

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

<b>U.S. Commodity Futures Trading Commission,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>No. 09 CV _____</b>
	)	
v.	)	
	)	
<b>Scott M. Ross, Maize Capital Management, LLC, and Maize Asset Management, LLC,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND FOR  
PENALTIES UNDER THE COMMODITY EXCHANGE ACT**

**I. SUMMARY**

1. Since at least June 18, 2008, Maize Capital Management, LLC (“Maize Capital”), Maize Asset Management, LLC (“Maize Asset”) and Scott M. Ross (“Ross”) (collectively “Defendants”) have solicited and accepted funds for, and operated, a commodity pool known as the Maize Fund, LP (“Maize Fund”). The Maize Fund engaged in retail foreign currency transactions, but also represented that it would trade energy, precious metal and interest rate futures contracts.

2. In soliciting funds for and/or operating the pool, Defendants provided participants and prospective participants of the Maize Fund with written documents that contained materially false and misleading statements. Specifically, defendants Maize Capital and Ross misrepresented material facts regarding the qualifications of investors who would participate in the commodity pool and the minimum amount that would be accepted for investment in the pool, Maize Capital’s legal status as an “exempt” commodity pool operator (“CPO”) under the Commodity Exchange Act (“Act”) and the regulations thereunder

(“Regulations”), and the existence and identity of the administrator of the pool and the auditor of the pool’s financial records. Maize Capital and Ross further caused statements to be issued to pool participants that made false representations regarding the profitability of the participants’ investments. Ross, Maize Capital and Maize Asset also caused funds for trading in the Maize Fund pool to be received in the name of Maize Asset rather than in the name of the pool.

3. By virtue of this conduct and the further conduct described herein, Maize Capital and Ross have engaged, are engaging, or are about to engage in acts and practices in violation of Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act as amended by the Food, Conservation and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (subtitled the CFTC Reauthorization Act of 2008 (“CRA”)), §13102, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C). Further, Maize Capital and Ross have also engaged, are engaging, or are about to engage in acts and practices in violation of Sections 4o(1)(A) and (B) and 4m of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) and 6m (2006), and Commission Regulation (“Regulation”) 4.20(b), 17 C.F.R. § 4.20(b) (2009). Finally, Maize Asset and Ross have also engaged, are engaging, or are about to engage in acts and practices in violation of Regulation 4.30, 17 C.F.R. § 4.30 (2009). Ross was a controlling person of both Maize Capital and Maize Asset and is liable for acts constituting their violations of the Act and Regulations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006). Maize Capital and Maize Asset are liable for the acts of its employees, including but not limited to Ross, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

4. Accordingly, the Commodity Futures Trading Commission (“CFTC” or “Commission”) brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), to

enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act and Regulations. In addition, the CFTC seeks restitution, disgorgement, rescission of participant agreements, civil monetary penalties and such other equitable relief as this Court may deem necessary or appropriate.

5. Unless restrained and enjoined by this Court, Defendants are likely 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

6. Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), authorizes the CFTC to seek injunctive relief against any person whenever it shall appear to the CFTC 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 promulgated thereunder.

7. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2)(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C).

8. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), because the Defendants reside in this jurisdiction and the acts and practices in violation of the Order have occurred, are occurring, or are about to occur within this District.

## III. THE PARTIES

9. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act,

7 U.S.C. §§ 1 *et seq.* (2006), and the regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2009).

10. Defendant **Scott M. Ross** resides in Gilberts, Illinois. He is the chief operating officer of both Maize Capital and Maize Asset. Ross is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, and is not an associated person (“AP”) of such entities. He has never been registered with the CFTC in any capacity.

11. On February 3, 2009, the U.S. Securities and Exchange Commission (“SEC”) filed an injunctive complaint alleging that Ross had solicited approximately 300 investors to invest at least \$10 million in at least three investment funds, including Maize Capital, and had misappropriated approximately \$2 million from at least one of those funds. *SEC v. Ross*, No. 1:09 CV 00683 (N.D. Ill.). On the same day, based on a consent filed by Ross, the Court entered a Partial Final Judgment enjoining Ross from further violations as charged in the SEC complaint. The Court also appointed a Receiver to collect the assets of Ross and any entities that he controlled and managed.

12. Defendant **Maize Capital Management, LLC** is an Illinois limited liability company established in March 2008. Its principal address is 1901 Roselle Road, Schaumburg, Illinois 60195. Maize Capital was the general partner and operator of the Maize Fund. Because Maize Capital represented to participants and prospective participants that the Maize Fund was established in part to trade commodity futures, the Maize Fund was a commodity pool and Maize Capital acted as its CPO. Maize Capital is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, and is not an AP of such entities. Maize Capital has never been registered in any capacity with the CFTC,

but filed a Notice of Exemption with the National Futures Association (“NFA”) claiming it was an exempt CPO under Regulation 4.13(a)(4), 17 C.F. R. § 4.13(a)(4) (2009).

13. Defendant **Maize Asset Management, LLC** is an Illinois limited liability company established in March 2008. Its principal address is 1901 Roselle Road, Schaumburg, Illinois 60195. Maize Asset was retained by Maize Capital to exercise discretionary trading authority over the Maize Fund as a commodity trading advisor (“CTA”). Maize Asset is not a financial institution, registered broker dealer, insurance company, financial holding company, or investment bank holding company, and is not an AP of such entities. Maize Asset has never been registered with the CFTC in any capacity.

#### IV. STATUTORY BACKGROUND

14. Regulation 4.10(d)(1), 17 C.F.R. § 4.10(d)(1) (2009), defines a pool as an investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests.

15. Section 1a(5) of the Act, 7 U.S.C. § 1a(5) (2006), defines a CPO as any person engaged in the business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or 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 or derivatives transaction execution facility.

16. Section 1a(6) of the Act, 7 U.S.C. § 1a(6) (2006), defines a CTA as any person who, for compensation or profit, engages in the business of advising others as to the value or 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.

17. Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), make it unlawful for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person – (A) to cheat or defraud or attempt to cheat or defraud the other person; (B) willfully to make or cause to be made to the other person any false report or statement thereof or willfully to enter or cause to be entered for the other person any false record; 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, with respect to any order or contract for the other person.

18. Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), make it unlawful for 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 other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), 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; (B) willfully to make or cause to be made to the other person any false report or statement thereof or willfully to enter or cause to be entered for the other person any false record; 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, with respect to any order or contract for or with the other person.

19. Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) (2006), prohibit any CPO, or AP of a CPO, to employ any device, scheme or artifice to defraud any client or participant or prospective client or participant; or, to 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.

20. Section 4m of the Act, 7 U.S.C. § 6m (2006), prohibits anyone acting as a CPO from making use of the mails or any means or instrumentality of interstate commerce in connection with its business unless registered with the Commission as a CPO.

21. Regulation 4.20(b), 17 C.F.R. § 4.20(b) (2009), provides that all funds received by a CPO from an existing or perspective pool participant for purchase of an interest in a pool that it operates or that it intends to operate must be received in the pool's name.

22. Regulation 4.30, 17 C.F.R. § 4.30 (2009), expressly prohibits any CTA from receiving funds from any existing or prospective client in the name of the CTA where such funds are for the purchase, margin, guarantee or security of any commodity interest of the client.

## V. FACTS

### A. General Background Regarding Ross

23. Ross managed a number of private investment enterprises for which he solicited funds from individual investors. Ross described himself as the Senior Managing Partner of Harbor Wealth Management Group, LLC, a comprehensive wealth and investment firm, and its subsidiaries, Harbor Private Funds, LLC and Harbor Capital Funds, LLC, and as a "sought-after expert on financial topics and strategies."

24. Among his most recent activities since approximately 2007, Ross solicited funds for two pooled investment enterprises other than the Maize Fund, including one involving life settlement contracts and another involving a company called Moondoggie Technologies.

**B. Operations of Maize Capital and Maize Asset**

25. In the first half of 2008, Ross commenced operations of Maize Capital and Maize Asset. On or about May 5, 2008, Ross's company Harbor Wealth Management made the first investment in the Maize Fund by wiring \$75,000 into the Maize Asset bank account.

26. From at least June 18, 2008 through at least January 14, 2009, Ross and Maize Capital solicited, directly and indirectly, and accepted at least \$6 million from public customers for investment in the Maize Fund through interstate wires and checks.

27. Participant funds were deposited in a bank account at Associated Bank in the name of "Harbor Wealth Fund, LLC" then transferred to another account at Associated Bank in the name of "Maize Asset Management, LLC", and subsequently transferred to accounts at FXCM London in that same name.

28. Participant funds in the Maize Asset account at FXCM London were used to trade foreign exchange contracts. The transactions were made on a margined or leveraged basis and neither resulted in deliveries of forex nor created an enforceable obligation to deliver between a buyer and seller that have the ability to make/take delivery in connection with their line of business. Neither the defendants nor the futures commission merchants that were the counterparties to the forex transactions were registered broker dealers, insurance companies, financial holding companies, or investment bank holding companies or the AP's of registered broker dealers, insurance companies, financial holding companies, or investment bank holding companies.

29. Ross employed a number of individuals to solicit funds from public investors for the Maize Fund. Among the materials that Ross provided to these individuals to assist them in the solicitation of investors were the “pitchbook”; a confidential private placement memorandum (“CPPM”), which stated that the Maize Fund would trade on both the foreign exchange spot and futures markets, along with trading energy, precious metals and interest rate futures; and a copy of a limited partnership agreement for the Maize Fund.

30. The “pitchbook” and CPPM contained a variety of representations to the effect that Maize Capital would only accept investments from sophisticated investors and that the minimum investment in the Maize fund was \$500,000, which were material. For example, the “pitchbook” asserts that “[a]ll investors must be ‘accredited investors’ and/or ‘qualified purchasers’ as defined in the securities laws before they can invest in the funds.” The CPPM states that “the offering of limited partner interests in the Partnership is limited to certain qualified eligible persons pursuant to CFTC Regulation (‘Regulation’) 4.13(a)(4).” The CPPM also states that “The Partnership is seeking subscriptions from ‘qualified purchasers’ (as defined in the Partnership’s subscription application materials), generally in minimum amounts of \$500,000.” In fact, numerous participants in the Maize Fund did not meet the definition of, “qualified purchasers,” “accredited investors” or “qualified eligible persons” as defined under the securities laws or the Act and Regulation 4.13(a)(4).

31. Ross and Maize Capital accepted subscriptions (investments) from individuals who were not qualified purchasers, and all but one known participant invested less than the purported \$500,000 minimum. Some participants invested as little as \$15,000.

32. Ross and Maize Capital either knew that representations referenced in paragraph 30 were false, inaccurate or misleading, or acted with reckless disregard for their truth or falsity.

33. Ross and Maize Capital distributed the “pitchbook” in electronic form to at least some of the participants by means or instrumentalities of interstate commerce.

34. Ross and Maize Capital similarly distributed the CPPM to participants and prospective participants via mail or other means or instrumentalities of interstate commerce.

35. The CPPM also falsely identified independent third parties as being responsible for administering and auditing the Maize Fund. For example, the CPPM stated: “The Administrator Michael J. Liccar & Co., P.C. is the administrator for the partnership (the Administrator)”; and “Arthur Bell serves as auditor of the Partnership.”

36. In fact, Michael J. Liccar & Co., P.C. never acted as the administrator for the Maize Fund, nor did Arthur Bell ever provide any accounting services. Neither the Maize Fund nor any of the associated entities ever had an administrator or an auditor.

37. Defendants either knew the representations referenced in Paragraph 35 were false or acted with reckless regard for their truth or falsity.

38. Defendants also caused periodic account statements to be sent to various participants that misrepresented the profitability of their accounts. For example, one participant received an account statement reporting that one of his accounts had a profit of 41.45% during the period of Maize Fund’s inception to September 30, 2008. In fact, the account had losses exceeding 40% for that period.

39. Defendants either knew the periodic statements referenced in Paragraph 38 above were false or acted with reckless regard for their truth or falsity.

## VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

### COUNT ONE

#### **Violations of Section 4b(a)(1)(A) through (C) of the Act as Amended by the CRA: Fraud by Misrepresentation and False Statements in Connection with On-Exchange Futures Contracts**

40. The allegations set forth in paragraphs 1 through 39 are realleged and incorporated herein by reference.

41. As set forth above, from June 18, 2008 through at least January 2009, Defendants made material misrepresentations or omissions and made or caused to be made false statements or reports to participants and/or prospective participants, all in violation of Sections 4b(a)(1)(A)–(C) of the Act as amended by the CRA.

42. Defendants engaged in the acts and practices described above willfully, knowingly or with reckless disregard for the truth.

43. Ross directly or indirectly controlled Maize Capital and did not act in good faith or knowingly induced, directly or indirectly, Maize Capital's conduct alleged in this Count. Consequently, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Ross is liable for Maize Capital's violations of Sections 4b(a)(1)(A)–(C) of the Act as amended by the CRA.

44. The foregoing acts, misrepresentations, omissions, and false statements made by Ross occurred within the scope of his employment with Maize Capital; therefore, Maize Capital is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

45. Each misrepresentation or omission of material fact and each false account statement, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(1)(A)–(C) of the Act as amended by the CRA.

## COUNT TWO

### **Violations of Section 4b(a)(2)(A) through (C) of the Act as Amended by the CRA: Fraud by Misrepresentation and False Statements in Connection with Off-Exchange Forex Transactions**

46. The allegations set forth in paragraphs 1 through 39 are realleged and incorporated herein by reference.

47. As set forth above, from June 18, 2008 through at least January 2009, Defendants made material misrepresentations or omissions and made or caused to be made false statements or reports to participants and/or prospective participants, all in violation of Sections 4b(a)(2)(A)–(C) of the Act as amended by the CRA.

48. Defendants engaged in the acts and practices described above willfully or with reckless disregard for the truth.

49. Ross directly or indirectly controlled Maize Capital and did not act in good faith or knowingly induced, directly or indirectly, Maize Capital's conduct alleged in this Count. Consequently, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Ross is liable for Maize Capital's violations of Sections 4b(a)(2)(A)–(C) of the Act as amended by the CRA.

50. The foregoing acts, misrepresentations, omissions, and false statements made by Ross occurred within the scope of his employment with Maize Capital; therefore, Maize Capital is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

51. Each misrepresentation or omission of material fact and each false account statement, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(A)–(C) of the Act as amended by the CRA.

### **COUNT THREE**

#### **Violations of Section 4o(1)(A) and (B) of the Act: Fraud by a Commodity Pool Operator**

52. The allegations set forth in paragraphs 1 through 39 are realleged and incorporated herein by reference.

53. As set forth above, from June 18, 2008 through at least January 2009, Ross and Maize Capital made or caused to be made to participants and prospective participants misrepresentations and omissions of material fact and false reports or statements, all in violation of Sections 4o(1)(A) and (B) of the Act.

54. Ross and Maize Capital engaged in the acts and practices described above willfully or with reckless disregard for the truth.

55. Ross directly or indirectly controlled Maize Capital and did not act in good faith or knowingly induced, directly or indirectly, Maize Capital's conduct alleged in this Count. Consequently, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Ross is liable for Maize Capital's violations of Sections 4o(1)(A) and (B) of the Act.

56. The foregoing acts, misrepresentations, omissions, and false statements made by Ross occurred within the scope of his employment with Maize Capital; therefore, Maize Capital is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, and Regulation 1.2.

57. Each misrepresentation or omission of material fact and each false account statement, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4o(1)(A) and (B) of the Act.

## COUNT FOUR

### **Violation of Section 4m of the Act: Acting as a Commodity Pool Operator without Registration**

58. The allegations of paragraphs 1 through 39 are realleged and incorporated herein by reference.

59. As set forth above, from at least June 18, 2008 through January 2009, in or in connection with its business as a CPO, Maize Capital made use of the mails or a means or instrumentality of interstate commerce but was not registered as such under the Act, in violation of Section 4m of the Act, 7 U.S.C. § 6m (2006).

60. Ross directly or indirectly controlled Maize Capital and did not act in good faith or knowingly induced, directly or indirectly, Maize Capital's conduct alleged in this Count. Consequently, pursuant to Section 13(b) of the Act, Ross is liable for Maize Capital's violations of Section 4m of the Act.

## COUNT FIVE

### **Violation of Regulations 4.20(b) and 4.30: Receipt of Customer Funds in an Account Not in the Name of the Commodity Pool**

61. The allegations of paragraphs 1 through 39 are realleged and incorporated herein by reference.

62. As set forth above, from at least June 18, 2008 through January 2009, Ross, Maize Capital and Maize Asset caused customer funds to be received in the name of "Maize Asset Management, LLC," and not in the name of the commodity pool, Maize Fund.

63. Maize Capital violated Regulation 4.20(b) by causing customer funds to be received in an account which was not in the name of the commodity pool.

64. Maize Asset violated Regulation 4.30 by acting as a CTA and receiving customer funds in the name of Maize Asset.

65. Ross directly or indirectly controlled Maize Capital and Maize Asset and did not act in good faith or knowingly induced, directly or indirectly, their conduct alleged in this Court. Consequently, pursuant to Section 13(b) of the Act, Ross is liable for Maize Capital's violation of Regulation 4.20(b) and Maize Asset's violation of Regulation 4.30.

## VII. RELIEF REQUESTED

**WHEREFORE**, the CFTC respectfully requests that the Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to its own equitable powers, enter:

1. An order finding that:
  - a. Ross and Maize Capital violated Sections 4b(a)(1)(A)–(C) and 4b(a)(2)(A)–(C) of the Act as amended by the CRA, Sections 4o(1)(A) and (B) and 4m of the Act, and Regulation 4.20(b); and
  - b. Ross and Maize Asset violated Regulation 4.30;
2. An order of preliminary injunction prohibiting Ross and/or Maize Capital and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with either of them who receive actual notice of such order by personal service or otherwise, from directly or indirectly:
  - a. Engaging in conduct in violation of Sections 4b(a)(1)(A)–(C) and 4b(a)(2)(A)–(C) of the Act as amended by the CRA, Sections 4o(1)(A) and (B) and 4m of the Act, and/or Regulation 4.20(b); and
  - b. Engaging in, controlling, or directing the trading of any account involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1)) (“commodity options”), and/or foreign currency (as described in Section 2(c)(2)(C)(i) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(i) (“forex contracts”) on their own behalf or for or on behalf of any other person or entity, whether by power of attorney or otherwise.

3. An order of preliminary injunction prohibiting Ross and/or Maize Asset and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with either of them who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

- a. Engaging in conduct in violation Regulation 4.30; and
- b. Engaging in, controlling, or directing the trading of any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts on their own behalf or for or on behalf of any other person or entity, whether by power of attorney or otherwise.

4. An order of permanent injunction prohibiting Ross and/or Maize Capital and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with either of them, including any successor thereof, from engaging, directly or indirectly in any conduct that violates Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act as amended by the CRA, Sections 4o(1)(A) and (B) and 4m of the Act, and/or Regulation 4.20(b);

5. An order of permanent injunction prohibiting Ross and Maize Asset and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with either of them, including any successor thereof, from engaging, directly or indirectly in any conduct that violates Regulation 4.30;

6. An order of permanent injunction prohibiting Defendants and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any Defendant, including any successor thereof, from engaging, directly or indirectly, in:

- a. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006));
- b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and/or 2(c)(2)(C)(i) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for

their own personal account or for any account in which they have a direct or indirect interest;

- c. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf;
- d. 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, and/or forex contracts;
- e. 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, and/or forex contracts;
- f. 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) (2009); and
- g. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2009)), agent or any other officer or employee of any person 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) (2009).

7. An order rescinding the participant agreements and directing Defendants to make full restitution to every person or entity whose funds Defendants received or caused another person or entity to receive as a result of acts and practices that constituted the violations of the Act, as described herein, and pre-judgment interest thereon from the date of such violations and post-judgment interest;

8. An order requiring Defendants to disgorge to any officer appointed or directed by the Court or directly to the pool participants 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- and post-judgment interest;

9. An order directing each Defendant to pay a civil monetary penalty in the amount of the higher of \$130,000 for each violation of the Act or Regulations committed or triple the

monetary gain to each Defendant for each violation of the Act or Regulations described herein occurring before October 23, 2008, and a civil monetary penalty in the amount of the higher of \$140,000 for each violation of the Act or Regulations committed or triple the monetary gain to each Defendant for each violation of the Act or Regulations described herein occurring on or after October 23, 2008, plus post-judgment interest;

10. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

11. Such other and further relief as the Court deems proper.

Respectfully submitted

Date: September 2, 2009

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