

**In The United States District Court
For The Northern District Of Illinois
Eastern Division**

Commodity Futures Trading Commission,
Plaintiff,

vs.

Keith Wilson Krynski,

Defendant.

Civil Action No

03C 8571

Complaint For Injunctive And
Other Equitable Relief And
Civil Monetary Penalties Under
The Commodity Exchange Act

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I. Summary

1. From at least May 2002 to the present ("relevant time period"), Keith Wilson Krynski ("Defendant") has fraudulently solicited and accepted at least \$406,000 in customer funds for use in trading in commodity futures. Among other things, Defendant made misrepresentations of material facts when soliciting customers or potential customers, misappropriated at least \$68,000 of customer funds, made misrepresentations as to the value of customers' investments, and created false account statements for at least one customer that misrepresented the customer's funds. The Defendant also accepted customer funds without being registered in any capacity permitting that activity.

2. Consequently, Defendant engaged, is engaging, or is about to engage in acts or practices that violate the anti-fraud and registration sections of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1 *et seq.* (2001). Specifically, the Defendant has violated Section 4b of the Act, 7 U.S.C. § 6b, by misappropriating customer funds, misrepresenting account balances, and

by creating false statements for at least two customers in connection with commodity futures transactions. The Defendant has also violated Section 4d(a), 7 U.S.C. §6d(a), of the Act by accepting customer funds, commingling customer funds in his personal bank account, and treating customer funds as his own.

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

4. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the Commodity Futures Trading Commission (“Commission” or “CFTC”) brings this action to enjoin such acts and practices, prevent the dissipation of assets, and compel compliance with the provisions of the Act. In addition, the Commission seeks civil penalties, an accounting, restitution, disgorgement and such other equitable relief as the Court may deem necessary or appropriate under the circumstances.

II. Jurisdiction And Venue

5. The Act prohibits fraud in connection with the trading of commodity futures contracts and establishes a comprehensive system for regulating the purchase and sale of commodity futures contracts and options on commodity futures contracts. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, 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.

6. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), in that the Defendant is found in, inhabits, and 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. Specifically, Defendant (1) solicited customers within this District; (2) accepted funds from customers residing within this District; and (3) maintained employment and a residence within this District.

III. The Parties and Other Relevant Entities

7. Plaintiff Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*, and the regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.*

8. Defendant Keith Wilson Krysinski is 31 years old and resides in Chicago, Illinois. He has been registered as a floor broker since December 3, 1999, and previously has been registered as an Associated Person of Inflection Brokerage Services, LLC. Krysinski is a principal of KwikTrading, LLC, a registered introducing broker. He is also a principal and president of U.S. Derivatives, LLC, a recently created corporation that is attempting to register as a futures commission merchant. He represents that he will control day-to-day operations and all financial transactions of U.S. Derivatives, LLC.

IV. Facts

A. Statutory Background

9. A floor broker is defined in Section 1a(16) of the Commodity Exchange Act, 7 U.S.C. § 1a(16) (2001) and in Commission Regulation 1.3(n), 17 C.F.R. § 1.3(n), as any person who, in or surrounding any pit, ring, post or other place provided by a contract market for the

meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

10. A futures commission merchant ("FCM") is defined in Section 1a(20) of the Commodity Exchange Act, 7 U.S.C. § 1a(20) (2001), as an individual, association, partnership, corporation, or trust that--(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility; and (B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

11. Pursuant to § 4d(a)(1) of the Act, 7 U.S.C. § 6d(a)(1), and subject to certain exceptions not applicable here, any person who comes within the statutory definition of a FCM must be registered with the Commission as such.

B. Defendant Made Misrepresentations of Material Fact in the Solicitation of Potential Customers

12. From at least May 2002 to the present, Krynski solicited potential customers to provide funds to be used to trade commodity futures contracts in accounts held in the Defendant's name.

13. From at least May 2002 to the present, Krynski made oral misrepresentations to colleagues and potential customers about his educational background and his success trading S&P e-mini futures contracts.

14. From at least May 2002 to October 2003, Krynski made oral misrepresentations to potential commodity customers regarding his past trading performance and the value of his

current commodity trading accounts. Specifically, Krysinski represented that he had made \$20 million trading commodities and that he traded at least one account with a value of \$1 million.

15. As discussed more fully below, Krysinski solicited and accepted at least \$406,000 from at least two customers between May 2002 and the present for trading commodity futures contracts.

16. From at least May 2002 to October 2003, Krysinski falsely asserted to these customers that the commodity trading accounts into which he had represented he had placed some of their funds were profitable. Though asked repeatedly to provide account statements supporting his representations, he failed to do so.

C. Defendant Misappropriated Customer's Funds

17. On or about May 2002, Krysinski accepted a personal check in the amount of \$20,000 from a customer to be deposited into a commodity futures trading account held in Krysinski's own name. Krysinski made oral representations that the funds were deposited into a profitable commodity futures trading account, yet Krysinski failed to provide the customer with any account statements indicating the value of the account or identifying where the account was located.

18. On or about August 2002, that same customer took out a second mortgage on his home and endorsed the check for \$186,000 directly to Krysinski. The customer gave Krysinski these funds to trade commodity futures contracts in a purportedly profitable trading account held in Krysinski's own name. Krysinski represented at that time that with the additional \$186,000 investment, this customer's share of the trading account was now worth \$250,000 in an account valued at \$1 million. Krysinski reportedly funded the other \$750,000 in that account with his own money.

19. In October 2003, Krysinski admitted to this customer that he never invested \$750,000 in the trading account and that Krysinski misappropriated some portion of this customer's funds by giving some of the money to his father

20. On June 10, 2003, Krysinski accepted a personal check in the amount of \$200,000 from another customer to be deposited into a commodity futures trading account held in Krysinski's name. Krysinski misappropriated at least \$68,000 of the customer funds by using these funds for personal investments and unauthorized expenses.

D. Defendant Made False Reports or Statements

21. On at least one occasion during the relevant time period, Krysinski showed a customer a purported account statement representing a trading balance of \$950,000. The purported account statement was fabricated, in that it was not issued by the futures commission merchant ("FCM") and the purported account statement contained false information regarding the account balance.

E. Defendant Accepted Customer Funds Into His Personal Bank Account

22. At no time has Krysinski ever been registered as an FCM.

23. On or about May 24, 2002, Krysinski accepted customer funds in the amount of \$20,000 and deposited those funds into his personal bank account.

24. On or about June 12, 2003, Krysinski accepted customer funds in the amount of \$200,000 and deposited those funds into his personal bank account.

V. Violations of the Commodity Exchange Act

Count I

Violations of Section 4b(a)(2)(i) of the Act Fraud by Misappropriation and Misrepresentation

25. The allegations set forth in paragraphs 1 through 24 are re-alleged and incorporated herein.

26. Section 4b(a)(2)(i) of the Act, 7 U.S.C. § 6b(a)(2)(i), makes it unlawful for any person to cheat or defraud or attempt to cheat or defraud such other persons in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery made, or to be made, for or on behalf of any other person where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped or received in interstate commerce for the fulfillment thereof.

27. Krynski violated Section 4b(a)(2)(i) of the Act, 7 U.S.C. § 6b(a)(2)(i) (2001), by, among other things: (1) soliciting investments through fraudulent misrepresentations about Krynski's past performance results when trading his own or others' funds; (2) making material misrepresentations and omitting material facts, including misrepresentations of each customer's profits and account balances; and (3) misappropriating customer funds.

28. Each act of misappropriation and each material misrepresentation or omission made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(i) of the Act.

Count II
Violations of Section 4b(a)(2)(ii) of the Act
Fraud by Making False Statements

29. The allegations set forth in paragraphs 1 through 24 are re-alleged and incorporated herein.

30. Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii), makes it unlawful for any person to willfully make or cause to be made to other persons false reports or statements, or willfully to enter or cause to be entered for other persons false records 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 such other persons where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped or received in interstate commerce for the fulfillment thereof.

31. Krysinski violated Section 4b(a)(2)(ii) of the Act by, among other things, making or causing to be made false reports and false statements issued or communicated to at least one customer who invested money with Krysinski to trade commodity futures contracts.

32. Each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(ii) of the Act.

Count III
Violations of Section 4d(a) of the Act
Acting as a Futures Commission Merchant without Registration and Failure
to Segregate Customer Funds

33. The allegations set forth in paragraphs 1 through 24 are re-alleged and incorporated herein.

34. Section 4d(a) of the Act, 7 U.S.C. § 6d(a), makes it unlawful for any person to solicit and accept orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery unless, among other things, such person is registered as a FCM and the FCM must treat and deal with all money, securities, and property received by the FCM to margin, guarantee, or secure the trades or contracts of any of the FCM's customers, or accruing to such customer as a result of such trades or contracts as belonging to such customer, and such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held.

35. Krynski violated Section 4d(a) of the Act by, among other things, (1) acting as a FCM without registering as such when he solicited and accepted customer funds to trade commodity futures; (2) failing to treat and deal with all customer money and property received in order to trade commodity futures contracts as belonging to such customer; and (3) failing to separately account for and commingling his own funds with that of his customers when he deposited customer funds into his personal bank account.

36. Each acceptance of funds without registration and failure to segregate customer funds made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4d(a) of the Act.

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:

A. Find Defendant liable for violating Sections 4b and 4d of the Act, 7 U.S.C. §§ 6b and 6d;

B. Enter an order of permanent injunction enjoining Defendant and all persons insofar as they are acting in the capacity of his agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendant who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Engaging in conduct in violation of Sections 4b and 4d of the Act, 7 U.S.C. §§ 6b and 6d;
2. Directly or indirectly soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity futures or options contract;
3. Engaging in, controlling, or directing the trading of any commodity futures or options accounts, on his own behalf or for or on behalf of any other person or entity, whether by power of attorney or otherwise;
4. Introducing customers to any other person engaged in the business of commodity futures and options trading;
5. Issuing statements or reports to others concerning commodity futures or options trading; or
6. Otherwise engaging in any business activities related to commodity futures or options trading.

C. Enter an order pursuant to Section 6c(a) of the Act restraining Defendant and all persons insofar as they are acting in the capacity of Defendant's agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or

participation with them who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendant, wherever located, including all such records concerning Defendant's business operations;
2. Refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendant, wherever located, including all such records concerning Defendant's business operations; and
3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, including but not limited to, all funds, personal property, including any art work or automobiles, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control, or in the name of the Defendant;

D. Enter an order directing that Defendant provide the Plaintiff immediate and continuing access to his books and records, make an accounting to the Court of all of Defendant's assets and liabilities, together with all funds he received from and paid to investors and other persons in connection with commodity futures or options transactions or purported commodity futures or options transactions, including the names, addresses and telephone numbers of any such persons from whom he received such funds from January 2002 to the date of such accounting, and all disbursements for any purpose whatsoever of funds received from commodity investors, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from January 2002 to and including the date of such accounting. At a minimum, the accounting should include a chronological schedule of all cash receipts and cash disbursements. In addition, each transaction shall be classified as business or personal. All business transactions shall disclose the business purpose of the transaction. The

accounting shall be provided in an electronic format such as Quicken, Excel, or other accounting or electronic format spreadsheet. In addition, the Defendant shall supply true and accurate copies of any balance sheets, income statements, statement of cash flow, or statement of ownership equity previously prepared for the Defendant's business(es);

E. Enter an order requiring Defendant to disgorge to any officer appointed or directed by the Court all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act as described herein, including pre-judgment interest;

F. Enter an order requiring Defendant to make restitution by making whole each and every customer whose funds were received or utilized by him in violation of the provisions of the Act as described herein, including pre-judgment interest;

G. Enter an order requiring Defendant to pay civil penalties under the Act, to be assessed by the Court, in amounts of not more than the higher of (1) triple the monetary gain to Defendant for each violation of the Act and Regulations or 2) \$120,000 for each violation of the Act and Regulations;

H. Enter an order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (1994); and

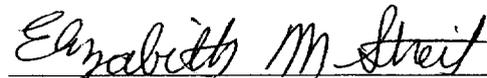
I. Enter an Order providing such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Date: November 26, 2003

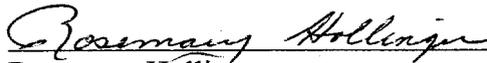
Respectfully submitted,



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