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17 **UNITED STATES DISTRICT COURT**
 18 **CENTRAL DISTRICT OF CALIFORNIA**
 19 **WESTERN DIVISION**

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 LOS ANGELES

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20 **COMMODITY FUTURES**
 21 **TRADING COMMISSION,**

22 **Plaintiff,**

23 **vs.**

24 **OSCAR GOLDMAN,**

25 **Defendant.**

Case No. **03 - 3265**

(RCx)

COMPLAINT FOR
INJUNCTIVE AND OTHER
EQUITABLE RELIEF AND FOR
CIVIL PENALTIES UNDER THE
COMMODITY EXCHANGE
ACT, AS AMENDED, 7 U.S.C.
§§ 1-25

1 **COMPLAINT FOR INJUNCTIVE AND OTHER**
2 **EQUITABLE RELIEF AND FOR CIVIL PENALTIES UNDER THE**
3 **COMMODITY EXCHANGE ACT**

4
5 **I.**

6 **SUMMARY**

7 1. Since at least November 2002 and continuing through the present (the
8 "relevant time period" or "at all relevant times"), Oscar Goldman ("Goldman" or
9 "defendant") made false representations and material omissions while soliciting at
10 least 98 members of the public ("investors") for the purpose of trading commodity
11 futures in trading accounts directed by Goldman.

12 2. Goldman touted enormous profit potential while concealing the facts that
13 he was not a successful commodity trader and that investors using defendant's
14 trading program generally lost money.

15 3. Goldman made these false statements in oral and written form during
16 presentations, over the internet and by e-mail.

17 4. At all relevant times, Goldman acted as a commodity trading advisor
18 ("CTA") without benefit of registration under the Commodity Exchange Act.

19 5. Thus, defendant has engaged, is engaging, or is about to engage in acts
20 and practices which violate Sections 4b(a)(i) and (iii) and 4c(1) of the Commodity
21 Exchange Act, as amended ("Act"), 7 U.S.C. §§ 6b(a)(i) and (iii) and 6c(1) (2001).

22 6. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001),
23 Plaintiff Commodity Futures Trading Commission ("Commission" or "CFTC")
24 brings this action to enjoin the unlawful acts and practices of defendant and to
25 compel his compliance with the provisions of the Act and Regulations thereunder.
26 In addition, the Commission seeks civil penalties, an accounting and such other
27 equitable relief as the Court may deem necessary or appropriate.

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II.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear 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.

8. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2001), in that defendant is found in, inhabits, or transacts business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

III.

THE PARTIES

9. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provision of the Act, 7 U.S.C. §§ 1 *et seq.* (2001), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2002).

10. Defendant Oscar Goldman currently resides in Redondo Beach, California. Goldman has never been registered with the Commission as a CTA or in any other capacity.

IV.

FACTS

11. Since at least November 2002, Goldman solicited members of the public to trade commodity futures using a "directed account" program in which Goldman would make commodity trading decisions for the investors' accounts.

1 12. Goldman told potential investors that he, through Trader Tech, Inc.,
2 d/b/a Trader Tech University, would train them to trade commodity futures for
3 themselves. Once investors subscribed to Trader Tech's classes, called "Mental
4 Mastery" courses, the investors were solicited to participate in the defendant's
5 managed account program. In that program, Goldman would manage investors'
6 trading accounts for a fee of \$285 a month. Defendant recommended that
7 investors open discretionary accounts at Man Financial Services ("Man"), a
8 registered futures commission merchant ("FCM").

9 13. Goldman also sent e-mails to investors which gave specific trading
10 recommendations and advice on commodity futures transactions investors could
11 elect to follow.

12 14. In soliciting investors, Goldman falsely represented that he had a
13 successful performance record trading commodity futures for himself and other
14 investors. Goldman told some potential investors, among other things, that
15 investors should make 30-50% yearly returns easily. In fact, defendant's actual
16 trading performance and the trading performance of the investors' accounts he
17 managed are not even remotely similar to what Goldman has represented to
18 investors and potential investors. On information and belief, Goldman's personal
19 accounts lost money and investors lost money in almost every account defendant
20 managed.

21 15. In soliciting some investors, Goldman minimized the risks of futures
22 trading by stating that he could limit losses by placing "safe trades."

23 16. Based on representations by the defendant, at least 98 investors opened
24 futures accounts at an FCM and gave Goldman discretion to direct the trading in
25 their accounts.

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3 **IV.**
4 **VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND**
5 **COMMISSION REGULATIONS**

6 **COUNT 1**
7 **VIOLATIONS OF SECTION 4b(a)(2)(i) AND (iii) OF THE ACT:**
8 **FRAUD BY MISREPRESENTATION**

9
10 17. Paragraphs 1 through 16 are re-alleged and incorporated herein.

11 18. During the relevant time, defendant violated Section 4b(a)(2)(i) and (iii)
12 of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2001), in that he cheated or defrauded
13 or attempted to cheat or defraud investors, and willfully deceived or attempted to
14 deceive investors by, among other things: misrepresenting to investors the risks
15 involved in commodity futures trading and misrepresenting to investors the trading
16 record of Goldman and others while making claims of enormous profit potential.

17 19. The defendant engaged in this conduct in or in connection with orders to
18 make, or the making of, any contract of sale of any commodity for future delivery,
19 made, or to be made, for or on behalf of other persons where such contracts for
20 future delivery were or may have been used for (a) hedging any transaction in
21 interstate commerce in such commodity, or the products or byproducts thereof, or
22 (b) determining the price basis of any transaction in interstate commerce in such
23 commodity, or (c) delivering any such commodity sold, shipped, or received in
24 interstate commerce for the fulfillment thereof.

25 20. Each material misrepresentation or omission, and each willful deception
26 made during the relevant time period, including but not limited to those

1 specifically alleged herein, is alleged as a separate and distinct violation of Section
2 4b(a)(2)(i) and (iii) of the Act.

3
4 **COUNT II**

5 **VIOLATIONS OF SECTION 4o(1) OF THE ACT:**

6 **FRAUD BY A CTA**

7 21. Paragraphs 1 through 16 are re-alleged and incorporated herein.

8 22. As defined by Section 1a(6) of the Act, 7 U.S.C. § 1a(6) (2001), a CTA
9 is any person who for compensation or profit engages in the business of advising
10 others, either directly or through publications, writings, or electronic media, as to
11 the value of or advisability of trading in any contract of sale of a commodity for
12 future delivery made or to be made on or subject to the rules of any contract
13 market or derivatives transaction execution facility; any commodity option or any
14 leverage transaction or, for compensation or profit, and as part of a regular
15 business, issues or promulgates analysis or reports concerning any of the activities
16 referred to above.

17 23. Specifically, since at least November 2002, Goldman solicited at least 98
18 members of the public to invest in the commodity accounts he managed, directed
19 or advised for a fee.

20 24. In connection with such conduct, defendant used or is using the mails
21 and other means or instrumentalities of interstate commerce, directly or indirectly,
22 to engage in business as a CTA.

23 25. During the relevant times, defendant violated Section 4o(1) of the Act,
24 7 U.S.C. § 6o(1) (2001), in that he, as a CTA, directly or indirectly employed one
25 or more devices, schemes, or artifices to defraud investors or prospective investors,
26 or engaged in transactions, practices or courses of business which operated as a
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1 fraud or deceit upon investors or prospective investors by: falsely representing
2 trading success and misrepresenting the risks in futures trading.

3 26. Each material misrepresentation or omission, and each willful deception
4 made during the relevant time period, including but not limited to those
5 specifically alleged herein, is alleged as a separate and distinct violation of Section
6 4o(1) of the Act.

7 **RELIEF REQUESTED**

8 WHEREFORE, THE Commission respectfully requests that this Court, as
9 authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to its own
10 equitable powers:

11 A. Find defendant liable for violating Sections 4b(a)(2)(i) and (iii) and
12 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) and 6o(1) (2001);

13 B. Enter orders of preliminary and permanent injunction restraining and
14 enjoining defendant and all persons insofar as they are acting in the capacity of his
15 agents, servants, successors, assigns, and attorneys, and all persons insofar as they
16 are acting in active concert or participation with defendant who receive actual
17 notice of such order by personal service or otherwise, from directly or indirectly:

- 18 1. Cheating, defrauding or willfully deceiving or attempting to
- 19 cheat, defraud or willfully deceive other persons, in or in
- 20 connection with any order to make, or the making of, any
- 21 contract of sale of any commodity for future delivery, made, or
- 22 to be made, for or on behalf of any other person if such contract
- 23 for future delivery is or may be used for (a) hedging any
- 24 transaction in interstate commerce in such commodity or the
- 25 products or byproducts thereof, or (b) determining the price
- 26 basis of any transaction in interstate commerce in such
- 27 commodity, or (c) delivering any such commodity sold,

1 shipped, or received in interstate commerce for the fulfillment
2 thereof, in violation of Section 4b(a)(2)(i) and (iii) of the Act,
3 7 U.S.C. § 6b(a)(2)(i) and (iii);

4 2. While acting as a CTA, employing any device, scheme, or
5 artifice to defraud any investor or prospective investor, or
6 engaging in any transaction, practice, or course of business
7 which operates as a fraud or deceit upon any investor or
8 prospective investor by use of the mails or any means or
9 instrumentality of interstate commerce, in violation of
10 Section 4g(1) of the Act, 7 U.S.C. § 6g(1);

11 3. Trading on or subject to the rules of any contract market,
12 engaging in, controlling or directing the trading for any
13 commodity interest account for or on behalf of any person or
14 entity, whether by power of attorney or otherwise; and

15 4. Applying for registration or claiming exemption from
16 registration with the Commission in any capacity and engaging
17 in any activity requiring such registration or exemption from
18 registration, except as provided for in Regulation 4.14(a)(9),
19 17 C.F.R. § 4.14(a)(9) (2002), or acting as a principal, agent, or
20 any other officer or agent of any person registered, required to
21 be registered, or exempted from registration with the
22 Commission, except as provided for in Regulation 4.14(a)(9),
23 17 C.F.R. § 4.14(a)(9) (2002).

24 C. Enter orders of preliminary injunction restraining and enjoining
25 defendant and all persons insofar as they are acting in the capacity of his
26 agents, servants, successors, assigns, and attorneys, and all persons insofar
27 as they are acting in active concert or participation with him who receive
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1 actual notice of such order by personal service or otherwise, from directly or
2 indirectly:

- 3 1. Destroying, mutilating, concealing, altering or disposing of any
4 books and records, documents, correspondence, brochures,
5 manuals, electronically stored data, tape records or other
6 property of the defendant, wherever located, including all such
7 records concerning defendant's business operations;
- 8 2. Refusing to permit authorized representatives of the
9 Commission to inspect, when and as requested, any books and
10 records, documents, correspondence, brochures, manuals,
11 electronically stored data, tape records or other property of
12 defendants, wherever located, including all such records
13 concerning defendant's business operations; and
- 14 3. Withdrawing, transferring, removing, dissipating, concealing or
15 disposing of, in any manner, any funds, assets, or other
16 property, wherever situated, including but not limited to, all
17 funds, personal property, money or securities held in safes,
18 safety deposit boxes and all funds on deposit in any financial
19 institution, bank or saving and loan account held by, under the
20 control, or the name of defendant.

21 D. Enter an order requiring defendant to pay civil penalties under the Act
22 in amounts of not more than the higher of \$120,000 for each violation of the
23 Act and Regulations or triple the monetary gain to defendant, for each
24 violation of the Act and Regulations described herein;

25 E. Enter an order requiring defendant to disgorge all benefits received
26 including, but not limited to, salaries, commissions, loans, fees, revenues
27 and trading profits derived, directly or indirectly, from acts or practices
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1 which constitute violations of the Act as described herein, including pre-
2 judgment interest;

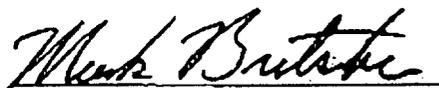
3 F. Enter an order requiring defendant to make restitution by making
4 whole each and every investor whose funds were managed by defendant in
5 violation of the provision of the Act as described herein, including pre-
6 judgment interest; and

7 G. Order such other and further remedial ancillary relief as this Court
8 may deem necessary and appropriate under the circumstances.

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10 Date: May 8, 2003

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