

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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DISTRICT COURT
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COMMODITY FUTURES TRADING COMMISSION)
)
) Plaintiff,)
)
 v.)
)
 JAMES DARREN MOORE and)
 JDM INVESTMENTS)
)
) Defendants)
)
)

Case No. 1:03-cv-00000
COMPLAINT FOR A
PERMANENT INJUNCTION,
OTHER EQUITABLE RELIEF
AND CIVIL MONETARY
PENALTIES

I. SUMMARY

1. From at least April 2001 through the present, James Darren Moore (“Moore”) and JDM Investments (“JDM”) (collectively “Defendants”) have been soliciting individuals to trade foreign currency futures contracts as part of a trading group (“group”). Based on Moore’s admissions, it appears that Defendants have solicited almost \$1.2 million from approximately 50 group participants. Of that amount, Moore has lost approximately \$500,000 trading in successive commodity futures accounts at two Futures Commission Merchants (“FCMs”).

2. Defendants mislead group participants into believing that Moore’s trading on their behalf has been consistently profitable. During the operation of the group, Defendants issues weekly account statements to group participants falsely showing profitable trading, when, in fact, their trading was losing money. Moreover, at the same time that the group was losing almost a half million dollars trading, Moore returned to group participants purported profits, solicited new group participants by using the group’s purported trading success as an inducement and made fraudulent oral misrepresentations.

3. Defendants' fraudulent misrepresentations violate Section 4b(a)(2)(i)-(iii) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. §§ 6b(a)(2) (i)-(iii) (1994), and Section 1.1(b) of the Commission's Regulations (the "Regulations"), 17 C.F.R. § 1.1(b) (2003).

4. Accordingly, the Commodity Futures Trading Commission (the "Commission") brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act. In addition, the Commission seeks disgorgement of Defendants' ill-gotten gains, restitution to group participants for damages proximately caused by Defendants' violations, civil monetary penalties and such other relief as this Court may deem necessary and appropriate.

5. Unless restrained and enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as more fully described below.

II. JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1, which authorizes Plaintiff 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 the Act or any rule, regulation, or order thereunder.

7. Section 2(c)(2)(B) and (C) of the Act, 7 U.S.C. § 2, confers on the Commission jurisdiction, including anti-fraud jurisdiction, over the transactions in foreign currency future contracts offered and/or entered into with retail customers alleged in this Complaint.

8. Venue properly lies with this Court pursuant to § 6c(e) of the Act, 7 U.S.C. § 13a-1(e), since Defendants are found in, inhabit, or transact business in this District and the acts and practices in violation of the Act or Regulations have occurred, are occurring, or are about to occur within this District, among other places.

III. THE PARTIES

9. Plaintiff Commission is a federal independent regulatory agency that is charged with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et. seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et. seq.* The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

10. Defendant James Darren Moore is an individual with a last known address of 4 Country Mountain Acres, Fairview, NC 28730. He has never been registered with the Commission.

11. Defendant JDM Investments, an entity created by Moore, is a North Carolina company with its principal place of business at 800 E. Fairview Rd. Box 151, Asheville, North Carolina 28803. JDM has never been registered with the Commission in any capacity.

IV. FACTUAL BACKGROUND

12. From at least April 2001 through the present, Defendants have been soliciting individuals to participate in a trading group for the purpose of speculating in foreign currency futures contracts. Moore named the group Money on Forex Investment Group (“Money on Forex”).

13. Defendants offer their retail customers, through the operation of the group, the opportunity to speculate on foreign currency futures contracts. In their solicitations, Defendants

represent that they are soliciting and accepting funds to pool with other group participants' money for trading foreign currency futures contracts. Moore holds himself out to prospective participants as a person knowledgeable in foreign exchange trading and who has profitably traded in foreign currency.

14. In or around the first quarter of 2001, Moore established a website for the purpose of soliciting individuals to participate in Money on Forex. The website advertised Money on Forex as an investment group. Due to complaints by Pennsylvania regarding the legality of the Money on Forex website, Moore closed it after approximately four months. By this time, Money on Forex had already attracted several group participants, which soon expanded via word of mouth, among other means, to include more than 50 participants. The individuals participating in the group are all retail customers.

15. Group participants execute an application form and wire money or mail checks made out to JDM that are subsequently deposited in a JDM bank account. Moore then deposits what appear to be group funds into his personal trading accounts at the two FCMs. From April 2001 until January 16, 2002, Moore traded an account at Global Forex Trading, Ltd., an FCM registered with the Commission. From January 17, 2002 to the present, Moore trades an account at FX Solutions, also registered with the Commission as an FCM. Moore opened the trading accounts at the FCMs as personal trading accounts in his name, rather than in the name of Money on Forex or JDM, and represented to the FCMs that no one else had a financial interest in the account.

16. By Moore's own admission, he received approximately \$1,200,000 from group participants. Moore deposited approximately \$634,625 into his personal trading accounts held at

the two FCMs. The other approximately \$500,000 that Moore claims to have received from group participants has not yet been accounted for. Of the \$634,625 deposited, approximately \$485,463 was lost trading. The remaining approximately \$150,000 was withdrawn from the trading accounts and has not yet been accounted for.

17. Despite Defendants' knowledge of its trading losses, they issue to group participants weekly account statements, through electronic mail, falsely representing that the group's trading was profitable. Group participants were not informed of any major losses and one or more group participant reinvested with Defendants based on the results posted in the e-mails.

18. Defendants solicit new participants to the group with oral and written representations that the group was profitable. Indeed, one group of participants invested almost a quarter of a million dollars based, in part, on Moore's assertions of the group's profitability.

19. Defendants give group participants the choice of rolling over or withdrawing their alleged profits from the group. Some group participants requested withdrawals. At the same time that the group was suffering fairly constant trading losses, Defendants returned to at least two group participants alleged trading profits. The purported profits withdrawn by these two group participants were so large that they exceeded their initial and subsequent investments. Therefore, it appears that Defendants used other group participants' money, or their own, to fund the alleged profits paid those group participants.

20. In or around January 2003, Moore sent an e-mail to group participants advising them of his various misrepresentations, including the false e-mails concerning the group's profitability. He admitted that he had lied to them regarding the trading results.

21. As of the date of this Complaint, Moore maintains a trading account at FX Solutions in which he continues to trade the group's funds.

V. VIOLATION OF THE COMMODITY EXCHANGE ACT

COUNT I

Violations of § 4b(a)(2)(i)-(iii) of the Act and § 1.1(b) of the Regulations: Fraud and Deceit in the Sale of Off-Exchange Futures Contracts

22. The allegations set forth in paragraphs 1 through 22 are realleged and incorporated herein by reference.

23. From at least April 2001 and continuing to the present, Defendants have: (i) cheated or defrauded or attempted to cheat or defraud other persons; (ii) willfully made or caused to be made to other persons false reports or statements, or willfully entered or caused to be entered for other persons false records; and (iii) willfully deceived or attempted to deceive other persons, in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made, or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), all in violation of Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) and Section 1.1(b) of the Regulations, 17 C.F.R. § 1.1(b).

24. In the course of their solicitation of investors to invest money with them, Defendants have knowingly made material misrepresentations and omitted material facts including, but not limited to, the misrepresentations set forth at paragraphs 2, 13-14, and 17-20, in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii) and Section 1.1(b) of the Regulations, 17 C.F.R. § 1.1(b).

25. Moore has knowingly issued false reports to investors who invested money with him to trade forex, as set forth in paragraphs 2, 17-18, and 20, in violation of Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) and Section 1.1(b) of the Regulations, 17 C.F.R. § 1.1(b).

26. Each fraudulent misrepresentation and omission, including those specifically alleged herein in paragraphs 1-25 above, is alleged as a separate and distinct violation of Section 4b(a)(2) of the Act, 7 U.S.C. § 6(b)(a)(2) and Regulation Section 1.1(b), 17 C.F.R. § 1.1(b).

VI. RELIEF REQUESTED

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

- a) A permanent injunction prohibiting Defendants and any other person or entity associated with them, including any successor thereof, from engaging in conduct violative of Section 4b(a)(2)(i)-(iii) of the Act and Section 1.1(b) of the Regulations, and from engaging in any commodity-related activity, including soliciting group participants or group funds;
- b) An order directing Defendants and any successors thereof to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act, as described herein, and interest thereon from the date of such violations;
- c) An order directing Defendants to make full restitution to every group participant whose funds they received as a result of acts and practices that constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
- d) An order directing Defendants to pay a civil penalty in the amount of not

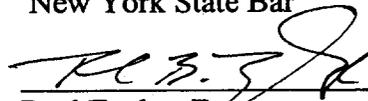
more than the higher of \$120,000.00 for each violation or triple the monetary gain to Defendants for each violation of the Act;

- e) An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- f) Such other and further relief as the Court deems proper.

Respectfully submitted



Richard Glaser, Esq.
Attorney for Plaintiff
Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street, N.W.
Washington, D.C. 20581
202-418-5358
Facsimile: 202-418-5523
New York State Bar



Paul Taylor, Esq.
Assistant United States Attorney
U.S. Courthouse
100 Otis Street
Asheville, NC 28801
(828) 259-0655
Facsimile: (828) 271-4670
North Carolina State Bar No. 10067

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