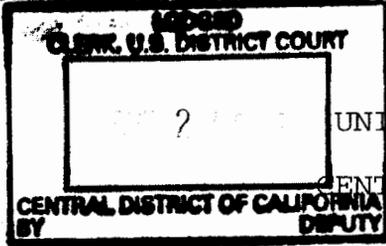
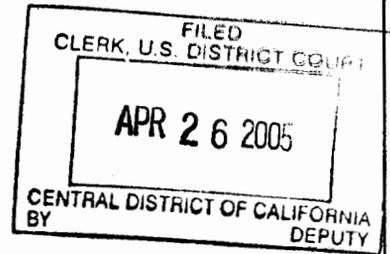


1 JAMES H. HOLL, III, DC BAR NO. 453473
2 COMMODITY FUTURES TRADING COMMISSION
3 1155 21st Street, NW
4 Washington, DC 20581
5 Telephone (202) 418-5311
6 Facsimile (202) 418-5538

7 Attorneys for Plaintiff
8 Commodity Futures Trading Commission



9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 COMMODITY FUTURES TRADING)
12 COMMISSION,)
13)
14 Plaintiff,)
15)
16 vs.)
17)
18 James Weatherford, dba managed)
19 mini.com,)
20)
21)
22 Defendant.)
23)
24)
25)
26)
27)
28)

Case No. CV 04-4079 G PS (CWx)

29 **CONSENT ORDER OF PERMANENT INJUNCTION, MONETARY JUDGMENT AND**
30 **OTHER EQUITABLE RELIEF AGAINST DEFENDANT JAMES WEATHERFORD**

31 On June 8, 2004, Plaintiff, the Commodity Futures Trading
32 Commission ("Commission") filed a Complaint for permanent
33 injunction and other relief, and moved pursuant to Section 6c of
34 the Commodity Exchange Act ("Act"), as amended, 7 U.S.C. § 13a-1
35 (2002), for a Preliminary Injunction prohibiting the Defendant
36 from destroying any business records, books or documents.

37 On July 9, 2004, this Court issued an Order of Preliminary
38 Injunction and other equitable relief which, *inter alia*,
39 preliminarily enjoined Defendant from further violating the Act

1 and Regulations, as alleged in the Complaint, and ordered the
2 maintenance of, and access to, business records.

3 I.

4 CONSENTS AND AGREEMENTS

5 1. To effect settlement of the matters alleged in the
6 Complaint in this action without a trial on the merits or any
7 further judicial proceedings, Defendant consents to the entry of
8 this *Consent Order of Permanent Injunction, Monetary Judgment,*
9 *and Other Relief Against Defendant James Weatherford* ("Order").

10 2. Defendant admits that this Court has jurisdiction over
11 him and the subject matter of this action.

12 3. Defendant admits that venue properly lies with this
13 Court pursuant to Section 6c of the Act, 7 U.S.C. §13a-1 (2002).

14 4. In addition, Defendant waives: (a) all claims that he
15 may possess under the Equal Access to Justice Act, 5 U.S.C. § 504
16 (2000) and 28 U.S.C. § 2412 (2000); (b) the entry of findings of
17 fact and conclusions of law in this action as provided by Rule 52
18 of the Federal Rules of Civil Procedure, except as provided below
19 in Section II; (c) any claim of Double Jeopardy based upon the
20 institution of this proceeding or the entry in this proceeding of
21 any order imposing a civil monetary penalty or any other relief;
22 and (d) all rights of appeal from this Order.

23 5. By consenting to the entry of this Order, Defendant
24 neither admits nor denies any of the findings made in this order
25 or the allegations contained in the Complaint except as to
26 jurisdiction and venue, which Defendant admits. However,
27 Defendant agrees that the allegations of the Complaint and all of
28 the Findings of Fact made by this Court and contained in Section

1 II of this Order shall be taken as true and correct and be given
2 preclusive effect without further proof only for the purposes of
3 enforcing this Order or any subsequent bankruptcy proceeding
4 filed by, on behalf of, or against Defendant for the purpose of
5 determining whether his restitution obligation and/or other
6 payments ordered herein are excepted from discharge. Defendant
7 also shall provide immediate notice of any bankruptcy filed by,
8 on behalf of, or against him in the manner required by Section
9 IV, paragraph 4 of this Order.

10 6. Defendant agrees that neither he nor any of his agents,
11 servants, employees, contractors or attorneys shall take any
12 action or make any public statement denying, directly or
13 indirectly, any allegation in the Complaint or findings or
14 conclusions in the Order or creating, or tending to create, the
15 impression that the Complaint or this Order is without a factual
16 basis; provided, however, that nothing in this provision shall
17 affect Defendant's (a) testimonial obligations, or (b) right to
18 take legal positions in other proceedings to which the Commission
19 is not a party. Defendant shall take all necessary steps to
20 ensure that all of his agents, servants, employees, contractors
21 and attorneys understand and comply with this agreement.

22 7. Defendant agrees that he has read this Order and agrees
23 to this Order voluntarily and that no promise or threat has been
24 made by the Commission, or any member, officer, agent or
25 representative thereof, or by any other person, to induce consent
26 to this Order, other than as set forth specifically herein.

27 8. Defendant consents to the continued jurisdiction of
28 this Court in order to implement and carry out the terms of all

1 orders and decrees that may be entered herein, to entertain any
2 suitable application or motion for additional relief within the
3 jurisdiction of this Court, and to assure compliance with the
4 Order.

5 II.

6 THE PARTIES

7 9. The Plaintiff

8 Plaintiff Commission is an independent federal regulatory
9 agency charged with the responsibility for administering and
10 enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*
11 (2002), and the Regulations promulgated under it, 17 C.F.R. §§ 1
12 *et seq.* (2003).

13 10. The Defendant

14 **James Weatherford** resides in Santa Monica, California.
15 Weatherford, doing business as managed-mini.com, was engaged in
16 the business of soliciting, accepting and pooling funds from
17 individuals to invest in a commodity futures trading pool that he
18 would trade on their behalf. Weatherford has never been
19 registered with the Commission in any capacity.

20 III.

21 FINDINGS OF FACT AND CONCLUSIONS OF LAW

22 A. FINDINGS OF FACT

23 11. The Court, being fully advised in the premises, finds
24 that there is good cause for the entry of this Consent Order
25 and that there is no just reason for delay. The Court
26 therefore directs the entry of findings of fact, conclusions
27 of law and a permanent injunction and ancillary equitable
28 relief pursuant to § 6c and §6d of the Act, 7 U.S.C. § 13a-1

1 (2002), as set forth herein.

2 12. Since at least July 28, 2003 through July 8, 2004,
3 Defendant James Weatherford conducted a business out of Los
4 Angeles, California for the purpose of soliciting funds from
5 individuals to invest in a commodity trading pool that would
6 purportedly trade in S&P 500 e-mini futures contracts.

7 13. Since at least July 28, 2003 and continuing to July 8,
8 2004, Defendant solicited these customer funds through an
9 internet web site at www.managed-mini.com, which he established
10 and controlled.

11 14. On his website, Defendant falsely represented that he
12 collected and pooled funds from individuals for purposes of being
13 traded with or by Vankar Trading, a commodity trading advisor
14 ("CTA") registered with the CFTC. Vankar Trading never had any
15 trading accounts under the name, ownership or control of
16 Defendant or managed-mini.com.

17 15. Defendant also falsely represented on his website that
18 his commodity futures trading, through Vankar, utilized the
19 "Trendcatcher" trading systems developed by a company called
20 XtradeUS. XtradeUS never had a relationship with either
21 Defendant or managed-mini.com.

22 16. Defendant further falsely claimed that individuals who
23 invested funds with him would average profits of 26% per month,
24 and would double their initial investment in approximately four
25 months.

26 17. In his solicitations on his website, Defendant never
27 discussed or disclosed the substantial risks involved in trading
28 commodity futures contracts.

1 18. Through his solicitations of individuals to invest
2 funds in a commodity futures trading pool, Defendant acted as an
3 unregistered commodity pool operator ("CPO"), as defined by
4 Section 1a(5) of the Act, 7 U.S.C. § 1a(4) (2002).

5 19. The only commodity futures trading known to have been
6 conducted by Weatherford was conducted in his personal trading
7 accounts. Weatherford overall lost money in trading commodity
8 futures in his personal trading accounts and never had profits
9 from trading commodity futures. Weatherford eventually refunded
10 all funds invested to the pool participants.

11 **B. CONCLUSIONS OF LAW**

12 1. This Court has jurisdiction over the subject matter of
13 this action and all parties hereto pursuant to Section 6c of the
14 Act which authorizes the Commission to seek injunctive relief
15 against any person whenever it shall appear that such person has
16 engaged, is engaging or is about to engage in any act or practice
17 constituting a violation of any provision of the Act or any rule,
18 regulation or order thereunder.

19 2. Venue properly lies with this Court pursuant to Section
20 6c of the Act.

21 3. This Court has personal jurisdiction over the
22 Defendant, who has acknowledged service of the Complaint and
23 consented to the Court's jurisdiction over him.

24 4. The Commission and the Defendant have agreed to this
25 Court's retention of continuing jurisdiction over each of them
26 for the purpose of enforcing the terms of this Order.

27 5. By the conduct set forth in Section III(A) above,
28 Defendant violated Sections 4b(a)(2)(i) and (iii) of the Act, 7

1 U.S.C. §§ 6b(a)(2)(i) and (iii) (2002).

2 6. By the conduct set forth in Section III(A) above,
3 Defendant violated Section 4o of the Act, 7 U.S.C. § 6o(2002), in
4 that he directly or indirectly employed a device, scheme, or
5 artifice to defraud prospective customers, or has engaged in
6 transactions, practices or a course of business which operated as
7 a fraud or deceit upon prospective customers by using the mails
8 or other means or instrumentalities of interstate commerce.

9 7. Defendant violated Section 4m(1) of the Act, 7 U.S.C.
10 §6m(1) (2002), in that he used the mail and other means of
11 interstate commerce in connection with his business as a CPO,
12 while failing to register with the Commission as a CPO.

13 8. By the conduct set forth in Section III(A) above,
14 Defendant violated Commission Regulation 4.41(a), 17 C.F.R. §
15 4.41(a), in that he misrepresented and failed to disclose
16 material facts in solicitations on the internet website
17 www.managed-mini.com, in a manner which constituted a device,
18 scheme or artifice to defraud prospective customers or a practice
19 or course of business.

20 IV.

21 ORDER FOR PERMANENT INJUNCTION, RESTITUTION
22 AND CIVIL MONETARY PENALTY

23 NOW THEREFORE, IT IS ORDERED THAT:

24 1. The Defendant shall be permanently restrained, enjoined
25 and prohibited from directly or indirectly:

- 26 a. in or in connection with any order to make, or the
27 making of, any contract of sale of any commodity
28 for future delivery, made, or to be made, for or
on behalf of any other persons, where such
contract for future delivery was or could be used
for (a) hedging any transaction in interstate

1 commerce in such commodity or the products or
2 byproducts thereof, or (b) determining the price
3 basis of any transaction in interstate commerce in
4 such commodity, or (c) delivering any such
5 commodity sold, shipped, or received in interstate
6 commerce for the fulfillment thereof,

7 i. cheating or defrauding or attempting to cheat
8 or defraud other persons; and

9 ii. willfully deceiving or attempting to deceive
10 other persons;

11 all in violation of Section 4b(a)(i) and (iii) of
12 the Act;

13 b. while acting as a CPO or an AP of a CPO, employing
14 a device, scheme or artifice to defraud pool
15 participants or prospective pool participants, in
16 violation of Section 4o(1)(A) of the Act;

17 c. while acting as a CPO, engaging in a transaction,
18 practice or course of business which operates as a
19 fraud or deceit upon pool participants or
20 prospective pool participants, in violation of
21 Section 4o(1)(B) of the Act;

22 d. using the mails or instrumentalities of interstate
23 commerce in or in connection with the business of
24 a CPO while failing to register as a CPO, in
25 violation of Section 4m(1) of the Act; and

26 e. while acting as a CPO, advertise through any
27 publication, distribution or broadcast of any
28 report, letter, circular, memorandum, publication,
writing, advertisement, or other literature or
advice in a manner which employs any device,
scheme or artifice to defraud any participant or
client or prospective participant or client, or
where such advertising involves any transaction,
practice or course of business which operates as a
fraud or deceit upon any participant or client or
any prospective participant or client, in
violation of Commission Regulation 4.41(a), 17
C.F.R. § 4.41(a)

29 2. Defendant is restrained, enjoined and prohibited from
30 directly or indirectly acting as a CPO involved in the
31 solicitation of funds for participation in a commodity pool for a
32 period of two years following the date of this Order.

33 3. For a period of two years following the date of this

1 Order, Defendant is restrained, enjoined and prohibited from
2 directly or indirectly:

- 3 a. trading on or subject to the rules of any
4 registered entity;
- 5 b. engaging in, controlling or directing the trading
6 for any commodity futures, security futures,
7 options, options on futures, or foreign currency
8 options account for or on behalf of any other
9 person or entity, whether by power of attorney or
10 otherwise; and
- 11 c. applying for registration or claiming exemption
12 from registration with the Commission in any
13 capacity, and engaging in any activity requiring
14 such registration or exemption from registration
15 with the Commission, except as provided for in
16 Regulation 4.14 (a) (9), 17 C.F.R. § 4.14(a) (9)
17 (2004), or acting as a principal, agent or any
18 other officer or employee of any person
19 registered, exempted from registration or required
20 to be registered with the Commission, except as
21 provided for in Regulation 4.14 (a) (9), 17 C.F.R.
22 § 4.14(a) (9) (2004). This includes, but is not
23 limited to, soliciting, accepting or receiving any
24 funds, revenue or other property from any
25 person, giving commodity trading advice for
26 compensation, except as provided for in Regulation
27 4.14 (a) (9), 17 C.F.R. § 4.14(a) (9) (2004), or
28 soliciting prospective customers, related to the
purchase or sale of any commodity futures,
security futures, options, options on futures, or
foreign currency futures.

4. Defendant is further enjoined from entering into any
commodity futures or options transactions for his own personal
account, for any account in which he has a direct or indirect
interest and/or having any commodity interests traded on his
behalf, for a period of two years.

5. The injunctive provisions of this Consent Order shall
be binding upon the Defendant, upon any person insofar as he or
she is acting in the capacity of officer, agent, servant, employee
or attorney of the Defendant, and upon any person who receives
actual notice of this Consent Order, by personal service or

1 otherwise, insofar as he or she is acting in active concert or
2 participation with the Defendant.

3 **IT IS FURTHER ORDERED THAT DEFENDANT JAMES WEATHERFORD PAY A CIVIL
4 MONETARY PENALTY:**

5 Pursuant to § 6c of the Act, 7 U.S.C. § 13a-1 (2002),
6 Defendant shall pay and be liable for a civil monetary penalty of
7 \$5,000.00 plus post-judgment interest. Interest after the date of
8 this Order until the civil monetary penalty is paid in full shall
9 be paid at the post-judgment interest rate set forth in 28 U.S.C.
10 § 1961. Defendant shall pay such civil monetary penalty by
11 electronic funds transfer, or by U.S. postal money order,
12 certified check, bank cashier's check, or bank money order, made
13 payable to the Commodity Futures Trading Commission, and sent to
14 Dennese Posey, Division of Enforcement, Commodity Futures Trading
15 Commission, Three Lafayette Centre, 1155 21st Street, N.W.,
16 Washington, D.C. 20581, under cover of a letter that identifies
17 Defendant and the name and docket number of the proceeding;
18 Defendant shall simultaneously transmit a copy of the cover
19 letter and the form of payment to the Director, Division of
20 Enforcement, Commodity Futures Trading Commission, at the
21 following address: 1155 21st Street, NW, Washington, D.C.
22 20581. All payments of the civil monetary penalty shall be paid
23 to the US Treasury.

24 **IV.**

25 **MISCELLANEOUS PROVISIONS**

26 1. If any provision of this Order or the application of
27 any provision or circumstance is held invalid, the remainder of
28 this Order, and the application of the provision to any other

1 person or circumstance, shall not be affected by the holding.

2 2. Upon being served with copies of this Consent Order
3 after entry by the Court, the Defendant shall sign an
4 acknowledgment of such service and serve such acknowledgment on
5 the Commission within seven (7) calendar days.

6 3. This Court shall retain jurisdiction of this action in
7 order to implement and carry out the terms of all orders and
8 decrees that may be entered herein, to entertain any suitable
9 application or motion for additional relief within the
10 jurisdiction of this Court, and to assure compliance with this
11 Order.

12 4. All notice required to be given by any provision in
13 this Order shall be sent by certified mail, return receipt
14 requested, as follows:

15 Notice to the Commission:

16 James H. Holl, III
17 Erin Vespe
18 Commodity Futures Trading Commission
19 1155 21st Street, NW
20 Washington, DC 20581
21 Telephone (202) 418-5000
22 Facsimile (202) 418-5538

23 5. In the event that Defendant changes his residential or
24 business telephone number(s) and/or address(es) at any time, he
25 shall provide written notice of the new number(s) and/or
26 address(es) to the Commission within ten calendar days thereof.

27 SO ORDERED, this 26th day of April, 2005, at Los Angeles, CA.

28 **GEORGE P. SCHIAVELLI**

UNITED STATES DISTRICT JUDGE

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Consented to and approved for entry by:

PLAINTIFF:



James H. Holl, III DC Bar No. 453473
Erin E. Vespe, CT Bar No. 407295
Commodity Futures Trading
Commission
1155 21st Street, NW
Washington, DC 20581
Telephone (202) 418-5000
Facsimile (202) 418-5538

ATTORNEYS FOR THE PLAINTIFF

COMMODITY FUTURES TRADING
COMMISSION

DEFENDANT:



James Weatherford
2420 Pearl Street
Santa Monica, CA 90405
pro se