

1 Gretchen L. Lowe, DC Bar No. 421995  
2 glowe@cftc.gov  
3 Luke Marsh, DC Bar No. 475635  
4 lmarsh@cftc.gov  
5 Toye Olarinde, VA Bar No. 43075  
6 aolarinde@cftc.gov  
7 Commodity Futures Trading Commission  
8 1155 21<sup>st</sup> St. N.W.  
9 Washington, D.C. 20581  
10 Telephone (202) 418-5322  
11 Facsimile (202) 418-5531

E-filing

COPY

Attorneys for Plaintiff Commodity Futures Trading Commission

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PJH

12 UNITED STATES COMMODITY FUTURE  
13 TRADING COMMISSION,

14 Plaintiff,

15 vs.

16 SNC ASSET MANAGEMENT, INC.,  
17 formerly Son and Company, Inc, SNC  
18 INVESTMENTS, INC., PETER SON AND  
19 JIN K. CHUNG,

Defendants,

20 and

21 ANN LEE,

Relief Defendant.

CV 09

Cas. No.

2555

COMPLAINT FOR INJUNCTIVE AND  
OTHER EQUITABLE RELIEF AND  
FOR CIVIL PENALTIES UNDER THE  
COMMODITY EXCHANGE ACT, AS  
AMENDED, 7 U.S.C. §§ 1-25

24  
25  
26  
27  
28  
COMPLAINT

I.

JURISDICTION AND VENUE

A. Jurisdiction

1. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Commodity Exchange Act (the "Act"), 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2)(C) of the Act, as amended by the Food, Conservation and Energy Act of 2008, Pub. L. No. 110-246, Title III (subtitled the CFTC Reauthorization Act of 2008) (the "CRA"), § 13101, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 2(c)(2)(C). Section 6c(a) of the Act authorizes the plaintiff Commodity Futures Trading Commission ("CFTC" or "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.

B. Venue

2. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, in that the defendants are found in, inhabit, or transact business in this District, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District.

II.

INTRADISTRICT ASSIGNMENT

3. Assignment to the San Francisco Division is appropriate pursuant to Local Rule 3-2(d) because a substantial part of the events and omissions giving rise to Plaintiff's claims occurred, among other places, Alameda County.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

III.

SUMMARY

4. From at least 2000 through the present (the “relevant period”), the corporate defendants SNC Asset Management Inc. (“SNC Asset”) and SNC Investments, Inc. (“SNC Investments”), acting as a common enterprise (collectively “SNC”), and individual defendants Peter Son (“Son”), Chief Executive Officer (“CEO”) of SNC Asset and SNC Investments, and Jin K. Chung (“Chung”), Chief Financial Officer (“CFO”) of SNC Asset and former CFO of SNC Investments, have fraudulently operated a foreign currency trading firm with offices in Pleasanton, California and New York City.

5. During the relevant period, SNC, Son and Chung (collectively, the “Defendants”) fraudulently solicited, directly and through others, at least \$85 million from at least 500 retail customers. The Defendants fraudulently solicited customers to trade off-exchange foreign currency (“forex”) contracts by, among other acts, claiming to be successful forex traders, guaranteeing monthly returns of 2% or more, and failing to disclose the fact that they were misappropriating funds and operating a Ponzi scheme.

6. Throughout the relevant period, the Defendants provided account statements or balances to customers each month, including most recently account statements dated September 26, 2008, reflecting that their investments with SNC were steadily growing as promised. The purported profits reflected on the statements were purportedly reinvested for purposes of trading forex.

7. As they were providing customers with the account statements showing their consistently profitable results, Defendants continued to solicit funds. For example, since mid-June 2008, Defendants solicited more than \$6,500,000, and discouraged customers from withdrawing funds.

1           8.       Since at least October 2007 through October 2008, the Defendants appear to have  
2 engaged in little trading while they solicited and accepted approximately \$22 million from  
3 customers. Indeed, based on the available trading records, throughout the relevant period,  
4 Defendants appear to not have engaged in any significant trading with or on behalf of customers,  
5 and any trading conducted by Defendants was overall unprofitable.  
6

7           9.       Throughout the relevant period, Defendants misappropriated customer funds to  
8 meet redemption requests of other customers. Defendants also misappropriated customer funds  
9 to pay for personal expenses, such as mortgage payments, country club dues, homeowner dues  
10 and to funnel funds to others, including Relief Defendant, Ann Lee ("Lee" or "Relief  
11 Defendant"), wife of defendant Son. Defendants further misappropriated customer funds that  
12 were transferred into SNC Investments in order to meet regulatory minimum net capitalization  
13 requirements set by the CFTC and National Futures Association, ("NFA"), SNC Investments'  
14 designated self-regulatory organization.  
15

16           10.      In late October 2008, SNC Asset and SNC Investments abruptly shut down  
17 operations and Son disappeared. Upon information and belief, shortly before SNC Asset shut  
18 down, Chung left the United States and returned to the Republic of Korea ("Korea").  
19 Defendants have not returned customers' principal investment or the purported profits reflected  
20 on the customers' account statements. The full disposition of customers' funds is unknown. The  
21 Defendants concealed their misappropriation and any trading losses or lack of trading through  
22 issuance of false monthly account statements showing the purportedly profitable investments.  
23

24           11.      By such conduct, and as further alleged herein, the Defendants have violated and  
25 are violating Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at  
26 7 U.S.C. §§ 6b(a)(2)(A)-(C), and CFTC Regulations ("Regulations") 1.1(b)(1)-(3), 17 C.F.R. §§  
27 1.1(b)(1)-(3) (2009).  
28

1           12.     SNC Investments is a Futures Commission Merchant ("FCM") registered with the  
2 Commission and, as such, is required to meet minimum regulatory capitalization requirements.  
3 On at least three occasions in November and December 2007 and May 2008, SNC Investments  
4 was below the adjusted net capital required by the Act and Regulations. By such conduct, SNC  
5 Investments violated Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation  
6 1.17(a)(1), 17 C.F.R. § 1.17(a)(1) (2009).  
7

8           13.     SNC Investments failed to provide immediate notice to both the CFTC and NFA  
9 when it knew or should have known that its adjusted net capital was less than the minimum  
10 required by Regulation 1.17, 17 C.F.R. § 1.17 (2009). By such conduct, SNC Investments  
11 violated Regulation 1.12, 17 C.F.R. § 1.12 (2009).  
12

13           14.     Son and Chung, as well as other SNC Asset or SNC Investments employees,  
14 agents or officers, have committed the acts and omissions alleged herein within the course of  
15 their employment, agency of office with SNC Asset or SNC Investments. Therefore, SNC  
16 Assets and SNC Investments are each liable under Section 2(a)(1)(B) of the Act, 7 U.S.C.  
17 § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009), as a principal for its employees,  
18 agents, or officers' violations of the Act and Regulations.  
19

20           15.     Son and Chung are controlling persons of SNC and did not act in good faith or  
21 knowingly induced SNC's alleged violative acts. Therefore, pursuant to Section 13(b) of the  
22 Act, 7 U.S.C. § 13c(b) (2006), Son and Chung are liable for SNC's violations of the Act and  
23 Regulations.  
24

25           16.     Relief Defendant Lee received ill-gotten gains from Defendants' fraudulent  
26 conduct and provided no legitimate services and otherwise has no legitimate entitlement to or  
27 interest in SNC customer funds. Therefore, the Relief Defendant must disgorge all ill-gotten  
28 gains.



1 insurance company, bank holding company, investment bank holding company, or associated  
2 person thereof.

3       21. Defendant SNC Investments, Inc. is incorporated in California with its  
4 headquarters in New York City and with an office in Pleasanton, California. SNC Investments  
5 and SNC Asset have the same addresses and phone numbers in Pleasanton, California and New  
6 York, New York. SNC Investments is in the business of introducing off-exchange forex  
7 accounts and also accepting customer funds for purposes of trading leveraged or margined forex  
8 contracts to which SNC Investments may be the counterparty. SNC Investments has been  
9 registered with the CFTC as a FCM, Commodity Pool Operator and Commodity Trading  
10 Advisor since 2003, and is a member of the NFA. SNC Investments is not a registered broker  
11 dealer, insurance company, bank holding company, investment bank holding company, or  
12 associated person thereof. In May 2008, the NFA's Business Conduct Committee ("BCC")  
13 issued a complaint against SNC Investments for failure to maintain the minimum required  
14 adjusted net capital, general conduct violations, and for misleading solicitations material. On  
15 October 15, 2008, the NFA issued a decision settling the action and imposing a \$60,000 fine,  
16 which was paid. On October 30, 2008, NFA issued a Membership Responsibility Action  
17 ("MRA") against SNC Investments and Son, and suspended their memberships with NFA, based  
18 on their failure to respond to and cooperate with NFA, in connection with the conduct alleged  
19 herein. The NFA action bars them from soliciting or accepting funds, trading on behalf of  
20 customers or disbursing funds. On March 19, 2009, NFA's BCC issued a complaint against  
21 SNC Investments charging SNC Investments with failure to cooperate in violation of NFA rules  
22 in connection with the conduct alleged herein.  
23  
24  
25

26       22. Defendant Peter Son has a residence in Danville, California. Son disappeared in  
27 late October 2008 and his current location is unknown. Son is the principal and CEO of SNC  
28 Asset. Son also is registered with the CFTC as an Associated Person ("AP") and listed as a

1 principal and CEO of SNC Investments. As alleged above, NFA has suspended Son's  
2 membership with NFA and barred him from dealing with customer funds.

3 23. Defendant Jin K. Chung's last known residence was in Los Altos, California, but  
4 is now believed to be in Korea. Chung is a principal and CFO of SNC Asset. Chung was  
5 formerly a principal and CFO of SNC Investments. Shortly before SNC shut down operations,  
6 Chung returned to Korea.  
7

8 24. Relief Defendant Ann Lee is the wife of Son, and shared his residence with him in  
9 Danville, California. She also disappeared in late October 2008 and her current location is  
10 unknown.

11 V.

12 FACTS

13 A. Solicitation of Customers

14 25. During the relevant period, the Defendants solicited the retail public to trade forex  
15 with or through SNC Asset.  
16

17 26. Defendants SNC Asset and SNC Investments engaged in a common scheme to  
18 solicit customers to trade forex with or through SNC. SNC Asset and SNC Investments share  
19 offices, telephone numbers, web sites and solicitation materials. Son is the CEO of SNC Asset  
20 and SNC Investments, and Chung is the CFO of SNC Asset and the former CFO of SNC  
21 Investments. SNC Asset and SNC Investments also have other common employees, agents or  
22 officers. SNC customers often did not know the difference between the two companies.  
23

24 27. During the relevant period, the Defendants solicited at least \$85 million from at  
25 least 500. Some, if not all, of the Defendants' customers are retail customers, with assets of \$5  
26 million or less, who reside primarily in California or Korea. Defendants primarily solicited  
27 prospective customers who were part of the Korean community of the San Francisco Bay Area in  
28 which Son and Chung both lived and worked.

1           28.    Over a recent thirteen month period of late October 2007 through October 2008,  
2 the Defendants solicited approximately \$22 million, and since mid-June 2008 alone, the  
3 Defendants solicited at least \$6,500,000 from customers. Moreover, just prior to shutting down,  
4 the Defendants successfully solicited more than \$2,600,000 in the fall of 2008.

5           29.    The Defendants, directly and through officers, employees and agents, solicited  
6 prospective customers through direct solicitations as well as through a website, brochures, and  
7 word-of-mouth.  
8

9           30.    In their solicitations, the Defendants falsely claim that SNC Asset and SNC  
10 Investments are leading and successful forex trading firms and guarantee monthly returns  
11 generated by the Defendants' successful trading.

12           31.    In soliciting prospective customers, the Defendants provide promotional materials  
13 that include specific materials about SNC Investments to convince the prospective customers to  
14 trade forex with SNC. In June 2008, at least one SNC customer received promotional materials  
15 which included what appears to be a Business week article (but is actually an advertisement),  
16 claiming that SNC Investments is "one of the leading Forex broker-dealers in the industry," and  
17 that "[t]hrough its online trading platform, SNC Investments, Inc. is bringing the potential of the  
18 Forex market to the personal investor while providing services that exceed its customers'  
19 expectations." The promotional materials also provide contact information for SNC  
20 Investments, and direct customers to a website, [www.sncfx.com](http://www.sncfx.com).  
21

22           32.    The promotional materials also include, on SNC Asset letterhead, yearly earnings  
23 rates for "SNC Inc." in excess of 50% for years 2004 through 2007, and 11.26% through March  
24 2008. They also provide positive monthly earning rates for "SNC Inc." every month from  
25 January 2004 through March 2008. Defendants also provided potential SNC Asset customers  
26 with SNC Investments promotional materials suggesting that Son had led SNC Investments to  
27 prominence in the foreign currency markets. The brochures emphasized SNC Investments "risk  
28

1 management” and commitment to “high ethical standards,” and that SNC Investments was  
2 “staffed with a group of highly-qualified industry experts.” These representations created the  
3 false impression that Son led a successful foreign currency trading firm in addition to SNC Asset  
4 such that investors could rely on SNC Investments and Son’s purported foreign currency trading  
5 expertise. As Son and Chung knew, however, SNC Investments was actually a small firm that  
6 lost money in its own proprietary trading account and was not handling foreign currency trading  
7 for SNC Asset.  
8

9 33. The Defendants make these representations even though since December 2007,  
10 SNC Investments repeatedly represented to NFA that it had ceased being a forex dealer and was  
11 not accepting customer funds, and, as of May 2008, NFA had filed an action against SNC  
12 Investments for failure to meet minimum capitalization requirements, general conduct violations  
13 and misleading solicitation materials.  
14

15 34. SNC Investments acted or purported to act as a counterparty to each forex  
16 transaction entered into by its customers.

17 35. Many customers received and signed a SNC Asset customer agreement in which  
18 SNC agreed to accept customers to open and maintain accounts for trading forex.

19 36. The SNC Asset customer agreement states that SNC Asset “is authorized to act as  
20 broker or agent or as principal to execute customer’s [forex] orders. SNC Asset is authorized to  
21 take the opposite position to customer orders on SNC’s own account.”  
22

23 37. The SNC Asset customer agreement also states that customers are required to  
24 maintain the minimum margin required by SNC and to provide additional margin as SNC Asset  
25 deemed necessary. Per the agreement, customers were to pay commissions of “35 percent of  
26 total transaction profits.” The forex transactions offered by SNC did not result in actual delivery  
27 within two days or otherwise create an enforceable obligation to make/take delivery in  
28 connection with SNC and its customers’ lines of business.

1           38.     Son, as CEO of SNC Asset, or Chung, as CFO of SNC Asset, signed the customer  
2 agreements on behalf of SNC.

3           39.     The Defendants allowed prospective customers to invest either by providing  
4 checks or cash. Customers investing via checks received promissory notes, which guaranteed a  
5 monthly return of 2.25% or more. The promissory notes were signed either by Son, as CEO of  
6 SNC Asset, or by Chung, as CFO of SNC Asset.

7  
8           40.     The Defendants instructed customers to wire money or make their checks payable  
9 to SNC Asset or "SNC."

10          41.     The Defendants provided customers who invested with cash with a deposit receipt  
11 and promised those cash customers a monthly return of 2.0%. Cash customers received any  
12 purported profits or return of principal either in cash, or by checks drawn from Defendant Son's  
13 or Defendant Chung's personal checking accounts. During the relevant period, the Defendants  
14 accepted approximately \$37 million in cash from customers.

15  
16          42.     The Defendants deposited customer funds into the bank account of SNC Asset.  
17 Son and Chung controlled this account, writing checks and transferring funds from the account  
18 to pay purported investment returns and redemptions to investors, to pay sales commissions and  
19 other personal expenses related to the scheme, to pay money to Relief Defendant, and to pay for  
20 their own personal expenses.

21          43.     Customers understood that their funds would be used for trading forex and that  
22 their guaranteed returns were based on the profitability of the Defendants' trading.

23  
24          44.     Customers relied upon the representations and omissions made by the Defendants  
25 in their oral and written solicitations in deciding to invest, reinvest and trade with SNC.

26           B.     Defendants Issued False Statements

27          45.     During the relevant period, the Defendants issued or caused to be issued monthly  
28 account statements to customers or provided customers with on-line access to their account

1 statements through a website, www.sncfx.com. The account statements and balances  
2 consistently showed profitable returns on individual accounts, characterized as dividends or  
3 interest.

4 46. SNC customers most recently received account statements dated September 26,  
5 2008, which reflected positive balances and earnings.

6 47. Almost all SNC customers reinvested their purported profitable returns, as the  
7 Defendants encouraged them to do. At times when customers considered withdrawing their  
8 investments, Son and others encouraged them to leave their funds with SNC to maximize their  
9 investment. Defendants made this representation as recently as October 2008.

10 48. Some customers withdrew their purported dividends but left their principal  
11 investment with SNC.

12 49. For example, one customer initially gave SNC Asset \$250,000 in December 2006  
13 to trade forex. In exchange, SNC Asset issued her a promissory note guaranteeing her a 2.25%  
14 return each month. Each month she received account statements from SNC Asset showing her  
15 promised returns.

16 50. In May 2008, based on these account statements and representations from SNC  
17 Asset, she opened another account with SNC Asset, which she funded with \$10,000. She made  
18 her check payable to SNC Asset and gave it directly to Chung. At that time, Chung assured her  
19 that SNC Asset was doing well and had assets of over \$60 million. He also represented that  
20 SNC Asset was trading forex two to three times a month. Each month she continued to receive  
21 account statements showing her investment growing at the promised rate of 2.25% per month. In  
22 August 2008, SNC provided her with copies of bar graphs, which represented that SNC Asset  
23 had earned up to 59.40% annually during the period from 2002 through June 2008.

24 51. As a result of all of the aforementioned oral and written representations by SNC  
25 and its officers and employees, in September 2008, she invested another \$200,000 with SNC  
26

1 Asset and received another promissory note. At that time, she was again reassured by an SNC  
2 Asset employee that SNC Asset was doing well. She made her additional investments after  
3 seeing the consistent profitable returns on her initial investments.

4 52. As another example, in June 2008, an employee of SNC Asset solicited a  
5 prospective customer and provided solicitation materials with the purported track record of SNC.  
6 Thereafter, Chung personally solicited the prospective customer at the customer's workplace.  
7 Chung reiterated that SNC had a track record of earnings of more than 50% a year. The  
8 customer and his family decided to invest with SNC. They initially invested \$300,000, making  
9 checks payable either to "SNC" or "SNC Assets." In August 2008, the customer met with Son,  
10 who represented that SNC was doing well and that they used trading limits to prevent losses.  
11 The customer and his family invested an additional \$140,000 in August and \$260,000 more in  
12 September 2008, for a total investment of \$700,000. Each month, including in September 2008,  
13 the customer received account statements showing his and his family's investments were  
14 increasing in value.  
15

16  
17 53. SNC's customers believed that that the profits they were purportedly earning  
18 came from the Defendants' profitable trading of forex.

19 54. Customers relied on the monthly account statements in deciding to reinvest any  
20 purported earnings, keep their principal investment with SNC or invest additional funds with  
21 SNC.  
22

23 C. Defendants Misappropriated Funds to Make Returns and For Personal Uses

24 55. The account statements provided by the Defendants concealed the fact that: the  
25 Defendants appear to have at best traded only a small percentage of the approximately \$85  
26 million of customer funds solicited and received; the overall limited trading by Defendants was  
27 unprofitable; and Defendants were misappropriating customer funds to pay purported earnings or  
28 return principal to existing customers, to funnel funds to others, including the Relief Defendant,

1 and to pay for personal expenses and uses. Defendants did not disclose these uses of funds to  
2 customers or prospective customers. The purported investment returns paid to some investors  
3 were not paid from foreign currency trading profits as some investors were led to believe.  
4 Rather, the checks were funded with deposits of other investors money and cash infusions from  
5 Son, Chung, SNC Investments, and a Korean company under Chung's control. Son and Chung  
6 directed the monthly check mailings and one of them signed each check.  
7

8 56. Since the end of 2003, the Defendants do not appear to have conducted any  
9 trading in accounts held in the name of, or controlled or managed by, SNC Asset. Any known  
10 prior trading conducted by SNC Asset was unprofitable.

11 57. From at least October 2007 through October 2008, SNC Asset received  
12 approximately \$22 million from customers, and virtually none of those funds was transferred  
13 into any apparent trading accounts or used for trading.  
14

15 58. From March 2003 through October 2008, trading in known accounts maintained  
16 at FCMs registered with the CFTC and held in the name of or controlled or managed by SNC  
17 Investments resulted in overall losses. The total amount deposited into those accounts was only  
18 approximately \$1,800,000. Other known trading accounts held by SNC Investments in overseas  
19 trading accounts appear to have been funded with less than \$6 million.

20 59. Based on bank records from October 2007 through October 2008, rather than  
21 trading forex with customer funds, Defendants misappropriated funds to pay back purported  
22 profits or principal to customers, to funnel funds to other persons, and for personal expenses and  
23 items, such as mortgage payments, country club dues, and homeowner dues.  
24

25 60. The Relief Defendant received monthly payments of over \$3,000 per month from  
26 SNC Asset, but provided no legitimate services to SNC and otherwise did not have any  
27 legitimate entitlement to customer funds.  
28

1           61. Defendants also misappropriated customer funds invested with SNC Asset by  
2 transferring those funds to SNC Investments in an attempt to have SNC Investments comply with  
3 NFA and CFTC capitalization requirements.

4           62. On or around October 29, 2008, SNC abruptly closed operations at both the  
5 California and New York Offices, and Son disappeared and appears to have abandoned his home  
6 in California. Upon information and belief, shortly before SNC closed its operations, Chung  
7 returned to Korea. Employees of SNC were notified that SNC had closed and not to come to  
8 work.

9  
10           63. Since that time, SNC customers have not had any contact with SNC Asset, SNC  
11 Investments, Son, or Chung, and their funds have not been returned.

12           64. The location and disposition of all customer funds is currently unknown.

13           D. SNC Investments Was Undercapitalized And Failed To Notify The NFA And  
14 CFTC Of Its Undercapitalization

15           65. As a registered FCM, SNC Investments is required to maintain a minimum  
16 amount of adjusted net capital. See Sections 4f(b) of the Act and Regulation 1.17(a)(1).  
17 According to Regulation 1.17(c)(1), “net capital” means the amount by which current assets  
18 exceed liabilities. Because SNC Investments was a member of the NFA, it was required to meet  
19 the minimum adjusted net capital required by the NFA. See 17 C.F.R. § 1.17(a)(1)(C) (2009).  
20 Pursuant to Section 11 of the NFA’s Financial Requirements, in November and early December  
21 2007, the NFA required a minimum adjusted net capital of \$1,000,000; on December 17, 2007,  
22 this NFA minimum adjusted net capital requirement increased to \$5,000,000.

23  
24           66. In November and December 2007, SNC Investments’ net capitalization was  
25 below the adjusted net capital required by the Act and Regulation 1.17(a)(1)(C). SNC  
26 Investments did not give immediate notice to the CFTC and NFA after it knew or should have  
27 known that it was undercapitalized.  
28

1           67.    In May 2008, SNC Investments' compliance officer discovered that SNC  
2 Investments was again undercapitalized. He did not notify the NFA or CFTC that SNC was  
3 undercapitalized as required because he was instructed by Son to not disclose this fact to the  
4 CFTC and NFA.

5  
6           68.    Regulation 1.12 requires that FCM's immediately notify the CFTC and the  
7 FCM's designated self-regulatory organization when the FCM's adjusted net capital falls below  
8 the required minimum. SNC Investments' designated self-regulatory organization is the NFA.

9           69.    On May 29, 2008, the NFA brought a Business Conduct Committee ("BCC")  
10 action against SNC Investments for failing to maintain the required capital and for failing to  
11 notify the NFA and CFTC of this deficiency.

12           70.    On September 30, 2008, the NFA issued its findings in the May 29, 2008 BCC  
13 action, determining that SNC Investments had violated NFA Rules by falling below its required  
14 minimum adjusted net capital in December 2007.

15  
16           E.    Son And Chung Were Controlling Persons Of SNC And Were Acting As Agents,  
17                    Officials And Employees of SNC

18           71.    Son is a controlling person of SNC Asset and SNC Investment. He is the CEO of  
19 SNC Asset and SNC Investments as well as the branch manager of the California office of SNC  
20 Asset. He is registered with the CFTC as an AP of SNC Investments. Son is responsible for the  
21 operations of SNC Asset and SNC Investments and, as CEO, solicited customers and executed  
22 SNC Asset customer agreements and promissory notes. Son also executed account opening  
23 documents for trading accounts in the name of SNC Investments, Inc.

24           72.    Chung is a controlling person of SNC Asset and is or was a controlling person of  
25 SNC Investments. He is the CFO of SNC Asset and until July 23, 2008, was the CFO of SNC  
26 Investments. Chung is responsible for the operations of SNC Asset and was responsible for the  
27 operations of SNC Investments. As CFO, Chung solicited customers and executed SNC Asset  
28

1 customer agreements and promissory notes with customers. He also provided on-line internet  
2 access through the SNC website, www.sncfx.com, for customers. When he was the CFO of SNC  
3 Investments, he also executed contracts on behalf of the company.

4 VI.

5 VIOLATIONS OF THE COMMODITY EXCHANGE ACT

6 COUNT ONE

7 VIOLATIONS OF SECTIONS 4b(a)(2)(A)-(C) OF THE ACT AS AMENDED BY THE  
8 CRA AND REGULATIONS 1.1(b)(1)-(3):  
9 FRAUD, MISAPPROPRIATION AND FALSE STATEMENTS

10 73. Paragraphs 1 through 72 are re-alleged and incorporated herein.

11 74. Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at  
12 7 U.S.C. §§ 6b(a)(2)(A)-(C), make it unlawful

13 for any person, in or in connection with any order to make, or the making  
14 of, any contract of sale of any commodity for future delivery, or other  
15 agreement, contract, or transaction subject to paragraphs (1) and (2) of  
16 section 5a(g), that is made, or to be made, for or on behalf of, or with, any  
17 other person, other than on or subject to the rules of a designated contract  
18 market – (A) to cheat or defraud or attempt to cheat or defraud the other  
19 person; (B) willfully to make or cause to be made to the other person any  
20 false report or statement or willfully to enter or cause to be entered for the  
21 other person any false record; [or] (C) willfully to deceive or attempt to  
22 deceive the other person by any means whatsoever in regard to any order  
23 or contract or the disposition or execution of any order or contract, or in  
24 regard to any act of agency performed, with respect to any order or  
25 contract for or, in the case of paragraph (2), with the other person.

26 Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA apply to the forex  
27 transactions, agreements or contracts offered by Defendants. Section 2(c)(2)(C)(iv) of  
28 the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iv).

75. Regulations 1.1(b)(1)-(3), 17 C.F.R. §§ 1.1(b)(1)-(3) (2009), similarly makes it  
unlawful for any person, in connection with foreign currency transactions subject to the Act

(1) To cheat or defraud or attempt to cheat or defraud any person;

1 (2) Willfully to make or cause to be made to any person any false report or  
2 statement or cause to be entered for any person any false record; or

3 (3) Willfully to deceive or attempt to deceive any person by any means  
4 whatsoever.

5 76. By the conduct alleged herein since at least June 18, 2008, Defendants cheated or  
6 defrauded or attempted to cheat or defraud other persons; issued or caused to be issued false  
7 statements; and willfully deceived or attempted to deceive other persons in connection with  
8 offering of, or entering into the margined or leveraged forex transactions alleged herein by  
9 fraudulently soliciting prospective and existing customers by, making material  
10 misrepresentations and omissions, including but not limited to guaranteeing monthly profitable  
11 returns, misrepresenting that SNC Asset and SNC Investments were successful forex traders,  
12 failing to disclose SNC's trading losses, lack of trading and status of SNC Investments and SNC  
13 Asset and the operation of a Ponzi scheme, misappropriating customer funds, and making oral  
14 and written false statements or reports to customers concerning their investments, all in violation  
15 of Sections 4b(a)(2)(A) and (C) of the Act as amended by the CRA, to be codified at 7 U.S.C.  
16 §§ 6b(a)(2)(A) and (C), and Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2009).

17 77. As set forth above, since at least June 18, 2008, through the present, in or in  
18 connection with margined or leveraged forex contracts, transactions or agreements made or to be  
19 made, for or on behalf of other persons, Defendants willfully made or caused to be made false  
20 reports or statements to customers or prospective customers by, among other things, knowingly  
21 providing customers fraudulent monthly account statements or balances that misrepresented the  
22 value of customers' accounts and customers' holdings, in violation of Section 4b(a)(2)(B) of the  
23 Act as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(2)(B), and Regulation 1.1(b)(2),  
24 17 C.F.R. § 1.1(b)(2) (2009).

25 78. Defendants engaged in the acts and practices described above knowingly or with  
26 reckless disregard for the truth.  
27  
28



1           84.     In November and December 2007, and again in May 2008, SNC Investments fell  
2 below NFA's minimum net capital requirements. By this conduct, SNC Investments violated  
3 Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1), 17 C.F.R.  
4 § 1.17(a)(1) (2009).

5           85.     Regulation 1.12 requires that a FCM immediately notify the CFTC and the  
6 FCM's designated self-regulatory organization when the FCM knows or should have known that  
7 its adjusted net capital at any time is less than the minimum required by Regulation 1.17.  
8

9           86.     SNC Investments knew or should have known in November and December 2007,  
10 and again in May 2008, that it had fallen below the NFA's minimum adjusted net capital  
11 requirements, but it failed to immediately notify the CFTC and the NFA (SNC Investments'  
12 designated self-regulatory organization) of this undercapitalization and, in fact, intentionally  
13 concealed this undercapitalization from the CFTC and NFA. By this conduct, SNC Investments  
14 violated Regulation 1.12, 17 C.F.R. § 1.12 (2009).  
15

16           87.     Each day SNC Investments failed to satisfy its adjusted net capitalization  
17 requirements is alleged as a separate and distinct violations of Section 4f(b) of the Act, 7 U.S.C.  
18 § 6f(b), and Regulation 1.17(a)(1)(C), 17 C.F.R. § 1.17(a)(1)(C) (2009).  
19

20           88.     Each day SNC Investments failed to notify the CFTC and NFA of its  
21 undercapitalization is alleged as a separate and distinct violation of Regulation 1.12, 17 C.F.R.  
22 § 1.12 (2009).  
23

24           89.     Son and Chung, directly or indirectly, controlled SNC Investments and did not act  
25 in good faith, or knowingly induced, directly or indirectly, the acts constituting SNC  
26 Investments' violations alleged in this count. Son and Chung are thereby liable for SNC  
27 Investments' violations of the Act and Regulations, as alleged in this count, pursuant to Section  
28 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

1 COUNT THREE:

2 DISGORGEMENT OF ASSETS BY  
3 RELIEF DEFENDANT ANN LEE

4 90. Plaintiff re-alleges paragraphs 1 through 72 above and incorporates these  
5 allegations herein by reference.

6 91. Relief Defendant Lee received ill-gotten gains as a result of the fraud committed  
7 by Defendants to which she has no legitimate interest or entitlement, and therefore she must  
8 disgorge those funds.

9 92. By reason of the foregoing, Relief Defendant Lee holds funds and assets in  
10 constructive trust for the benefit of SNC's customers.

11 VII.

12 RELIEF REQUESTED

13 WHEREFORE, the CFTC respectfully requests that this Court, as authorized by Section  
14 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to the Court's own equitable powers, enter:  
15

- 16
- 17 a) an order finding the Defendants violated Sections 4b(a)(2)(A)-(C) of the Act  
18 as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), and  
19 Regulations 1.1(b)(1)-(3) 17 C.F.R. §§ 1.1(b)(1)-(3) (2009);
  - 20 b) an order finding that SNC Investments, Son and Chung violated Sections 4f(b)  
21 of the Act, 7 U.S.C. § 4f(b) (2006), and Regulations 1.12, and 1.17(a)(1),  
22 17 C.F.R. § 1.12, and 1.17(a)(1) (2009);
  - 23 c) an order of permanent injunction prohibiting the Defendants from engaging in  
24 conduct violative of the Sections of the Act and Regulations that they were  
25 found to have violated;
  - 26 d) an order of permanent injunction enjoining Defendants and all persons insofar  
27 as they are acting in the capacity of their agents, servants, employees,  
28 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 engaging, directly or indirectly,  
in any activity related to trading in any commodity, as that term is defined in  
Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (2006) ("commodity interest"),  
including but not limited to, the following:

1 1. Trading on or subject to the rules of any registered entity, as that  
2 term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006);

3 2. Engaging in, controlling or directing the trading for any  
4 commodity interest account for or on behalf of any other person or  
5 entity, whether by power of attorney or otherwise;

6 3. Soliciting or accepting any funds from any person in connection  
7 with the purchase or sale of any commodity interest;

8 4. Entering into any commodity interest transactions for his own  
9 personal account, for any account in which he has a direct or indirect  
10 interest and/or having any commodity interests traded on his behalf;

11 5. Engaging in any business activities related to commodity interest  
12 trading; and

13 6. Applying for registration or claiming exemption from registration  
14 with the Commission in any capacity, and engaging in any activity  
15 requiring such registration or exemption from registration with the  
16 Commission, except as provided for in Regulation 4.14(a)(9),  
17 17 C.F.R. § 4.14(a)(9) (2009), or acting as a principal, agent or any  
18 other officer or employee of any person registered, exempted from  
19 registration or required to be registered with the Commission, except  
20 as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)  
21 (2009);

22 e) an order directing the Defendants and Relief Defendant to disgorge, pursuant  
23 to such procedure as the Court may order, all ill-gotten gains and/or benefits  
24 received from the acts or practices that constitute violations of the Act or  
25 Commission Regulations, as described herein, and interest thereon from the  
26 date of such violations;

27 f) an order directing the Defendants to make full restitution to every customer  
28 whose funds were received as a result of acts and practices that constituted  
violations of the Act and Regulations, described herein, and interest thereon  
from the date of such violations;

g) an order directing the Defendants to each pay a civil monetary penalty of not  
more than the higher of \$140,000 for each violation of the Act and  
Regulations committed on or after October 23, 2008, or \$130,000 for each  
violation of the Act and Regulations occurring before October 23, 2008 or  
triple the monetary gain to the Defendants plus post-judgment interest;

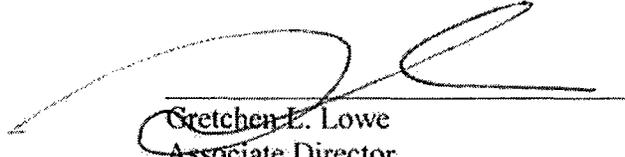
h) an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C.  
§§ 1920 and 2412(a)(2) (2006); and

i) such other and further remedial ancillary relief as the Court may deem  
appropriate.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Date June 8, 2009

ATTORNEYS FOR PLAINTIFF



Gretchen E. Lowe  
Associate Director  
(202) 418-5379  
Luke Marsh  
Chief Trial Attorney  
(202) 418-5322  
Toye Olarinde  
Trial Attorney  
(202) 418-5516  
Commodity Futures Trading Commission  
Facsimile (202) 418-5531