

(

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

U.S. COMMODITY FUTURES TRADING)	
COMMISSION,)	
)	
Plaintiff,)	CASE NO. 11-CV-128
)	
v.)	
)	
JADE INVESTMENTS GROUP LLC,)	
JADEFX LTD aka JADEFX LLC, and JACOB)	
JUMA OMUKWE,)	
)	
Defendants.)	
)	
)	

**SUPPLEMENTAL CONSENT ORDER SETTING JUDGMENT
FOR RESTITUTION AND CIVIL MONETARY PENALTY AGAINST DEFENDANTS**

On March 1, 2011, the U.S. Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint in this civil action against Jade Investments Group LLC (“Jade”), JadeFX LTD aka JadeFX LLC (“JadeFX”), and Jacob Juma Omukwe (“Omukwe”) (collectively, “Defendants”). *See* Docket No. 1. The Complaint seeks injunctive and other equitable relief for violations of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 1 *et seq.* (2006), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011).

On the same day the Complaint was filed, the Court issued an *Ex Parte* Statutory Restraining Order freezing assets under the control of the Defendants and prohibiting the destruction of documents. *See* Docket No. 13. On March 8, 2011, the Court entered a Consent Order of Permanent Injunction, Civil Monetary Penalties and Other Equitable Relief Against

Defendants (“Consent Order”) that: (1) makes findings of fact and conclusions of law that the Defendants violated the Act and Regulations, as charged, (2) enjoins Defendants from further violations of the Act and Regulations, as charged, and (3) imposes permanent registration and trading bans. *See* Docket No. 24. The Consent Order also requires Defendants to pay restitution, disgorgement and civil monetary penalties in amounts to be determined within 180 days of the date of the order.

This Supplemental Consent Order Setting Judgment for Restitution and Civil Monetary Penalty Against Defendants (“Supplemental Consent Order”) sets out the amount of restitution and civil monetary penalties to be paid by the Defendants.¹

I.
CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint in this action without a trial on the merits or further judicial proceedings, Defendants:

1. Consent to the entry of this Supplemental Consent Order.
2. Jade, JadeFX and Omukwe admit that this Court has jurisdiction over them and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.
3. Jade, JadeFX and Omukwe consent to the continued jurisdiction of this Court in order to implement and carry out the terms of all orders and decrees that may be entered herein, to entertain any suitable application or motion for additional relief within the jurisdiction of this

¹To avoid a redundancy in damages, the Commission is seeking only restitution.

Court, and to assure compliance with the Consent Order and Supplemental Consent Order even if any of them now or in the future resides or operates outside this jurisdiction.

4. Jade, JadeFX and Omukwe admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. §13a-1 (2006), in that certain of the acts and practices alleged in the Complaint occurred in this District.

5. Jade, JadeFX and Omukwe waive:

(a) any and all claims that they may possess under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2011) relating to or arising from this action and any right pursuant to EAJA to seek costs, fees and other expenses relating to or arising from this action;

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

(c) any claim of Double Jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief; and;

(d) any and all rights of appeal from this action.

6. Jade, JadeFX and Omukwe agree that neither Defendants nor any of their agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or findings or conclusions in the Consent Order or Supplemental Consent Order or creating, or tending to create, the impression

that the Complaint or the Consent Order or Supplemental Consent Order are without a factual basis; provided, however, that nothing in this provision shall affect Defendants': (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants shall take all necessary steps to ensure that all of their agents and employees understand and comply with this agreement.

7. Jade, JadeFX and Omukwe agree to provide immediate notice to this Court and the Commission by certified mail of any bankruptcy proceeding filed by, on behalf of, or against any one of them.

8. Omukwe affirms that he has read and agreed to this Supplemental Consent Order voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Supplemental Consent Order, other than as set forth specifically herein.

9. Omukwe affirms that as sole principal of Jade and JadeFX, he has read and agreed to this Supplemental Consent Order voluntarily on behalf of Jade and JadeFX and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Supplemental Consent Order, other than as set forth specifically herein.

10. Jade, JadeFX and Omukwe waive and shall relinquish any right, title, interest or privilege they have in any funds frozen pursuant to the Court's March 1, 2011, *Ex Parte* Statutory Restraining Order. *See* Docket No. 24.

11. Jade, JadeFX and Omukwe agree that no provision of this Supplemental Consent Order shall in any way limit or impair the ability of any person to seek any legal or equitable remedy against any of the Defendants or any other person in any other proceeding.

II.
PARTIES

12. **Plaintiff U.S. Commodity Futures Trading Commission** is a federal independent regulatory agency that is charged by Congress with the administration and enforcement of the Act, as amended by the CRA and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011).

13. **Jacob Juma Omukwe** is a Canadian citizen who resided in Wisconsin Dells, Wisconsin, from where he operated JadeFX and Jade. Omukwe is the owner of both JadeFX and Jade. Omukwe has never been registered with the Commission in any capacity. Omukwe currently resides in Canada.

14. **Jade Investments Group, LLC** is a Wisconsin limited liability company. Its principal place of business was in Wisconsin Dells, Wisconsin. Jade was incorporated in July of 2007 for the purpose of foreign exchange trading. Jade has never been registered with the Commission in any capacity. Jade is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, or an associated entity of such entities.

15. **JadeFX LTD aka JadeFX LLC**, is a corporate entity with its principal place of business in Wisconsin Dells, Wisconsin. JadeFX was originally incorporated in Belize City, Belize, and subsequently organized as a Wisconsin limited liability company under the name JadeFX LLC on or about April 30, 2010. JadeFX has never been registered with the Commission in any capacity. JadeFX is not a financial institution, registered broker dealer,

insurance company, financial holding company, or investment bank holding company, or an associated entity of such entities.

III
EQUITABLE RELIEF


IT IS FURTHER ORDERED THAT:

A. RESTITUTION

16. Jade, JadeFX and Omukwe, jointly and severally, shall pay restitution totaling \$1,302,656, plus post-judgment interest to all persons who submitted funds to Defendants as of March 2, 2011, (the "JadeFX Customers") as a result of the illegal conduct alleged in the Complaint (the "Restitution Obligation").

17. The distribution of Defendants' frozen funds, pursuant to the Court's March 2, 2011, *Ex Parte* Statutory Restraining Order ("frozen funds"), to the JadeFX Customers shall reduce the Defendants' Restitution Obligation herein.

18. Post-judgment interest shall accrue beginning on the date of entry of this Supplemental Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Supplemental Consent Order pursuant to 28 U.S.C. § 1961.

19. Jade, JadeFX and Omukwe shall satisfy this restitution obligation under this Supplemental Consent Order by making payments to the NFA as the Monitor ("Monitor"). The Monitor shall collect restitution payments from Jade, JadeFX and Omukwe and make distributions as set forth below. ~~Because the Monitor is acting as an Officer of the Court in the performance of these services, the Monitor shall not be liable for any action or inaction arising from his appointment as Monitor, other than actions involving fraud.~~ 

20. Jade, JadeFX and Omukwe shall make restitution payments to the Monitor in the name "JadeFX-Restitution Fund" and shall send such restitution payments by electronic funds

transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, to Office of Administration, National Futures Association, 200 W. Madison Street #1600, Chicago, Illinois 60606-3447 under cover letter that identifies Jade, JadeFX and Omukwe and the name and docket number of the proceeding. Additionally, Defendants shall simultaneously transmit copies of the cover letter and the form of payment to: (a) the Director, Division of Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; and (b) the Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

21. The Monitor shall oversee Defendants' Restitution Obligation and shall have discretion to determine the manner for distribution of funds in an equitable fashion to the JadeFX customers. In the event that the amount of restitution payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative costs of the making a restitution distribution is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part III.B of this Order.

22. Upon entry of this Order, the Commission shall promptly provide each financial institution holding frozen funds with a copy of this Order. Within thirty (30) days of receiving a copy of this Order, each financial institution holding frozen funds is directed to release all frozen funds to the Monitor and immediately convey the funds by wire transfer to an account designated by the Monitor. The Monitor shall oversee the distribution of Defendants' frozen funds and shall have discretion to determine the manner for distribution of funds in an equitable fashion to the JadeFX customers.

23. To the extent that any funds accrue to any U.S. governmental entity, including but not limited to the U.S. Treasury, as a result of the Restitution Obligation under this Supplemental Consent Order, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in this Order.

B. CIVIL MONETARY PENALTY

24. Jade, JadeFX and Omukwe, jointly and severally, shall pay a civil monetary penalty in the amount of \$1,302,656, plus post-judgment interest.

25. Post-judgment interest shall accrue beginning on the date of entry of this Supplemental Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

26. Jade, JadeFX and Omukwe shall pay this civil monetary penalty by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order made payable to the Commodity Futures Trading Commission under cover of a letter that identifies Defendants and the name and docket number of this proceeding and sent to the following address:

**Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables – AMZ-340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK, 73169
Telephone: 405-954-5644**

Additionally, Defendants shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581.

If payment is to be made by electronic funds transfer, Defendants shall contact Linda Zurhost or her successor at the above address to receive payment instructions and shall fully comply with those instructions.

C. PARTIAL PAYMENTS

IT IS FURTHER ORDERED THAT:

27. Any acceptance of partial payment of Defendants' restitution obligation and/or civil monetary penalty obligation shall not be deemed a waiver of Defendants' requirement to make further payments pursuant to this Supplemental Consent Order, or a waiver of the Plaintiff's or Monitor's right to seek to compel payment of any remaining balance.

D. COOPERATION

28. Jade, JadeFX and Omukwe shall cooperate fully with the Commission, the Monitor, and any government agency seeking to enforce the restitution and civil monetary provisions of this Supplemental Consent Order by providing any requested information relating to their financial status including, but not limited to, income and earnings, financial statements, asset transfers and tax returns.

E. EQUITABLE RELIEF PROVISIONS

29. The equitable relief provisions of this Supplemental Consent Order shall be binding on Jade, JadeFX and Omukwe and any person who is acting in the capacity of officer, agent, employee, servant or attorney of Jade, JadeFX and Omukwe, and any person acting in concert or participation with Jade, JadeFX and Omukwe who receives actual notice of this Supplemental Consent Order by personal service or otherwise.

IV.
MISCELLANEOUS PROVISIONS

IT IS FURTHER ORDERED THAT:

30. If any provision of this Supplemental Consent Order or the application of any provision or circumstance is held invalid, the remainder of this Order, and the application of the provision to any other person or circumstance, shall not be affected by the holding.

31. This Supplemental Consent Order shall be interpreted and enforced according to the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Western District of Wisconsin, and all provisions of the Act and Regulations, relating or referring to the obligations hereunder.

32. Notices: All notices required to be given by any provision in this Supplemental Consent Order shall be sent certified mail, return receipt requested, as follows:

Notice to the Commission:
Attention - Director of Enforcement
Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street N.W.
Washington, DC 20581

Notice to Defendants:
Jacob Omukwe
3291 Kingston Road
Apt. 7
Scarborough, ON M1M 1P9

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

34. Waiver: The failure of any party to this Supplemental Consent Order or of any customer at any time to require performance of any provision of this Order shall in no manner

affect the right of such party to enforce the same or any other provision of this Supplemental Consent Order at a later time. No waiver in one or more instances of the breach of any provision contained in this Supplemental Consent Order shall be deemed or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Supplemental Consent Order.

35. Entire Agreement and Amendments: This Supplemental Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto. Nothing shall serve to amend or modify this Supplemental Consent Order in any respect whatsoever, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

36. Invalidation: If any provision of this Supplemental Consent Order or the application of any provisions or circumstances is held invalid, the remainder of the Supplemental Consent Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

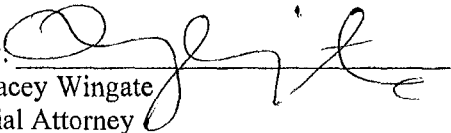
37. Authority: Jacob Juma Omukwe is authorized, empowered and directed to sign this Supplemental Consent Order on behalf of Jade Investments Group, LLC, JadeFX LTD, and JadeFX LLC as the corporate representative.

38. Continuing Jurisdictions of this Court: This Court shall retain jurisdiction of this action to assure compliance with this Supplemental Consent Order and for all other purposes related to this action.

Consented to and Approved by:

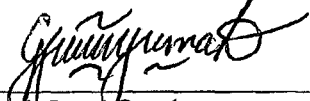
Plaintiff

U.S. Commodity Futures Trading
Commission


By: 

Tracey Wingate
Trial Attorney
Division of Enforcement,
U.S. Commodity Futures Trading
Commission
1155 21st, N.W.
Washington, DC 20581
(202) 418-5306

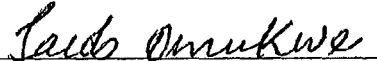
Defendant Jacob Juma Omukwe

By: 
Jacob Juma Omukwe

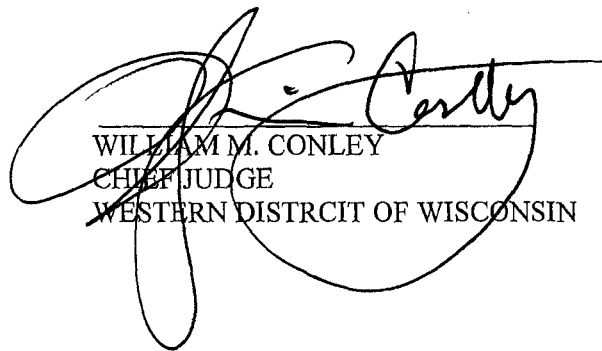
Defendant Jade Investments Group LLC

By: 
Corporate Representative

Defendant JadeFX LTD aka JadeFX LLC

By: 
Corporate Representative

SO ORDERED, at Madison, Wisconsin, this 17th day of November 2011.


WILLIAM M. CONLEY
CHIEF JUDGE
WESTERN DISTRICT OF WISCONSIN