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U.S. DISTRICT COURT
SEP 8 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

DOCKETED
SEP 08 2004

04C 5853

COMMODITY FUTURES TRADING
COMMISSION,

CIVIL ACTION NO. _____

Plaintiff,

v.

JUDGE LINDBERG

EDWARD R. VELAZQUEZ,
V-TEK TRADING GROUP, INC.,
V-TEK CAPITAL, INC.,

MAGISTRATE JUDGE MASON

Defendants,

V-TEK FX FUND, and
FX 500, INC.,

Relief Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND
FOR CIVIL PENALTIES UNDER THE
COMMODITY EXCHANGE ACT, AS AMENDED

I. SUMMARY

1. From at least January 2001 to the present (the "relevant time"), defendant Edward R. Velazquez ("Velazquez") and at least two related entities he owns, controls and operates namely, V-Tek Trading Group, Inc. ("V-Tek Trading Group"), and V-Tek Capital, Inc. ("V-Tek Capital") (collectively, "V-Tek") have solicited and received at least \$2.4 million from at least 43 customers to engage in commodity futures trading. The defendants have cheated, defrauded and deceived customers and potential customers by, among other practices, fraudulently misrepresenting the profit potential and failing to adequately disclose the risk of loss from trading commodity futures, falsifying

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Velazquez's trading performance track record, as well as making other material omissions and misrepresentations to induce customers to invest, all in violation of Sections 4b(a)(2)(i) and (iii) and 4o(1) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 6b(a)(2)(i) and (iii) and 6o(1) (2002). In addition, defendants Velazquez and V-Tek Capital misrepresented that V-Tek Capital was registered with the Commodity Futures Trading Commission ("CFTC" or "Commission"), all in violation of Sections 4h and 4m(1), 7 U.S.C. §§ 6h and 6m(1) (2002). V-Tek Capital also commingled customer funds with Velazquez's personal funds and the funds of others in violation of Commission Regulation 4.20(c), 17 C.F.R. § 4.20(c)(2004). Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2002), V-Tek is liable as a principal for Velazquez's violations of Section 4b(a)(2)(i) and (iii), and 4o(1) of the Act.

2. During the relevant time, Velazquez owned and operated two additional companies, FX 500, Inc. ("FX 500") and V-Tek Fx Fund ("V-Tek Fund") ("relief defendants") that received funds as a result of Velazquez, V-Tek Capital and V-Tek Trading Group's fraudulent conduct.

3. Velazquez is a controlling person of V-Tek Capital and V-Tek Trading Group and has not acted in good faith or has knowingly induced, directly or indirectly, the acts constituting V-Tek Capital and V-Tek Trading Group's violations, and is liable for the V-Tek Capital and V-Tek Trading Group's violations, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

4. Accordingly, the Commission brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin the defendants' unlawful acts and practices and to compel their compliance with the Act. In addition, the Commission seeks disgorgement

of the defendants and relief defendants' ill-gotten gains, restitution to customers, a civil monetary penalty and such other relief as this Court may deem necessary or appropriate.

5. Unless restrained and enjoined by this Court, the 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. 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.

7. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a(e), because the defendants are found in, inhabit, or transact business, among other places, in this district, or the acts and practices in violation of the Act have occurred, are occurring, or are about to occur, among other places, within this district. Specifically, defendants: (1) transact the majority of their business within this district; (2) make phone calls and send faxes, U.S. mail, and e-mail from this district; and (3) maintain active bank accounts in connection with their business enterprise within this district.

III. THE PARTIES AND OTHER RELATED ENTITIES

8. Plaintiff Commission is the independent federal regulatory agency responsible for administering and enforcing the provisions of the Act and the Regulations promulgated thereunder.
9. Defendant Edward Velazquez resides in Chicago, Illinois. He has been registered with the CFTC as an associated person ("AP") and is the sole principal of V-Tek Trading Group, a registered commodity trading advisor ("CTA") since December 1999. He was registered as an AP of Borsellino Capital Management, a former registered CTA, from March 1998 to December 1999.
10. Defendant V-Tek Trading Group was incorporated in Illinois in December 1999, and Velazquez operates the company out of his residence. V-Tek Trading Group has been registered with the CFTC as a CTA since January 2000. Velazquez is the CEO and sole owner of the company.
11. Defendant V-Tek Capital was incorporated in the British Virgin Islands in July 2002, but Velazquez operates the company out of his residence in Chicago, Illinois, and is the sole owner of the company. V-Tek Capital solicits customers via the Internet, printed materials, and at public conferences called "money shows," to invest in its "fixed income" opportunity. V-Tek's web site and V-Tek's printed material represents that that at least some of V-Tek Capital's funds were used to trade commodity futures. V-Tek Capital has never been registered with the CFTC in any capacity.
12. Relief Defendant V-Tek Fund was incorporated in the Cayman Islands in March 2003, but Velazquez operates the company out of his residence in Chicago. On information and belief, V-Tek Fund is a commodity pool engaged in the business of investing the collective, pooled funds of multiple customers in commodity futures.

Velazquez is one of two directors of the company and the "fund manager" is V-Tek Capital. V-Tek Fund has never been registered with the Commission in any capacity.

13. Relief Defendant FX 500 was incorporated in Illinois in February 2002, and Velazquez operates the company out of his residence in Chicago. Velazquez is the president and sole owner of the company. It has never been registered with the Commission in any capacity.

IV. FACTS RELEVANT TO ALL COUNTS

A. Statutory Background

14. A commodity trading advisor ("CTA") means, in part, any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility. Section 1a(6) of the Act, 7 U.S.C. § 1a(6).

15. A commodity pool operator ("CPO") means, any firm or individual engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and that, in connection therewith, solicits, accepts, or receives from others funds, securities, or property, either directly through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market. Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (2002).

16. Pursuant to § 4m(1) of the Act, 7 U.S.C. § 6m(1), and subject to certain exceptions not applicable here, a person who comes within the statutory definition of a

CTA and/or a CPO must be registered with the Commission if that person makes use of the mails or any means of instrumentality of interstate commerce in connection with his business as a CTA.

17. An associated person ("AP") is defined in Section 4k of the Act, 7 U.S.C. § 6k and Commission Regulation 1.3(aa)(1) and (2), 17 C.F.R. § 1.3(aa)(1) and (2), with certain qualifications, as a natural person associated with any CTA, CPO or FCM as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves: (i) the solicitation or acceptance of customers' or options customers' orders; or (ii) the supervision of any person or persons so engaged.

18. A futures commission merchant ("FCM") is defined by the Commodity Exchange Act as individuals, associations, partnerships, corporations and trusts that solicit or accept orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that accept payment from or extend credit to those whose orders are accepted. 7 U.S.C. § 1a(20).

B. Operation of the V-Tek Entities

19. V-Tek Trading Group offers investments in managed commodity futures trading accounts to members of the public. V-Tek Trading Group operated as a CTA and offered its services as a CTA over the Internet. Velazquez makes the trading decisions and purportedly places the trades in customers' accounts pursuant to two trading systems that he claims to have developed, the EVO and the Global systems. Velazquez claims that the EVO system tracks global equity, fixed income, and currency indexes in the short term and the Global system tracks them on a medium term basis. At least 27 U.S.

customers opened managed trading accounts with Velazquez and V-Tek Trading Group to trade pursuant to one or both of these systems during the relevant time period.

20. V-Tek Capital has acted as a CTA and CPO and offered its services as a CTA and CPO over the Internet, where it repeatedly touts that it is a top-rated capital management firm. As held out to the public, V-Tek Capital offers seminars and workshops relating to commodity futures trading. V-Tek Capital also promotes a "fixed income" investment opportunity, which offers an 8% - 10% annual return over anywhere from three to five years on a minimum \$25,000 investment. According to V-Tek Capital's promotional material, only 20% of customer funds are used to trade commodity futures and "principal investments are guaranteed."

21. At least sixteen U.S. customers sent money to V-Tek Capital for the purpose of investing in V-Tek Capital's fixed income investment opportunity. At least one trading account at a registered FCM in the name of V-Tek Capital was actively trading commodity futures from August 2002 to December 2002.

22. FX 500 maintained at least three commodity futures trading accounts in the name of FX 500 at two registered FCMs from August 2002 to May 2004. Some money deposited into these accounts came from the V-Tek Capital account at Harris Trust and Savings Bank. FX 500 claims to do "custom computer programming services."

23. V-Tek Fund purports to offer investments that would be pooled together to "seek capital appreciation through the speculative trading of futures contracts, commodities, commodity options . . ." and other instruments. Velazquez is one of the directors of the company, and the "fund manager" is V-Tek Capital. Velazquez claims

that V-Tek Fund “had not offered any products to any persons,” but, in fact, V-Tek Capital has solicited customers, including customers in the U.S.

24. During the relevant time, V-Tek and Velazquez have employed at least seven people. Velazquez does not differentiate among the various V-Tek entities and uses the names of his companies, V-Tek Trading Group, V-Tek Group, and V-Tek Capital interchangeably, and often simply as “V-Tek”. Velazquez and the V-Tek entities also use the names V-Tek Trading Group and V-Tek Capital interchangeably in printed materials.

C. The V-Tek Website Uses The Names of The V-Tek Entities Interchangeably And Portrays an Inaccurate Performance Record

25. Until July 2004, Velazquez, V-Tek Capital and V-Tek Trading Group touted V-Tek as a hedge fund and promoted investments in commodity futures (mainly S&P 500 futures contracts) over the Internet through at least one website, <http://www.vtekgroup.com>, which displayed a V-Tek Capital banner proclaiming “rated in the top 1% of capital management firms worldwide”. The website cautions that the site and data it contains is intended for the use of non-U.S. investors only and is not intended for the use of or solicitation of US investors. However, the website incorporated no safeguards to prevent U.S. investors from viewing the site. The website falsely claimed that V-Tek Capital is registered with the CFTC and is a National Futures Association (“NFA”) member and represents that “[d]ue to financial safeguards created by the CFTC, NFA and U.S. exchanges, assets of customers, which are maintained with a US FCM’s, are well protected an any given time.” These representations create a false sense of security and lessened risk of investment. In fact, Velazquez and V-Tek Capital did not identify V-Tek Capital to NFA as a principal of or doing business as entity related

to V-Tek Trading Group, and Velazquez and V-Tek Capital have maintained that V-Tek Capital is not subject to NFA oversight or CFTC jurisdiction. Velazquez knew or should have known that these representations were false.

26. The www.vtekgroup website's many statements and representations are ambiguous whether they referred to one or both V-Tek Capital and V-Tek Trading Group. The website presented charts, trading information and analyses purporting to show "V-Tek's" trading record, again not clarifying which specific entity produced those results or whether the trading results relate to a proprietary account or customer accounts. The website claimed that "over a 3-year period during 2000 through 2002" V-Tek's trading produced "over a 186% appreciation" including an over 120% return on investment during the bear markets of 2000 and 2001. This website did not contain a disclosure that these results were based upon hypothetical trading. On information and belief, commodity trading accounts managed by Velazquez and V-Tek have not achieved the represented profits in actual trading, and Velazquez knew that the profit representations appearing in V-Tek's website were false or had no reasonable basis in fact.

27. Additionally, the web site contains no discussion of the risk of loss in trading commodity futures. The web site represents that at least 80% of customer funds are used to purchase "zero coupon bonds," and that the only custodian of assets is Man Financial, Ltd. ("Man"). This representation is misleading, in that the purported use of some funds in a "safe" investment vehicle does not lessen the trading risk incurred in placing other customer funds in futures positions. Moreover, Man has no record of V-Tek Capital purchasing any zero coupon bonds, and Velazquez has deposited V-Tek

Capital's customer funds at other financial institutions aside from Man, namely, Harris Trust and Savings Bank ("Harris"), and Alaron Trading Corporation, and two other FCMs without informing customers.

D. Velazquez Commingled Customer Funds

28. Velazquez has commingled customer funds with the funds of others. An account at Harris, controlled by Velazquez and held in the name of V-Tek Capital, has received at least \$600,000 in customer funds intended for investment with V-Tek Capital. The \$600,000 was pooled in the aforementioned account with other funds. During the relevant time, Velazquez withdrew at least \$900,000 from the V-Tek Capital account via checks made out to himself or to "cash." Additionally, Velazquez has withdrawn at least \$620,000 from the V-Tek Capital account and deposited it into his personal checking account at Harris and has deposited over \$170,000 from his personal checking account into the V-Tek Capital account.

E. V-Tek's Disclosure Documents Contain a Falsified Track Record

29. The Disclosure Documents for V-Tek Trading Group contain a series of divergent reported results purporting to all relate to the exact same time period. For example, in a June 10, 2001 Disclosure Document, Velazquez's trading results for 1999 for the "RJ-1 system" (a trading system he purportedly used at the time) are portrayed as **negative 23.54%**. However, in subsequent disclosure documents, Velazquez's 1999 trading results for this same program inexplicably became better and better. In a March 1, 2002 Disclosure Document the 1999 results are listed as a **positive 23.27%**, and in a July 1, 2003 Disclosure Document they are portrayed as a **positive 29.98%**. Velazquez distributed all of these Disclosure Documents to customers, FCMs and the NFA.

30. On information and belief, neither Velazquez nor any of the V-Tek entities enjoyed the positive track record portrayed in the V-Tek Trading Group Disclosure Documents, and Velazquez knew or should have known that the reported results were false.

31. The V-Tek Fund offering memorandum, which contains false performance results and fails to adequately disclose risk, contains a statement that the named fund directors (including Velazquez)

accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information. The Directors accept responsibility accordingly.

Thus, Velazquez knew or should have known that performance results were included in the offering memorandum, and knew or should have known that they were misleading because they do not reflect the actual performance results for the V-Tek Fund. Further, the aforementioned statement demonstrates that Velazquez reviewed the offering memorandum and knew or should have known that it failed to adequately disclose the risks of trading commodity interests.

F. Velazquez Controlled V-Tek

32. Velazquez is a controlling person of V-Tek. During the relevant time period, Velazquez has been the sole owner of V-Tek Trading Group, V-Tek Capital, and FX 500, and at least a partial owner of V-Tek Fund. During the relevant time period, Velazquez has managed the daily operations of V-Tek, made the trading decisions for V-Tek's customer accounts, hired and supervised V-Tek's employees, and is the sole signatory on V-Tek Capital and FX 500's accounts at Harris bank. On information and

belief, Velazquez is responsible for the content of V-Tek's website. In addition, on information and belief, Velazquez was responsible for causing the registration or non-registration of the V-Tek entities, and specifically the failure of V-Tek Capital to register with the Commission as a CPO and CTA.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS**

COUNT ONE

**VIOLATIONS OF SECTIONS 4b(a)(2)(i) AND (iii) OF THE ACT: FRAUD BY
MISREPRESENTATIONS AND FALSE STATEMENTS**

33. The allegations set forth in paragraphs 1 through 32 are re-alleged and incorporated herein.

34. Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), make it unlawful for any person to cheat or defraud or attempt to cheat or defraud; or willfully deceive or attempt to deceive by any means whatsoever 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 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.

35. Defendant Velazquez willfully violated §§ 4b(a)(2)(i) and (iii) of the Act by: (1) misrepresenting the profit potential and failing to adequately disclose the risk of loss from trading commodity futures in the V - Tek Fund Offering Memorandum; and (2)

falsifying Velazquez's trading performance track record in the V – Tek Fund Offering Memorandum.

36. The actions and omissions of Velazquez, as described in this Count One, were done within the scope of his employment with V-Tek Capital and V-Tek Trading Group and, therefore, V-Tek Capital and V-Tek Trading Group are liable for his violations of Sections 4b(a)(i) and (iii) of the Act, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2002).

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

COUNT TWO

VIOLATIONS OF SECTION 4h OF THE ACT: FALSE REPRESENTATION OF REGISTRATION

38. The allegations set forth in paragraphs 1 through 32 are re-alleged and incorporated herein.

39. Section 4h of the Act makes it unlawful for any person falsely to represent such person to be a member of a registered entity or the representative or agent of such member, or to be a registrant under the Act, or the representative or agent of such registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery.

40. V-Tek Capital violated Section 4h of the Act by falsely representing on the Internet and in printed promotional material that V-Tek Capital is an NFA member and is registered with the CFTC.

41. During the relevant time, Velazquez as owner and manager of V-Tek Capital, directly and indirectly controlled V-Tek Capital and its employees, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described in paragraphs 38 - 39. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002), Velazquez is liable for the violations described in this Count Two to the same extent as V-Tek Capital.

42. 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 4h of the Act.

COUNT THREE

VIOLATIONS OF SECTION 4m(1) OF THE ACT: FAILURE TO REGISTER AS A COMMODITY TRADING ADVISOR AND A COMMODITY POOL OPERATOR

43. Paragraphs 1 through 32 are re-alleged and incorporated herein.

44. During the relevant time period, defendant V-Tek Capital has been and is acting as a CTA, in that for compensation or profit, it has engaged in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility. V-Tek Capital held itself out to the public as a CTA by promoting investments in managed commodity futures trading accounts via the Internet and in printed materials, and used or is using the mails and other means or instrumentalities of interstate commerce, directly or indirectly, to engage in business as a CTA.

45. During the relevant time period defendant V-Tek Capital has been and is acting as a CPO, in that it has solicited and accepted funds, securities or property for participation in a commodity pool or supervised persons so engaged and used or is using the mails and other means or instrumentalities of interstate commerce, directly or indirectly, to engage in business as a CPO.

46. Defendant V-Tek Capital has engaged and continues to engage in these activities without the benefit of registration, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2002).

47. During the relevant time, Velazquez as owner and manager of V-Tek Capital, directly and indirectly controlled V-Tek Capital and its employees, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described in paragraphs 44 - 46. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002) Velazquez is liable for the violations described in this Count III to the same extent as V-Tek Capital.

48. Each use of the mails or any means or instrumentality of interstate commerce in connection with the business of a CTA or CPO without proper registration during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act.

COUNT FOUR

VIOLATIONS OF SECTION 4o(1) OF THE ACT: FRAUD BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

49. The allegations set forth in paragraphs 1 through 32 are re-alleged and incorporated herein.

50. Beginning in or about January 2001 and continuing through the present, V-Tek Capital, while acting as a CPO and CTA, V-Tek Trading Group, while acting as a CTA, and Velazquez, while acting as an AP of V-Tek Capital and V-Tek Trading Group, have violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in that they have employed or are employing, schemes or artifices to defraud clients or prospective clients or participants or they have engaged or are engaging in transactions, practices or a course of business which operates and operated as a fraud or deceit upon clients or potential clients by using the mails or other means or instrumentalities of interstate commerce. The fraudulent acts included, but are not limited to the following: (1) misrepresenting the profit potential and failing to adequately disclose the risk of loss from trading commodity futures; (2) falsifying Velazquez's trading performance track record; and (3) misrepresenting that V-Tek Capital was an NFA member and was registered with the CFTC.

51. The actions and omissions of Velazquez, as described in this Count one, were done within the scope of his employment with V-Tek Capital and V-Tek Trading Group and, therefore, V-Tek Capital and V-Tek Trading Group are liable for his violations of Sections 4o(1) of the Act, pursuant to Section 2a(1)(B) of the Act, 7 U.S.C. § 4 (2002).

52. During the relevant time, Velazquez as owner and manager of V-Tek Trading Group and V-Tek Capital, directly and indirectly controlled V-Tek Trading Group and V-Tek Capital and their employees, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described in paragraph 49.

53. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002) Velazquez is liable for the violations described in this Count IV to the same extent as V-Tek Capital and V-Tek Trading Group.

54. 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 Sections 4o(1) of the Act.

COUNT V

VIOLATIONS OF REGULATION 4.20(c): COMMINGLING

55. Paragraphs 1 through 32 are realleged and incorporated herein.

56. Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2004), prohibits a CPO from commingling the property of any pool it operates with the property of any other person. V-Tek Capital, when acting as a CPO, violated Regulation 4.20(c), because through Velazquez it commingled customer funds intended for investment with V-Tek Capital with other non-customer funds.

57. During the relevant time, Velazquez, as owner and manager of V-Tek Capital, directly or indirectly, controlled V-Tek Capital and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations of V-Tek Capital alleged in this Count V, and thereby is also liable for V-Tek Capital's violations of Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2004) pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002).

58. Each act of commingling by V-Tek Capital, while acting as a CPO, during the relevant time period is alleged as a separate and distinct violation of Regulation 4.20(c).

COUNT VI

DISGORGEMENT OF ASSETS FROM THE RELIEF DEFENDANTS

59. Paragraphs 1 through 32 are realleged and incorporated herein.

60. The defendants have engaged in fraudulent conduct and other violations of the Act resulting in a fraud against their customers.

61. The relief defendants have received funds that were obtained as a result of the Defendants' fraudulent conduct.

62. The relief defendants have no legitimate entitlement to or interest in the funds received from the defendants' fraudulent conduct.

63. The relief defendants should be required to disgorge the funds they received from the defendants' fraudulent conduct, or the value of those funds that the relief defendants may have subsequently transferred to third parties.

64. By reason of the foregoing, the relief defendants hold funds in constructive trust for the benefit of Velazquez, V-Tek Capital and V-Tek Trading Group's customers who were victimized by defendants' fraudulent conduct.

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 that defendants violated Sections 4b(a)(2)(i) and (iii), 4h, 4m(1) and 4o(1) of Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), 6h, 6m(1), and 6o(1) (2002), and Commission Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2004);

B. Enter a restraining order restraining and enjoining defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, 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 defendants or relief defendants, wherever located, including all such records concerning defendants or relief defendants' 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 defendant, wherever located, including all such records concerning defendants or relief defendants' 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, 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 defendants.

C. Enter orders of preliminary and permanent injunctions prohibiting the defendants and any other person or entity associated with them, including any successor thereof, from:

1. engaging in conduct, in violation of Sections 4b(a)(2)(i) and (iii), 4h, 4m(1), and 4o(1) of Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii), 6h, 6m(1) and 6o(1) (2002) and Regulation 4.20(c), 17 C.F.R. 4.20(c) (2004);
2. engaging in, controlling, or directing the trading of any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise; and
3. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2004), or acting as a principal, agent, officer or employee of any person registered, required to be registered, or exempted from registration with the Commission, except as provided for in Regulation 4.14(a)(9). This includes, but is not limited to, soliciting, accepting, or receiving any funds, revenue or other property from any other person, giving commodity trading advice for compensation, except as provided in

Regulation 4.14(a)(9), or soliciting prospective customers related to the purchase or sale of commodity futures or options.

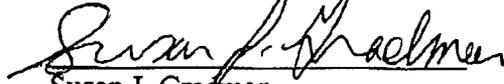
- D. Enter an order directing the defendants and the relief defendants and any successor thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act or Regulations, as described herein, and interest thereon from the date of such violations;
- E. Enter an order directing the defendants to make full restitution to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;
- F. Enter an order assessing a civil monetary penalty against defendants in the amount of not more than the higher of \$120,000 or triple the monetary gain to the defendants for each violation by the defendants of the Act;
- G. Enter an order directing that the defendants make an accounting to the court of all their assets and liabilities, together with all funds they received from and paid to clients and other persons in connection with commodity futures transactions or purported commodity futures transactions, and all disbursements for any purpose whatsoever of funds received from commodity clients, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from, but not limited to, January 2001 to and including the date of such accounting;

- H. Enter an order requiring defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- I. Order such other and further remedial ancillary relief as the Court may deem appropriate.

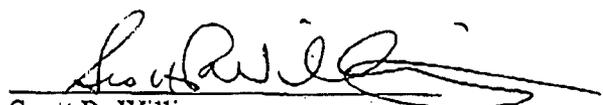
Dated: September 8, 2004

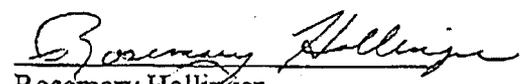
Respectfully submitted,

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