

UNITED STATES OF AMERICA  
Before the  
U.S. COMMODITY FUTURES TRADING COMMISSION

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In the Matter of: )  
)  
)

LJH Global Investments, LLC )  
)

Respondent. )  
\_\_\_\_\_ )

CFTC Docket No. 08-05

OFFICE OF PROCEEDINGS  
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO  
SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT, AS AMENDED,  
MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

**I.**

The U.S. Commodity Futures Trading Commission (“Commission”) has reason to believe that LJH Global Investments, LLC (“LJH”) has violated Sections 4n(3) and (4) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 6n(3) and (4) (2002), and Commission Regulations (“Regulations”) 4.7(b)(3)(i), 4.7(b)(3)(i)(C), and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i), 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii) (2007). Therefore, the Commission deems it appropriate and in the public interest that a public administrative proceeding be, and hereby is, instituted to determine whether LJH has engaged in the violations as set forth herein and to determine whether an order should be issued imposing remedial sanctions.

**II.**

In anticipation of instituting an administrative proceeding, LJH has submitted an *Offer of Settlement* (“*Offer*”), which the Commission has determined to accept. Without admitting or denying any of the findings herein, LJH acknowledges service of this *Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, as amended, Making Findings and Imposing Remedial Sanctions* (“*Order*”).<sup>1</sup>

<sup>1</sup> LJH consents to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that LJH does not consent to the use of this *Order* or the *Offer*, or the findings in this *Order* consented to in the *Offer*, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this *Order*. Nor does LJH consent to the use of the *Offer* or this *Order*, or the findings in the *Order* consented to in the *Offer*, by any other party in any other proceeding.

### III.

The Commission finds the following:

#### A. Summary

LJH, a registered commodity pool operator (“CPO”), failed to file with the National Futures Association (“NFA”) and distribute to pool participants certain annual reports in a timely manner, as required by Regulation 4.7(b)(3)(i), 17 C.F.R. § 4.7(b)(3)(i) (2007). Additionally, with respect to two required annual reports, LJH failed to provide appropriate footnote disclosures and failed to present and compute the annual reports in accordance with generally accepted accounting principles (“GAAP”), as required by Regulations 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i)(C) and (b)(3)(ii) (2007).

#### B. Respondent

LJH Global Investments, LLC is located in Naples, Florida. LJH has been registered with the Commission as a CPO since March 30, 1994.

#### C. Facts

Pursuant to Regulation 4.7(b), 17 C.F.R. § 4.7(b)(2007), LJH claimed exemption from recordkeeping, disclosure and reporting requirements under the Commission’s Regulations. LJH was required to file an annual report for pools subject to this exemption, either within 90 days, or, if LJH claimed an extension of time, 150 days, after the end of the pools’ fiscal years. For certain pools, LJH claimed the 150-day extension of time based on the pools being invested in other funds and as a result, LJH not being able to obtain the information necessary to prepare and file the annual reports on a timely basis. The fiscal year for all of LJH’s pools ends on December 31<sup>st</sup>.

Between fiscal years 2002 through 2005, LJH distributed to pool participants and filed with NFA certain annual reports after the applicable deadlines. In addition, two annual reports failed to include required appropriate footnote disclosures and were not presented in accordance with GAAP.

#### D. Legal Discussion

Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), provide that every CPO registered with the Commission shall maintain books and records, file reports, and regularly furnish statements of account to each participant in its operations, and such reports and statements shall be in such form and manner as may be prescribed by the Commission. Part 4 of the Regulations sets forth regulatory requirements applicable to CPOs.

Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2007), requires a CPO to distribute to pool participants and file with the NFA within 90 days of the end of the commodity pools’ fiscal year

annual reports for its commodity pools that contain the information required by and in accordance with Regulations 4.22(c) and(d).

Pursuant to Regulation 4.7(b)(3), 17 C.F.R. § 4.7(b)(3) (2007), a CPO may claim relief from the reporting requirements of Regulation 4.22(c) for certain pools where the CPO offers or sells participations in the pools solely to qualified eligible persons (as defined), in an offering that is exempt from registration under the federal securities laws and the offering is not marketed to the public. However, a CPO claiming such exemption must, within 90 days after the end of the exempt pool's fiscal year, electronically file with the NFA and distribute to each pool participant an annual report that contains, at a minimum, certain financial information that is in lieu of the information required by Regulations 4.22(c) and (d). Regulation 4.7(b)(3)(i), 17 C.F.R. § 4.7(b)(3)(i) (2007).

Where a pool is invested in other funds (*i.e.*, a pool that is a "fund-of-funds"), and as a result, a CPO cannot obtain the information necessary to prepare the required annual report within the time specified under either Regulation 4.22(c) or 4.7(b)(3), a CPO, by a notice filed with the NFA, may claim an extension of time of up to 150 days after the end of the pool's fiscal year, or, in other words, up to an additional 60 days beyond the original 90-day filing deadline. Regulation 4.22(f)(2), 17 C.F.R. § 4.22(f)(2) (2007).

As stated above, LJH claimed exemption from the requirements of Regulation 4.22(c) pursuant to Regulation 4.7(b)(3), 17 C.F.R. § 4.7(b)(3) (2007). Pursuant to Regulation 4.7(b)(3)(i), 17 C.F.R. § 4.7(b)(3) (2007), LJH was required to file and distribute annual reports within 90 days, or if LJH claimed the extension, 150 days after the end of the pool's fiscal year.

Between fiscal years 2002 through 2005, LJH failed to file and distribute certain required annual reports within the applicable time period after the end of the pools' fiscal years, in violation of Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulation 4.7(b)(3), 17 C.F.R. § 4.7(b)(3) (2007).

Separately, Regulation 4.7(b)(3) specifies the minimum information that must be contained in annual reports for exempt commodity pools. Such information includes "appropriate footnote disclosure and any other material information." In addition, the annual report "must be presented and computed in accordance with [GAAP] consistently applied and, if certified by an independent public accountant, so certified in accordance with Sec. 1.16 as applicable." In two required annual reports, LJH failed to provide appropriate footnote disclosures and any other material information, and failed to present and compute these annual reports in accordance with GAAP, in violation of Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulations 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii) (2007).

The furnishing of annual reports was designed to "provide [pool] participants with the information necessary to assess the overall trading performance and financial condition of the pool." *Commodity Pool Operators and Commodity Trading Advisors; Final Rules*, 44 Fed. Reg. 1918 (CFTC Jan. 8, 1979) (announcing the adoption of Regulation 4.22). Without timely and

complete reporting, the Commission's goal of providing pool participants with complete and necessary data is hampered.

#### IV. FINDINGS OF VIOLATIONS

Based upon the foregoing, the Commission finds that LJH violated Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulations 4.7(b)(3)(i), 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i), 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii) (2007).

#### V. OFFER OF SETTLEMENT

LJH has submitted the *Offer* in which it, without admitting or denying the findings herein:

- A. Acknowledges receipt of service of this *Order*;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this *Order*;
- C. Waives: the filing and service of a complaint and notice of hearing; a hearing; all post-hearing procedures; judicial review by any court; all objections to the participation by any member of the Commission's staff in consideration of the *Offer*; all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2007), relating to, or arising from, this proceeding; and 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;
- D. Stipulates that the record upon which this *Order* is entered shall consist solely of the findings contained in this *Order* to which the Respondent has consented; and
- E. Consents, solely on the basis of the *Offer*, to entry of this *Order* that:
  1. makes findings by the Commission that LJH violated Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulations 4.7(b)(3)(i), 4.7(b)(3)(i)(C), and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3), 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii) (2007);
  2. orders LJH and its successors and assigns to cease and desist from violating Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulations 4.7(b)(3)(i), 4.7(b)(3)(i)(C) and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i), 4.7(b)(3)(i)(C), and 4.7(b)(3)(ii) (2007);

3. orders LJH to pay a civil monetary penalty in the amount of one hundred and twenty five thousand dollars (\$125,000) within ten (10) days of the date of entry of this *Order*; and
4. orders LJH and its successors and assigns to each comply with their undertaking consented to in the *Offer* and set forth below in Part VI of this *Order*.

Upon consideration, the Commission has determined to accept the Respondent's *Offer*.

## VI. ORDER

### Accordingly, IT IS HEREBY ORDERED THAT:

- A. LJH shall cease and desist from violation of Sections 4n(3) and (4) of the Act, 7 U.S.C. §§ 6n(3) and (4) (2002), and Regulations 4.7(b)(3)(i), 4.7(b)(3)(i)(C), and 4.7(b)(3)(ii), 17 C.F.R. §§ 4.7(b)(3)(i), 4.7(b)(3)(i)(C), and 4.7(b)(3)(ii) (2007);
- B. LJH shall pay a civil monetary penalty in the amount of one hundred and twenty five thousand dollars (\$125,000) within ten (10) days of the date of entry of this *Order*. LJH shall pay this civil monetary penalty by making electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payments shall be made payable to the Commodity Futures Trading Commission, and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
ATTN: Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: 405-954-6569

If payment by electronic transfer is chosen, LJH shall contact Marie Batemen or her successor at the above address to receive payment instruction and shall fully comply with those instructions. LJH shall accompany payment of the penalty with a cover letter that identifies LJH and the name and docket number of this proceeding. LJH shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581 and (2) the Chief, Office of Cooperative Enforcement,

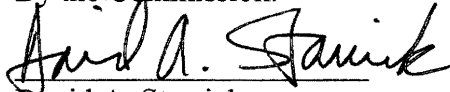
Division of Enforcement, Commodity Futures Trading Commission, at the same address. In accordance with Section 6(e)(2) of the Act, as amended, 7 U.S.C. § 9a(2) (2001), if this amount is not paid in full within fifteen (15) days of the due date, LJH shall be prohibited automatically from the privileges of all registered entities, and, if registered with the Commission, such registration shall be suspended automatically until it has shown to the satisfaction of the Commission that payment of the full amount of the penalty with interest thereon to the date of the payment has been made; and

C. LJH shall comply with the following undertaking set forth in its *Offer*:

Public Statements: Neither LJH nor any of its successors, assigns, employees, agents, or representatives shall take any action or make any public statement denying, directly or indirectly, any finding in the *Order*, or creating, or tending to create, the impression that the *Order* is without a factual basis; provided, however, that nothing in this provision affects LJH's: (i) testimonial obligations; or (ii) right to take appropriate legal positions in other proceedings to which the Commission is not a party. LJH and its successors and assigns shall undertake all steps necessary to assure that all of their agents and employees under their authority and/or actual or constructive control understand and comply with this undertaking.

**The provisions of this Order shall be effective as of this date.**

By the Commission.



David A. Stawick

Secretary of the Commission

U.S. Commodity Futures Trading Commission

Dated: February 14, 2008