

commenced an investigation of Prescott's and CCP's business activities. During a subsequent FBI interview, Prescott admitted that he misappropriated approximately 75 percent of pool participants' funds for his personal use.

2. During the relevant period, at least 5 participants transferred at least \$585,000 to CCP's bank account, which Prescott controlled, in order to invest in CCP's forex pool. Defendant defrauded pool participants and prospective pool participants by: i) misrepresenting the risks involved in forex trading; ii) executing demand promissory notes that promised the repayment of the note amount and monthly interest payments, knowing he could not make those payments to participants by his forex trading; iii) misrepresenting that participants' investments were overall profitable, thereby lulling them into investing additional monies; iv) misappropriating a portion of participants' monies; and v) failing to inform them that under the name of David Weeks, he previously had been convicted of, among other things, conspiracy to commit securities fraud, mail fraud and wire fraud, and perjury, and had been ordered to pay restitution of \$1,151,649 to defrauded investors and was permanently enjoined from violating the anti-fraud provisions of the Securities Exchange Act of 1934 ("Securities Act"). To date, Defendant misappropriated at least \$455,000 of pool participants' monies, using a portion of those funds for personal expenditures such as air travel, hotel accommodations, car rentals and gambling. Prescott engaged in the foregoing misconduct without the benefit of registration as a commodity pool operator ("CPO").

3. By virtue of this conduct and the conduct further described herein, Defendant has engaged, is engaging in, or is about to engage in fraud in violation of the Commodity Exchange Act ("Act"), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat.

1651 (enacted June 18, 2008), 7 U.S.C. §§ 1 *et seq.* (2006 and Supp. III 2009), and as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010) (“Dodd-Frank Act”), §§ 701-774 (enacted July 21, 2010), 7 U.S.C. §§ 1 *et seq.*, and Commission Regulations (“Regulations”), 17 C.F.R. §§ 1 *et seq.*, (2012). In particular, Defendant cheated and defrauded pool participants in violation of Sections 4b(a)(2)(A) and (C) and 4o(1) of the Act, as amended, 7 U.S.C. §§ 6b(a)(2)(A), (C), 6o(1) (Supp. IV 2011).

4. On October 18, 2010, the Commodity Futures Trading Commission (“Commission” or “CFTC”) enacted new regulations implementing certain provisions of the Dodd-Frank Act with respect to off-exchange forex transactions. Therefore, beginning on October 18, 2010, and continuing to the present, Defendant also has engaged in fraud in violation of Regulation 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1), (3) (2012).

5. With certain exceptions and exemptions not applicable here, all CPOs are required to be registered with the Commission, pursuant to Section 4(m)(1) of the Act, 7 U.S.C. § 6(m)(1) (2006), and CPOs engaging in retail forex transactions are required to be registered pursuant to Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2012). Beginning on July 16, 2011, and continuing to the present, Defendant violated Section 4m(1) of the Act, 7 U.S.C. § 6(m)(1), and beginning on October 18, 2010, and continuing until the present, he violated Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2012), by failing to register as a CPO.

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

II. JURISDICTION AND VENUE

7. The Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. §13a-1(a), which provides that, whenever it shall appear to the Commission that any person has engaged in, is engaging in, or is about to engage in any act or practice that constitutes a violation of any provision of the Act or any rule, regulation, or order promulgated thereunder, the Commission may bring an action against such person to enjoin such practice or to enforce compliance with the Act.

8. The CFTC has jurisdiction over the forex solicitations and transactions at issue in this case pursuant to Sections 6c and 2(c)(2)(C) of the Act, 7 U.S.C. §§ 13a-1, 2(c)(2)(C).

9. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, to be codified at, 7 U.S.C. §13a-1(e), because Defendant is found in, inhabits, or transacts business in this District, or the acts and practices in violation of the Act occurred, are occurring, or are about to occur within this District, among other places.

III. PARTIES

10. The U.S. Commodity Futures Trading Commission is an independent federal regulatory agency charged by Congress with the responsibility for administering and enforcing the provisions of the Act, as amended, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission's Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012).

11. David Prescott, a/k/a David Weeks, resides in Boston, Massachusetts and has solicited customers in Wisconsin, among other states. He is doing or has done business under the name of CCP. He has never been registered with the Commission in any capacity.

12. On February 9, 2000, the Department of Justice charged Prescott. under the name Weeks, with two counts of conspiracy to commit securities fraud, mail fraud and wire fraud, two

counts of wire fraud, one count of mail fraud and one count of perjury. On March 14, 2001, “Weeks” pled guilty to two counts of conspiracy to commit securities fraud, mail fraud and wire fraud, one count of wire fraud and one count of perjury, and on November 14, 2003, he was sentenced to 3 months home confinement, three years of supervised release and ordered to pay restitution of \$1,151,649 to defrauded investors. See, *USA v. Monroig, et al.*, Case No. 1:00-cr-00091, U.S. District Court for the Southern District of New York (filed February 9, 2000). When soliciting pool participants and prospective pool participants for CCP, Prescott failed to tell them of his foregoing criminal convictions.

13. On February 9, 2000, the SEC charged Prescott, under the name David Weeks, with violations of anti-fraud provisions of the Securities Act. On February 28, 2006, the district court entered a final judgment in favor of the SEC against Weeks and permanently enjoined him from violating the anti-fraud provisions of the Securities Act. See, *SEC v. David Abish, et al.* Case No. 00 CV- 00978, United States District Court for the Southern District of New York (filed February 9, 2000). When soliciting pool participants and prospective pool participants for CCP, Prescott failed to tell them that the SEC permanently enjoined him from violating the anti-fraud provisions of the Securities Act.

IV. FACTS

A. Statutory Background

14. Section 1a(18) of the Act, as amended, 7 U.S.C. § 1a(18), defines an eligible contract participant (“ECP”) in forex transactions, in relevant part, as an entity with total assets in excess of (i) \$10 million, or (ii) \$5 million and who enters the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.”

15. Regulation 4.10(d), 17 C.F.R. § 4.10(d)(1) (2012), defines a “ pool” as any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests.

16. Section 1a(11)(A)(i) of the Act, 7 U.S.C. § 1a(11)(A)(i) (2011), defines a CPO as “any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts or receives from others, funds ... for the purpose of trading in commodity interests, including any ... agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i)”

17. A “participant” is defined in Commission Regulation 4.10(c), 17 C.F.R. § 4.10(c) (2012), as any person who has any direct financial interest in a pool.

B. Forex Pool Fraud

18. Defendant began soliciting for his forex pool in approximately June 2010. At least one participant (“Participant A”) learned about Prescott and CCP through a website, www.wealthvault.net, which had an on-line audio recording of Prescott explaining CCP’s trading strategy. After listening to the audio recording, Participant A contacted Prescott by email in approximately July 2010, and continued to keep in contact with Prescott throughout the relevant period. Although Participant A and Prescott contacted each other numerous times by email and telephone, Participant A never met Prescott. During his email correspondence and telephone calls, Prescott falsely represented to Participant A that he had worked for Goldman Sachs and that he was a successful forex trader. Prescott also told Participant A that his forex trading had very little risk because Prescott would automatically stop trading if trading losses exceeded 20 percent. Prescott never told Participant A that he was a convicted felon and had been ordered to

pay more than \$1 million as restitution to defrauded investors for securities fraud violations and had been permanently enjoined by the SEC from violating the anti-fraud provisions of the Securities Act.

19. In July 2010, Participant A opened a forex account with a regulated bank and gave Defendant discretionary authority to trade his account. Participant A invested a total of \$40,000 in that forex account, but closed the account approximately one month later, when it incurred losses of approximately \$10,000.

20. After Participant A closed his forex account at a regulated bank, Prescott solicited him to invest in CCP's master forex trading account, and represented that he could invest the \$30,000 from his bank forex account and that Prescott would give him a \$10,000 credit for his losses, if he chose to invest in the master account. Prescott explained that the master trading account traded for the whole business and that there were other investors whose funds were pooled together in the master account and that all participants were making money as a result of his trading forex. Prescott told Participant A that if he invested in CCP's master trading account, he would promise to repay his principal investment and make a monthly interest payment to him.

21. In August 2010, Participant A agreed to invest \$30,000 in CCP's forex pool and Prescott told him that he would give him a credit for his \$10,000 loss. After Prescott told him that his investment was overall profitable, Participant A invested an additional \$180,000 in CCP's forex pool between September 2010 and January 2012.

22. As agreed upon, Prescott executed demand promissory notes to Participant A, dated September 1, 2010 and November 1, 2010, for \$100,000 and \$150,000, respectively. Pursuant to the terms of the promissory notes, Prescott promised to pay Participant A the note amount, with "interest of between 1% and 6% per month on the unpaid balance." When he

executed the foregoing demand promissory notes, Prescott knew or recklessly disregarded that he could not honor those payment obligations by his forex trading.

23. During the relevant period, Participant A kept in contact with Prescott via email and telephone conversations. During these email exchanges and telephone calls, Prescott related that CCP's forex trading was very profitable. Although Prescott and Participant A initially agreed upon a monthly interest payment of 3 percent, Prescott later agreed to pay him a monthly interest payment of 6 per cent. Although Participant A often asked Prescott to send him account statements, Prescott never did so. Consequently, Participant A kept track of the principal and interest payments that Prescott owed him. Although Participant A never requested the withdrawal of any of his funds, Defendant paid him approximately \$35,455 for referring prospective pool participants to Defendant.

24. Because Prescott promised Participant A the return of his principal and a monthly interest payment and represented that his forex trading was very profitable, Participant A referred his elderly mother ("Participant B") to Prescott as a prospective pool participant. Prescott contacted Participant B in early 2011, and told her that he would invest her money in forex, that he was making good returns trading forex for CCP's forex account and that forex was a safe investment for her retirement funds. Additionally, Prescott told her that his parents and other relatives had invested money in CCP and were happy with the results.

25. Although Participant B never met Prescott, Prescott called her almost every day between January 2011 and April 2011, when she finally agreed to invest in CCP's forex pool. During the course of all the telephone conversations, Prescott promised her that he could provide her with good monthly returns, which he stated would be anywhere between 3 percent to 4.5 percent, with very little risk. Prescott never told her that he was a convicted felon and was

ordered to pay over \$1 million as restitution to defrauded investors for securities fraud violations and had been permanently enjoined by the SEC from violating the anti-fraud provisions of the Securities Act.

26. Based on Prescott's representations, Participant B wired \$100,000 to CCP's bank account on or about April 27, 2011, for purposes of investing in CCP's forex pool. The next day, she wired an additional \$15,000 to CCP's bank account on behalf of a fine arts association, as secretary of that non-profit art association. In September 2011, she invested an additional \$100,000 of her and her husband's retirement funds, based on Prescott's representations that her investment was profitable.

27. After Participant B wired each \$100,000 investment detailed above to CCP's bank account, Prescott executed demand promissory notes to her, dated May 1, 2011, and October 1, 2011, respectively, each in the amount of \$100,000. When he executed the foregoing demand promissory notes, Prescott knew or recklessly disregarded that he could not honor those payment obligations by his forex trading. Although each promissory note obligated Prescott to pay Participant B \$100,000 and interest on the unpaid portion of the principal amount, compounding at the rate of 2 percent per month, Prescott sent her an email on or about January 31, 2012, stating that she "will receive 3% monthly interest payment on the initial 200k ... and a 4.5% monthly interest payment on the additional 100k you will potentially send us."

28. As a result of Prescott's promise to pay a 4.5 percent monthly interest payment on funds remitted after January 31, 2012, Participant B wired an additional \$100,000 on or about February 1, 2012, to CCP's bank account for investment in CCP's forex pool. During the relevant period, Participant B invested a total of \$315,000 with Prescott and CCP, \$300,000 of which were her and her husband's retirement funds.

29. Participant A also referred his girlfriend to Prescott and, based on the same representations Prescott made to Participant A, the girlfriend invested a total of \$15,000 in CCP's forex pool.

30. At least two other participants invested \$35,000 and \$10,000, respectively, in CCP's forex pool. Prescott never told these participants that he was a convicted felon and was ordered to pay over \$1 million as restitution to defrauded investors for securities fraud violations and had been permanently enjoined by the SEC from violating the anti-fraud provisions of the Securities Act.

31. Participant B needed to withdraw her monthly interest payments for living expenses. While Prescott paid her a total of approximately \$34,566 in interest payments, Prescott began to make excuses and failed to timely pay the interest payments he promised. In approximately March 2012, Prescott stopped making interest payments to her and refused to repay her principal investment, despite numerous requests for payment. In particular, Participant B told Prescott that her \$300,000 investment represented her and her husband's life savings and that her husband, who is a disabled veteran in poor health, was not even aware of her investment with Prescott and CCP. In her emails to Prescott, Participant B pleaded with Prescott to return her money because she and her husband "have no money" and "need to eat." To date, Prescott has not repaid Participants A and B their principal investments.

32. Because Prescott refused to answer Participant B's telephone calls and emails and refused to repay her principal investment, she contacted the office of the FBI in June 2012. As a result of her complaint, the FBI commenced an investigation of Prescott's and CCP's business activities. During an FBI interview of Prescott in July 2012, Prescott admitted to an agent that he misappropriated approximately 75 percent of pool participants' funds for his personal use.

C. Cambridge Currency Partners Actual Trading Losses and Misappropriation

33. Of the approximate \$585,000 received by Defendant, he deposited only approximately \$150,000 into a trading account in the name of CCP at Citibank N.A. for purposes of trading forex on behalf of pool participants. During the relevant period, Defendant lost approximately \$33,666, including commissions and fees. trading forex in this account. Furthermore, during the relevant period, Defendant withdrew approximately \$116,334 of participant's funds from this account.

34. Overall, Defendant returned approximately \$96,236 to pool participants. During the relevant period, Defendant misappropriated at least \$455,000 in participants' funds, of which Defendant spent at least \$236,000 on personal expenses, such as air travel, hotel accommodations, car rentals, gambling and athletic club fees.

D. The Nature of the Transaction

35. Defendant is not a financial institution, registered broker or dealer, insurance company, financial holding company, or investment bank holding company, nor is the Defendant an associated person of a financial institution, registered broker or dealer, insurance company, financial holding company, or investment bank holding company.

36. Defendant and most, if not all, of his clients were not and are not ECPs, as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a.

37. The forex transactions conducted by Defendant were entered into on a leveraged or margined basis, and they neither resulted in delivery of actual currency within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these

forex contracts purportedly remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency or facing an obligation to do so.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

Violations of Section 4b(a)(2)(A) and (C) of the Act, as Amended: Forex Fraud

38. Paragraphs 1 through 37 are re-alleged and incorporated herein.

39. Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C), prohibits any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market, (A) to cheat or defraud or attempt to cheat or defraud the other person; or (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed.

40. Pursuant to Section 2(c)(2)(C)(iv), Section 4b of the Act applies to forex transactions entered into by non-ECPs "as if" they were a contract of sale for a commodity for future delivery.

41. As set forth above, beginning in approximately June 2010, and continuing to the present, in or in connection with forex transactions entered into by non-ECPs, Defendant cheated, defrauded or attempted to cheat or defraud other persons and willfully deceived or attempted to deceive other persons by, among other things: i) misrepresenting the risks involved in forex trading; ii) executing demand promissory notes that promised the repayment of the note amount and monthly interest payments, knowing he could not make those payments to

participants by his forex trading; iii) misrepresenting that participants' investments were overall profitable, thereby lulling them into investing additional monies; iv) misappropriating a portion of participants' monies; and v) failing to inform participants and prospective participants that, under the name of David Weeks, he was convicted of, among other things, conspiracy to commit securities fraud, mail and wire fraud, and perjury, and was ordered to pay restitution of \$1,151,649 to defrauded investors and that an injunction permanently enjoining him from violating the anti-fraud provisions of the Securities Act was entered against him in a parallel SEC enforcement action.

42. Defendant engaged in the acts and practices described in this Count knowingly or with reckless disregard for the truth.

43. By this conduct, Defendant violated Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C).

44. Each misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C).

COUNT II

Violation of Regulation 5.2(b)(1) and (3): Forex Fraud

45. Paragraphs 1 through 37 are realleged and incorporated herein by reference.

46. Since October 18, 2010, Regulation 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1), (3) (2012), has made it unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any retail forex transaction: (1) to cheat or defraud or attempt to cheat or defraud any person; . . . or (3) willfully to deceive or attempt to deceive any person by any means whatsoever.

47. Since October 18, 2010, Defendant through use of the mails or other means or instrumentalities of interstate commerce, has violated Regulation 5.2(b)(1) and (3) by cheating, defrauding, or deceiving, or attempting to cheat, defraud, or deceive participants and prospective participants by, among other things: i) misrepresenting the risks involved in forex trading; ii) executing demand promissory notes that promised the repayment of the note amount and monthly interest payments, knowing he could not make those payments to participants by his forex trading; iii) misrepresenting that participants' investments were overall profitable, thereby lulling them into investing additional monies; iv) misappropriating a portion of participants' monies; and v) failing to inform participants and prospective participants that, under the name of David Weeks, he was convicted of, among other things, conspiracy to commit securities fraud, mail and wire fraud, and perjury, and was ordered to pay restitution of \$1,151,649 to defrauded investors and that an injunction permanently enjoining him from violating the anti-fraud provisions of the Securities Act was entered against him in a parallel SEC enforcement action.

48. Defendant knowingly or recklessly engaged in the acts and practices described in this Count.

49. Defendant, therefore, has violated Regulation 5.2(b)(1) and (3) with respect to conduct occurring on or after October 18, 2010.

50. Each misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, occurring on or after October 18, 2010, is alleged as a separate and distinct violation of Regulation 5.2(b)(1) and (3).

COUNT III

Violation of Section 40(1) of the Act: Fraud by a Commodity Pool Operator

51. Paragraphs 1 through 37 are realleged and incorporated herein by reference.

52. Effective on July 16, 2011, Section 1a(11)(A)(i) of the Act, 7 U.S.C. § 1a(11)(A)(i), defines a CPO as “any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts or receives from others, funds ... for the purpose of trading in commodity interests, including any ... agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i)”

53. Section 4o of the Act, 7 U.S.C. § 6o (2006), makes it unlawful for a commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, to directly or indirectly:

(A) employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

54. Since at least July 16, 2011, Defendant has been operating as a CPO in that he engaged in a business that is in the nature of an investment trust, syndicate or similar form of enterprise, and in connection therewith, solicited, accepted or received funds, securities, or other property from others for the purpose of trading forex.

55. Since July 16, 2011, and continuing to the present, Defendant, through the use of the mails or other means or instrumentalities of interstate commerce (including through use of U.S. mail to pool participants and the Internet), violated Section 4o of the Act, 7 U.S.C. § 6o (2006), by, among other things: i) misrepresenting the risks involved in forex trading; ii) executing demand promissory notes that promised the repayment of the note amount and monthly interest payments, knowing he could not make those payments to participants by his

forex trading; iii) misrepresenting that participants' investments were overall profitable, thereby lulling them into investing additional monies; iv) misappropriating a portion of participants' monies; and v) failing to inform participants and prospective participants that under the name of David Weeks, he was convicted of, among other things, conspiracy to commit securities fraud, mail and wire fraud, and perjury and was ordered to pay restitution of \$1,151,649 to defrauded investors and that an injunction permanently enjoining him from violating the anti-fraud provisions of the Securities Act was entered against him in a parallel SEC enforcement action.

56. Defendant engaged in the acts and practices described in this Count knowingly or with reckless disregard for the truth.

57. Beginning on at least July 16, 2011, and continuing to the present, each misappropriation and misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o of the Act, 7 U.S.C. § 6o (2006).

COUNT IV

Violation of Section 4m(1) of the Act and Regulation 5.3(a)(2)(i): Failure to Register as a CPO

58. Paragraphs 1 through 37 are re-alleged and incorporated herein.

59. With certain specified exceptions and exemptions, not applicable here, all CPOs are required to be registered with the Commission, pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006). Similarly, pursuant to Regulation 5.3(a)(2) (i), 17 C.F.R. § 5.3(a)(2)(i) (2012), any CPO as defined in Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1), that is a non-ECP and that engages in retail forex transactions is required to register as a CPO. Regulation 5.1(d)(1) defines a CPO as any person who operates or solicits funds, securities or property for a pooled investment vehicle.

60. Defendant acted as a CPO in that he accepted and received funds from pool participants for the purpose of trading forex. In connection with such conduct, Defendant was a non-ECP who used the mails and other means or instrumentalities of interstate commerce, directly or indirectly, to engage in his business as a CPO.

61. Beginning on October 18, 2010, Defendant engaged in the activities described in Paragraph 60, without the benefit of registration as a CPO in violation of Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2012).

62. Beginning on July 16, 2011, Defendant engaged in the activities described in Paragraph 60, without the benefit of registration as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

63. Beginning on October 18, 2010 and continuing to the present, each use of the mails or any means or instrumentality of interstate commerce in connection with his business as a 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 Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2012).

64. Beginning on July 16, 2011 and continuing to the present, each use of the mails or any means or instrumentality of interstate commerce in connection with his business as a 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, 7 U.S.C. §§ 6m(1) (2006).

VI. RELIEF REQUESTED

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

A. An order finding Defendant violated Sections 4b(a)(2)(A) and (C), 4o(1) and 4m(1) of the Act, as amended, 7 U.S.C. §§ 6b(a)(2)(A), (C), 6o(1) and 6m(1), and Regulations 5.2(b)(1), (3) and 5.3(a)(2)(i), 17 C.F.R. §§ 5.2(b)(1), (3) and 5.3(a)(2)(i) (2012);

B. An *ex parte* restraining order and an order for preliminary injunction pursuant to Section 6c(a) of the Act, as amended, 7 U.S.C. § 13a-1(a), restraining Defendant and all persons or entities insofar as they are acting in the capacity of Defendant's 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. Destroying, mutilating, concealing, altering, or disposing of 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 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 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, money, or securities held in safes or safety deposit boxes, and all funds on deposit in any financial

institution, bank, or savings and loan account, whether domestic or foreign, held by, under the control of, or in the name of Defendant;

C. Orders of preliminary and permanent injunction prohibiting Defendant and any other persons or entities in active concert with him from engaging in conduct in violation of Sections 4b(a)(2)(A) and (C), 4o(1) and 4m(1) of the Act, as amended, 7 U.S.C. §§ 6b(a)(2)(A), (C), 6o(1) and 6m(1), and Regulations 5.2(b)(1), (3) and 5.3(a)(2)(i), 17 C.F.R. §§ 5.2(b)(1), (3) and 5.3(a)(2)(i) (2012);

D. Orders of preliminary and permanent injunction prohibiting Defendant and any of his affiliates, agents, servants, employees, successors, assigns, attorneys and all persons in so far as they are acting in active concert or participation with him who receive actual notice of such order by personal service or otherwise, from engaging, directly or indirectly, in:

1. trading on or subject to the rules of any registered entity, as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a;

2. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2012)) ("commodity options"), security futures products, foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) ("forex contracts") and/or swaps (as that term is defined in Section 1a(47) of the Act, as amended, as further defined by Commission Regulation 1.3(xxx), 17 C.F.R. § 1.3(xxx) (2012)) ("swaps"), for his own personal account or for any account in which he has a direct or indirect interest;

3. having any commodity futures, options on commodity futures, commodity options, security futures products, forex contracts and/or swaps traded on his behalf;

4. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, security futures products, forex contracts, and/or swaps;

5. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, security futures products, forex contracts and/or swaps;

6. 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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012);

7. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent or any other officer or employee of any person or entity registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012);

E. An order directing that Defendant make an accounting to the Court of all of (i) Defendant's assets and liabilities, together with all funds Defendant received from his clients in connection with forex transactions or purported forex transactions, including the names, mailing addresses, email addresses, and telephone numbers of any such persons from whom Defendant received such funds from January 1, 2010 to the date of such accounting, and (ii) all disbursements for any purpose whatsoever of funds received from his clients and other persons, including salaries, commissions, fees, loans, and other disbursements of money and property of any kind, from January 1, 2010 to and including the date of such accounting;

F. Enter an order requiring Defendant immediately to identify and provide an accounting of all assets and property that he currently maintain outside the United States, including, but not limited to, all funds on deposit in any financial institution, futures commission merchant, bank, or savings and loan accounts held by, under the control of, or in the name of Prescott, CCP or in which any such person or entity has a beneficial interest of any kind, whether jointly or otherwise, and requiring Defendant to repatriate all funds held in such accounts by paying them to the Clerk of the Court, or as otherwise ordered by the Court, for further disposition in this case;

G. An order directing Defendant to pay civil monetary penalties under Section 6c of the Act, as amended, 7 U.S.C. § 9a, to be assessed by the Court in amounts not more than the higher of \$140,000 for each violation of the Act, or triple the monetary gain to Defendant for each violation of the Act, plus post-judgment interest;

H. An order directing Defendant to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices that constitute violations of the Act, as described here, and prejudgment interest thereon from the date of such violations;

I. An order directing Defendant to make restitution by making whole each and every client of Defendant whose funds were received or used by him in violation of the provisions of the Act as described herein, including pre-judgment interest;

J. An order directing Defendant, and any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between him and any of the clients whose funds were received by him as a result of the acts and practices which constituted violations of the Act, as amended, as described herein;

K. An order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412 (2006); and

L. Such further relief as the Court deems appropriate.

Date: April 30, 2013

Respectfully submitted,

/s/Diane M. Romaniuk
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