pleadings, yet have failed to participate in any  
2 aspect of this litigation, and the Commission's interest in enforcing the Act would  
3 be prejudiced if such default judgment is not entered. Further, as supported by the  
4 Commission's Application and Memorandum In Support of Application For Entry  
5 of Default Judgment and documents referenced therein, entry of this judgment is  
6 warranted.  
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9 **C. Violations of the Commodity Exchange Act**

10 The well-pled allegations of the Complaint establish that Defendants  
11 violated certain provisions of the Act and the Regulations and that a reasonable  
12 likelihood of a future violation exists. Therefore, the issuance of the permanent  
13 injunctive relief requested by the Commission is justified.  
14

15  
16 **1. Defendants Violated Section 4(a) of the Act By Offering and**  
17 **Entering Into, Off-Exchange Precious Metals Transactions**

18 Section 4(a) of the Act, 7 U.S.C. § 6(a), as applied to retail commodity  
19 transactions, makes it illegal for any person to offer to enter into, enter into,  
20 execute, confirm the execution of, or conduct any office or business anywhere in  
21 the United States for the purpose of soliciting, or accepting any order for, or  
22 otherwise dealing in retail commodity transactions unless the transactions are  
23 conducted on a regulated exchange.  
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25  
26 Valois and Wong operated businesses (Bertram Trade and Churchill) in the  
27 United States through which they obtained \$352,500 from customers for the  
28 purpose of soliciting and accepting orders for retail commodity transactions,

1 specifically precious metals transactions. Defendants' precious metals transactions  
2 were not conducted on a regulated exchange and no customers ever received any  
3 precious metals. Therefore, Defendants offer and entry into these transactions  
4 violated Section 4(a) of the Act.  
5

6 **2. Defendants Violated Section 4b(a) of the Act By Defrauding**  
7 **Customers**

8 Section 4b(a) of the Act, in pertinent part, prohibits any person from  
9 cheating, defrauding or deceiving any other person in or in connection with the  
10 offering or entering into retail commodity transactions. Section 4b(a) of the Act  
11 prohibits fraud in connection with retail commodity transactions under Section  
12 4b(a)(2)(A) and (C) as well as fraud in connection with commodity futures  
13 contracts under Section 4b(a)(1)(A) and (C). Fraud under Section 4b(a) of the Act  
14 may be proven by misrepresentations or omission of material fact or by  
15 misappropriation. To establish misrepresentation and omission liability under  
16 Section 4b(a) of the Act, the Commission must prove that: (1) a misrepresentation,  
17 misleading statement, or omission was made; (2) with scienter; and (3) that the  
18 misrepresentation, statement or omission was material. *CFTC v. R.J. Fitzgerald &*  
19 *Co., Inc.*, 310 F.3d 1321, 1328 (11th Cir. 2002), *cert. denied*, 125 S.Ct. 808 (2004)  
20 (*citations omitted*). Misappropriating customer funds also violates Section  
21 4b(a)(2)(A) and (C). *See, e.g., CFTC v. Noble Wealth Data Info. Servs., Inc.*, 90 F.  
22 Supp. 2d 676, 687 (D. Md. 2000) (defendants violated Section 4b(a)(2)(i) and (iii)  
23 (the predecessor to 4b(a)(2)(A) and (C)) by diverting investor funds for operating  
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1 expenses and personal use), *aff'd*, *CFTC v. Baragosh*, 278 F.3d 319 (4th Cir.), *cert.*  
2 *denied*, 537 U.S. 950 (2002).

3  
4 Here Defendants violated Section 4b(a) of the Act by knowingly or with  
5 reckless disregard for the truth or falsity, misrepresenting and omitting material  
6 facts to customers, including falsely representing that they bought, stored, insured,  
7 and would provide customers with precious metals; misrepresented the likelihood  
8 of profit and failed to disclose losses incurred in the trading commodity futures  
9 contracts in managed futures accounts; and misappropriated customer funds.  
10 Therefore, Defendants fraudulent misconduct and misappropriation of customer  
11 money violated Sections 4b(a)(1)(A),(C) and 4b(a)(2)(A),(C) of the Act.  
12

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14 **3. Valois and Wong Violated Section 4m(1) of the Act By Operating**  
15 **As Unregistered Commodity Trading Advisors**

16 Section 4m(1) of the Act, 7 U.S.C. § 6m(1), makes it unlawful for any CTA  
17 to make use of the mails or any means of the instrumentalities of interstate  
18 commerce in connection with its business as a CTA unless registered under the  
19 Act. A CTA is any person who, for compensation or profit, engages in the  
20 business of advising others either directly or through publications, writings or  
21 electronic media, as to the value or the advisability of trading in any contract of  
22 sale of a commodity for future delivery . . . or for compensation or profit, and as  
23 part of a regular business, issues or promulgates analyses or reports concerning any  
24 of the activities referred to above. *Section 1a(12) of the Act, 7U.S.C. § 1a(12).*  
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1 Defendants Valois and Wong violated Section 4m(1) of the Act, 7 U.S.C.  
2 § 6m(1), by, while making use of the mails or any means or instrumentality of  
3 interstate commerce and for compensation or profit, trading \$384,500 of customer  
4 funds in managed futures accounts without being registered with the Commission  
5 as CTAs. Therefore, Valois and Wong managed futures accounts for customers  
6 without the required registration in violation of Section 4m(1) of the Act.  
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9 **4. Valois and Wong Violated Section 4o(1)(A) and (B) of the Act by**  
10 **Engaging in CTA Fraud**

11 Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A),(B), makes it  
12 unlawful for a CTA to make use of the mails or any means or instrumentalities of  
13 interstate commerce, directly or indirectly to (A) employ any device, scheme, or  
14 artifice to defraud any client or prospective client; or (B) to engage in any  
15 transaction or course of business which operates as a fraud or deceit upon any  
16 client or prospective client.  
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19 Defendants Valois and Wong violated Section 4o(1)(A) and (B) of the Act,  
20 by, while acting as a CTA over managed futures accounts, knowingly or with  
21 reckless disregard for the truth or falsity, misrepresenting and omitting material  
22 facts to customers, including misrepresenting the likelihood of profit, failing to  
23 disclose losses incurred in trading commodity futures accounts, and  
24 misappropriating customer funds. Therefore, Valois and Wong engaged in fraud  
25 and misappropriation while operating as CTAs in violation of Section 4o(1)(A) and  
26 (B) of the Act.  
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**5. Controlling Person and Principal-Agent Liability**

Valois controlled Bertram Trade and Churchhill, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bertram Trade's and Churchhill's act or acts in violation of the Act; therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), Valois is liable for Bertram Trade's and Churchhill's respective violations of Sections 4(a), 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1) and 4o(1) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(1)(A),(C), 6b(a)(2)(A),(C), 6m(1), and 6o(1) (2012).

Wong controlled Bertram Trade, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bertram Trade's act or acts in violation of the Act; therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), Wong is liable for Bertram Trade's violations of Sections 4(a), 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1) and 4o(1) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(1)(A),(C), 6b(a)(2)(A),(C), 6m(1), and 6o(1) (2012).

The foregoing acts, omissions, and failures of Valois and Wong occurred within the scope of their employment, office, or agency with Bertram Trade and Churchhill; therefore, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2014), Bertram Trade and Churchhill are liable for Valois' and Wong's acts, omissions, and failures in violation of Sections 4(a), 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1) and

1 4o(1) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(1)(A),(C), 6b(a)(2)(A),(C), 6m(1), and  
2 6o(1) (2012).

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4 **D. Permanent Injunction**

5 Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), authorizes district courts to  
6 issue injunctions for violations of the Act upon a proper showing by the  
7 Commission. To make a proper showing, the Commission must establish that a  
8 person violated and is likely to continue violating the Act, the latter of which may  
9 be inferred from past unlawful conduct. *CFTC v. Co Petro Marketing Group, Inc.*,  
10 680 F.2d 566, 583 (9th Cir. 1981); *CFTC v. British American Commodity Options*  
11 *Corp.*, 560 F.2d 135 at 142 (2<sup>nd</sup> Cir. 1977). The Commission has adequately  
12 demonstrated that Defendants engaged in fraud, unregistered CTA activity, and  
13 misappropriation of customer funds, and that there is a reasonable likelihood of  
14 future violations.  
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18 **ORDER OF PERMANENT INJUNCTION AND**  
19 **OTHER EQUITABLE RELIEF**

20 Based upon the foregoing, **IT IS HEREBY ORDERED** that:

21  
22 **A. Permanent Injunction**

23 1. Based upon and in connection with the foregoing conduct, pursuant to  
24 Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), Defendants are permanently  
25 restrained, enjoined and prohibited from directly or indirectly:  
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- 27 a. Engaging in any conduct in violation of Section 4b(a)(1)(A) and (C),  
28 4b(a)(2)(A) and (C), and 4o(1) of the Act, 7 U.S.C.

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§§ 6b(a)(1)(A),(C), 6b(a)(2)(A),(C), and 6o(1) (2012), including but not limited to, misappropriation or making material misrepresentations and omission in connection with futures or retail commodities trading; and

b. Engaging in conduct in violation of Section 4(a) and 4m(1) of the Act, 7 U.S.C. §§ 6(a), 6m(1) (2012), including, but not limited to, acting as an unregistered commodity trading advisor or offering or placing retail precious metals trades for non-ECPs.

2. Defendants are further permanently restrained, enjoined and prohibited from directly or indirectly:

- a. trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40);
- b. entering into any transactions involving “commodity interests” (as that term is defined in regulation 1.3(yy), 17 C.F.R. § 1.3(yy)) (2014), for their own personal account or for any account in which they have a direct or indirect interest;
- c. having any “commodity interests” traded on their behalf;
- d. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;

- 1 e. soliciting, receiving, or accepting any funds from any person for the  
2 purpose of purchasing or selling any commodity interests;  
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4 f. applying for registration or claiming exemption from registration with  
5 the Commission in any capacity, and engaging in any activity  
6 requiring such registration or exemption from registration with the  
7 Commission, except as provided for in Regulation 4.14(a)(9),  
8 17 C.F.R. § 4.14(a)(9) (2014); and  
9  
10 g. acting as a principal (as that term is defined in Regulation 3.1(a),  
11 17 C.F.R. § 3.1(a) (2014)), agent or any other officer or employee of  
12 any person (as that term is defined in Section 1a of the Act, 7 U.S.C. §  
13 1a), or entity registered, exempted from registration or required to be  
14 registered with the Commission, except as provided for in Regulation  
15 4.14(a)(9), 17 C.F.R. § 4.14(a)(9);  
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18 **B. Restitution**  
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20 3. Defendants shall pay, jointly and severally, restitution in the amount  
21 of four hundred forty-eight thousand, three hundred and seventy-one dollars  
22 (\$448,371.00) (“Restitution Obligation”) plus post-judgment interest. Post-  
23 judgment interest shall accrue on the Restitution Obligation beginning on the date  
24 of entry of this Order and shall be determined by using the Treasury Bill rate  
25 prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).  
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1           4. To effect payment of the Restitution Obligation and the distribution of  
2 any restitution payments to Defendants' customers, the Court appoints the National  
3 Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall collect  
4 restitution payments from Defendants and make distributions as set forth below.  
5 Because the Monitor is acting as an officer of this Court in performing these  
6 services, the NFA shall not be liable for any action or inaction arising from NFA's  
7 appointment as Monitor, other than actions involving fraud.  
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10           5. Defendants shall make Restitution Obligation payments under this  
11 Order to the Monitor in the name "Valois/Wong/Bertram/Churchhill Restitution  
12 Fund" and shall send such Restitution Obligation payments by electronic funds  
13 transfer, or by U.S. postal money order, certified check, bank cashier's, or bank  
14 money order, to the Office of Administration, National Futures Association, 300  
15 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606 under cover letter that  
16 identifies the paying Defendant(s) and the name and docket number of this  
17 proceeding. The paying Defendant(s) shall simultaneously transmit copies of the  
18 cover letter and the form of payment to the Chief Financial Officer, Commodity  
19 Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW,  
20 Washington, D.C. 20581.  
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25           6. The Monitor shall oversee the Restitution Obligation and shall have  
26 the discretion to determine the manner of distribution of such funds in an equitable  
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1 fashion to Defendant(s)' customers identified by the Commission or may defer  
2 distribution until such time as the Monitor deems appropriate.

3  
4 7. Defendants shall cooperate with the Monitor as appropriate to provide  
5 such information as the Monitor deems necessary and appropriate to identify  
6 Defendants' customers to whom the Monitor, in its sole discretion, may determine  
7 to include in any plan for distribution of any Restitution Obligation payments.  
8 Defendants shall execute any documents necessary to release funds that they have  
9 in any repository, bank, investment or other financial institution, wherever located,  
10 in order to make partial or total payment toward the Restitution Obligation.  
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13 8. The Monitor shall provide the Commission at the beginning of each  
14 calendar year with a report detailing the disbursement of funds to Defendants'  
15 customers during the previous year. The Monitor shall transmit this report under a  
16 cover letter that identifies the name and docket number of this proceeding to the  
17 Chief Financial Officer, Commodity Futures Trading Commission, Three  
18 Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.  
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21 9. The amounts payable to each customer shall not limit the ability of  
22 any customer from proving that a greater amount is owed from Defendants or any  
23 other person or entity, and nothing herein shall be construed in any way to limit or  
24 abridge the rights of any customer that exist under state or common law.  
25

26 10. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each  
27 customer of Defendants who suffered a loss is explicitly made an intended third-  
28

1 party beneficiary of this Order and may seek to enforce obedience of this Order to  
2 obtain satisfaction of any portion of the restitution that has not been paid by  
3 Defendants to ensure continued compliance with any provision of this Order and to  
4 hold Defendants in contempt for any violations of any provision of this Order.  
5

6 11. To the extent that any funds accrue to the U.S. Treasury for  
7 satisfaction of Defendants' Restitution Obligation, such funds shall be transferred  
8 to the Monitor for disbursement in accordance with the procedures set forth above.  
9

10 **C. Civil Monetary Penalty**  
11

12 12. Defendants shall pay, jointly and severally, a civil monetary penalty in  
13 the amount of seven hundred thousand dollars (\$700,000) ("CMP Obligation"),  
14 plus post-judgment interest. Post-judgment interest shall accrue on the CMP  
15 Obligation beginning on the date of entry of this Order and shall be determined by  
16 using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to  
17 28 U.S.C. § 1961 (2012).  
18  
19

20 13. Defendants shall pay their CMP Obligation by electronic funds  
21 transfer, U.S. postal money order, certified check, bank cashier's check, or bank  
22 money order. If payment is to be made other than by electronic funds transfer,  
23 then the payment shall be made payable to the Commodity Futures Trading  
24 Commission and sent to the address below:  
25

26 Commodity Futures Trading Commission  
27 Division of Enforcement  
28 ATTN: Accounts Receivables  
DOT/FAA/MMAC/AMZ-341

1 CFTC/CPSC/SEC  
2 6500 S. MacArthur Blvd.  
3 Oklahoma City, OK 73169  
4 (405) 954-7262 office  
5 (405) 954-1620 fax  
6 nikki.gibson@faa.gov

7 If payment by electronic funds transfer is chosen, Defendants shall contact Nikki  
8 Gibson or her successor at the address above to receive payment instructions and  
9 shall fully comply with those instructions. Defendants shall accompany payment  
10 of the CMP Obligation with a cover letter that identifies Defendants and the name  
11 and docket number of this proceeding. Defendants shall simultaneously transmit  
12 copies of the cover letter and the form of payment to the Chief Financial Officer,  
13 Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st  
14 Street, NW, Washington, D.C. 20581.  
15  
16

17 **D. Provisions Related to Monetary Sanctions**

18 14. Partial Satisfaction: Acceptance by the Commission/CFTC or the  
19 Monitor of any partial payment of Defendants' Restitution Obligation or CMP  
20 Obligation shall not be deemed a waiver of his/her/their/its obligation to make  
21 further payments pursuant to this Order, or a waiver of the Commission/CFTC's  
22 right to seek to compel payment of any remaining balance.  
23  
24

25 15. Asset Freeze: On January 30, 2015, the Court entered an asset freeze  
26 order prohibiting the transfer, removal, dissipation and disposal of Defendants'  
27 assets ("Asset Freeze Order"). The Court hereby lifts the Asset Freeze Order.  
28

1           **E. Miscellaneous Provisions**

2           16.    Notice: All notices required to be given by any provision in this  
3  
4    Order shall be sent certified mail, return receipt requested, as follows:

5    Notice to Commission:

6           Director  
7           Division of Enforcement  
8           U.S. Commodity Futures Trading Commission  
9           Three Lafayette Centre  
10          1155 21st Street, N.W.  
11          Washington, D.C. 20581

12    Notice to NFA:

13           Daniel Driscoll, Executive Vice President, COO  
14           National Futures Association  
15           300 S. Riverside Plaza, Suite 1800  
16           Chicago, IL 60606-3447

17    All such notices to the Commission or the NFA shall reference the name and  
18    docket number of this action.

19           17.    Invalidation: If any provision of this Order or if the application of any  
20    provision or circumstance is held invalid, then the remainder of this Order and the  
21    application of the provision to any other person or circumstance shall not be  
22    affected by the holding.

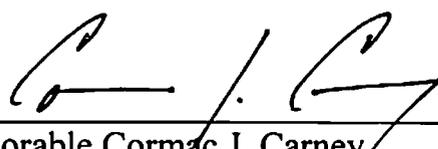
23           18.    Continuing Jurisdiction of this Court: This Court shall retain  
24    jurisdiction of this action to ensure compliance with this Order and for all other  
25    purposes related to this action, including any motion by Defendants to modify or  
26    for relief from the terms of this Order.  
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19. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Order shall be binding upon Defendants, upon any person under the authority or control of any of the Defendants, and upon any person who receives actual notice of this Order, by personal service, e-mail, facsimile or otherwise insofar as he or she is acting in active concert or participation with Defendants.

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this *Order for Default Judgment against Defendants Christopher Valois, Cynthia Wong, Bertram Trade LLC and Churchill Commodities Trading LLC* forthwith and without further notice.

**DONE AND ORDERED** in Chambers at Santa Ana, California, April 28, 2015.

  
\_\_\_\_\_  
Honorable Cormac J. Carney  
UNITED STATES DISTRICT JUDGE