



1 BERNARD J. BARRETT, State Bar No. 165869
 2 JOHN T. WISE, State Bar No. 87567
 3 EDWIN J. YOSHIMURA, State Bar No. 89948
 4 COMMODITY FUTURES TRADING COMMISSION
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Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

LOGGED

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 DISTRICT COURT
 DIST. OF CALIF.
 LOS ANGELES

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 12 COMMODITY FUTURES TRADING)
 13 COMMISSION,)

Plaintiff,

vs.

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 17 BEN. OUYANG an individual; YUEN)
 18 K'WONG "ANTHONY" WONG dba)
 19 IBF CAPITAL LIMITED COMPANY,)
 20 an individual, and VICTCO)
 21 FINANCIAL SERVICE, INC., a)
 22 California corporation,)

Defendants.

Case No. CV 03-0833 (MCX)

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[PROPOSED] STATUTORY
 RESTRAINING ORDER AND
 ORDER TO SHOW CAUSE RE:
 PRELIMINARY INJUNCTION

25 This matter came on for hearing on February __, 2003 on the Ex Parte
 26 Application of Plaintiff Commodity Futures Trading Commission ("CFTC") for a:
 27 (1) Statutory Restraining Order; and (2) Order to Show Cause re: Preliminary
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1 Injunction ("Application"). The Court, having considered the CFTC's Complaint,
2 Application, Memorandum of Points and Authorities, Declarations and Exhibits,
3 other materials, all other evidence presented by all parties filed herein, and having
4 heard the arguments of counsel, finds that:
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6 1. This Court has jurisdiction over the parties and over the subject matter
7 of this action pursuant to Sections 2(c)(2)(B) (i) and (ii) and 6c of the Commodity
8 Exchange Act, 7 U.S.C. §§ 2 (2001) and 7 U.S.C. § 13a-1 (2001).
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10 2. Venue lies properly within this District pursuant to Sections 6c(e) of
11 the Commodity Exchange Act, 7 U.S.C. § 13a-1(e) (2001).
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13 3. There is good cause to believe that defendants have engaged, are
14 engaging and are about to engage in acts and practices constituting violations of the
15 Commodity Exchange Act, 7 U.S.C. §§ 1, et seq. (2001).
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17 4. There is good cause to believe that immediate and irreparable damage
18 to the Court's ability to grant effective final relief for investors in the form of
19 monetary redress will occur from the sale, transfer, assignment, or other disposition
20 by defendants Ben Ouyang ("Ouyang"), Yuen Kwong "Anthony" Wong ("Wong")
21 dba IBF Capital Limited Company ("IBF"), and Victco Financial Service, Inc.
22 ("Victco") of assets or records unless defendants are immediately restrained and
23 enjoined by Order of this Court.
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25 5. Good cause exists for the freezing of the assets of defendants Ouyang,
26 Wong, IBF and Victco and for entry of an order prohibiting defendants from
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1 destroying records and denying agents of the CFTC access to inspect and copy
2 records.

3 6. Weighing the equities and considering the CFTC's likelihood of
4 success in its claims for relief, the issuance of a statutory restraining order is in the
5 public interest.
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7 DEFINITIONS

8 For the purposes of this Order, the following definitions apply:

9 7. "Assets" means any legal or equitable interest in, right to, or claim to,
10 any real or personal property, including but not limited to: chattels, goods,
11 instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or
12 other deliveries, inventory, checks, notes, accounts including bank accounts and
13 accounts at financial institutions, credits, receivables, lines of credit, contracts
14 including spot and futures contracts, insurance policies, and all cash, wherever
15 located.
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17 8. The term "document" is synonymous in meaning and equal in scope
18 to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes:
19 writings, drawings, graphs, charts, photographs, audio and video recordings,
20 computer records, and other data compilations from which information can be
21 obtained and translated, if necessary, through detection devices into reasonably
22 usable form. A draft or non-identical copy is a separate document within the
23 meaning of the term.
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2 9. "Defendants" mean Ben Ouyang, an individual, Yuen Kwong
3 "Anthony" Wong dba IBF Capital Limited Company, an individual, and Victco
4 Financial Service, Inc., and any person insofar as he or she is acting in the capacity
5 of an officer, agent, servant, employee or attorney of Ben Ouyang, Yuen Kwong
6 "Anthony" Wong dba IBF Capital Limited Company, and Victco Financial
7 Service, Inc., and any person who receives actual notice of this Order by personal
8 service or otherwise, including facsimile, insofar as he or she is acting in concert
9 or participation with Ben Ouyang, Yuen Kwong "Anthony" Wong dba IBF Capital
10 Limited Company, and Victco Financial Service, Inc.
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1.

15 ORDER AGAINST TRANSFER, DISSIPATION, AND DISPOSAL OF ASSETS
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17 IT IS HEREBY ORDERED that:

18 10. Defendants and their agents, servants, employees, attorneys, and
19 persons in active concert or participation with any of them who receive actual notice
20 of this Order by personal service or otherwise, are enjoined and restrained from
21 directly or indirectly dissipating, withdrawing, transferring, removing, selling,
22 alienating, liquidating, encumbering, pledging, leasing, loaning, assigning,
23 converting, concealing or disposing of funds, securities, assets or other property
24 either now or hereafter owned, controlled, or held (whether legally, equitably or
25 otherwise) by or in the name of defendants Ouyang, Wong or Victco, wherever
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1 such funds, assets or other property may be situated, including outside the United
2 States. The assets affected by this paragraph shall include both existing assets and
3 assets acquired after the effective date of this Order.
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5 11. Any financial or brokerage institution, or other person or entity located
6 within the territorial jurisdiction of the United States courts that is holding any funds
7 or assets in the name of, otherwise belonging to, or under the control of defendants
8 Ouyang, Wong or Vietco, which receives actual notice of this Order by personal
9 service, or otherwise, including facsimile transmission, shall hold and retain within
10 its control and prohibit the withdrawal, removal, transfer or other disposal of any
11 such funds or other assets, and any trading accounts in the names of any of such
12 defendants shall be placed on a "liquidation-only" status. A list of such institutions,
13 as far as they are known at this time, is attached to this Order as Exhibit A.
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17 12. All defendants and their agents, servants, employees, attorneys and
18 persons in active concert and participation with any of them who receive actual
19 notice of this Order by personal service or otherwise, are enjoined and restrained
20 from directly or indirectly dissipating, withdrawing, transferring, removing,
21 selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning,
22 converting, concealing or disposing of the proceeds of the business of Ouyang,
23 Wong or Vietco, wherever such proceeds may be situated, including outside the
24 United States. The assets affected by this paragraph shall include both existing
25 assets and assets acquired after the effective date of this Order.
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II.

ORDER PROHIBITING DESTRUCTION OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that:

13. Defendants and their agents, servants, employees, attorneys, and persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, including facsimile transmission, are enjoined from directly or indirectly destroying, mutilating, concealing, altering, or disposing of any of the books, records, documents, correspondence, brochures, manuals, electronically stored data, tape recordings, or other property, wherever such materials may be situated, that refer or relate in any manner to any transaction or matter described in the Complaint in this case.

III.

ACCESS TO AND INSPECTION OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that:

14. Representatives of the CFTC shall have immediate access to the books, records, electronically stored data and other documents of the defendants, wherever such materials may be situated, for purposes of inspecting and copying such materials.

15. Defendants and their agents, servants, employees, attorneys, and persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, including facsimile transmission,

1 shall cooperate fully with the CFTC to locate and provide to representatives of the
 2 CFTC all books and records of defendants, wherever such books and records may
 3
 4 be situated.

IV.

BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that:

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 9 16. Plaintiff CFTC is an agency of the United States of America and,
 10 accordingly, no bond need be posted by the CFTC.

V.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

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 15 17. Defendants Ben Ouyang, Yuen Kwong "Anthony" Wong dba IBF
 16 Capital Limited Company, and Victco Financial Service, Inc. shall show cause, if
 17 there be any, at 3:00 a.m. p.m. on FEB 20, 2003 before the Honorable
 18 Nora M. Manella Courtroom 11, United States District Court, Central
 19 District of California, located at 312 N. Spring, Los Angeles, California 90012 why
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 21 an Order for Preliminary Injunction should not be granted to prohibit further
 22 violations of the Commodity Exchange Act and why the other relief requested
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 24 should not be granted pending trial on the merits of this action.

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 26 18. Any papers in opposition to plaintiff's Motion for a Preliminary
 27 Injunction shall be filed on or before Feb 10, 2003 and served on plaintiff
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no later than 4:00pm. Reply if any due Fri. 2/14

19. Service of a copy of this Order upon defendants' in accordance with Rule 4 of the Federal Rules of Civil Procedure, or in any manner provided by law, on or before 5:00 a.m./p.m. on Thu Feb 6, 2003 shall be deemed good and sufficient service and notice thereof.

IT IS SO ORDERED.

Dated: 2/5/03

NORA M. MANELLA
UNITED STATES DISTRICT JUDGE

Presented by:

John T. Wise
John T. Wise
Attorney for Plaintiff
Commodity Futures Trading
Commission

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EXHIBIT A

List of Financial Institutions

Bank Accounts:

A. IBF: Universal Bank Account No. 6878723

Universal Bank of West Covina, California: account with bank routing number 322270275

Bank of America account with bank routing number 122000661-

B. Ouyang: Washington Mutual Bank Account No. 322271627

Bank of America, Arcadia CA—Account No. 0153417989

East West Bank, Arcadia CA—Account No. 90704016

Bank of America Account No. 09971-12229

C. Victco: Bank of America Account No. 0153417989

D. Wong: Universal Bank Account No. 0006878723

Bank of America Check Card (VISA) No. 4217 6612 9754

Trading Accounts:

A. Victco: Gain Capital Accounts Nos. 0285GAIS, 0397-0399GAIN, et al.

B. Ouyang: FXCM Account No. 00010460

C. Wong: FXCM Account No. 00012226