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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

U.S. COMMODITY FUTURES TRADING COMMISSION, Plaintiff, v. GBFX, LLC, and GOLD & BENNETT, LLC, Defendants.	CIVIL ACTION NO.: ***ECF Case*** **COMPLAINT FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTIES, AND OTHER EQUITABLE RELIEF**

Plaintiff, Commodity Futures Trading Commission ("Commission" or "CFTC"), by its attorneys, alleges as follows:

I. SUMMARY

1. On October 18, 2010, the CFTC enacted new regulations implementing certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("the Dodd-Frank Act") and the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008, §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008) ("CRA")) with respect to off-exchange foreign currency ("forex") transactions. Pursuant to Section 2(c)(2)(C)(iii)(I)(aa) of the Commodity Exchange Act ("the Act"), as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa), an entity must be registered if it wants to solicit or accept orders from a non-Eligible Contract Participant ("ECP") in connection with forex transactions at a retail foreign exchange dealer ("RFED") or futures commission merchant. Pursuant to CFTC Regulation ("Regulations") 5.3(a)(5)(i), (ii), 17 C.F.R.

§ 5.3(a)(5)(i), (ii) (2011), in connection with forex transactions, all introducing brokers ("IBs") must be registered with the CFTC as of October 18, 2010.

2. Beginning on October 18, 2010, and continuing to the present ("the relevant period"), Defendants GBFX, LLC ("GBFX") and Gold & Bennett, LLC ("Gold & Bennett") (collectively "Defendants"), while acting as IBs, have solicited, and continue to solicit, orders from non-ECPs in connection with forex transactions at an RFED without registering with the CFTC, in violation of Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa), and Regulation 5.3(a)(5)(i), (ii), 17 C.F.R. § 5.3(a)(5)(i), (ii) (2011).

3. By virtue of this conduct and the further conduct described herein, Defendants have engaged, are engaging, or are about to engage in acts and practices in violation of the Act and Regulations.

4. Accordingly, pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, and Section 2(c)(2) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2), the Commission brings this action to enjoin Defendants' unlawful acts and practices and to compel their compliance with the Regulations and to further enjoin Defendants from engaging in certain commodity or forex-related activity.

5. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

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

II. JURISDICTION AND VENUE

7. Section 6c(a) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder.

8. The Commission has jurisdiction over the conduct and transactions at issue in this case pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, and Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2).

9. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1(e), because Defendants transact business in this District and certain transactions, acts, practices, and courses of business alleged in this Complaint occurred, are occurring, and/or are about to occur within this District.

III. PARTIES

10. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act, as amended by the CRA and the Dodd-Frank Act, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission's Regulations (2011).

11. Defendant **GBFX, LLC** is a limited liability company whose principal place of business is located at 48 Wall Street, 7th Floor, New York, New York, 10005. GBFX was

incorporated in the state of New York on June 15, 2009. GBFX has never been registered with the CFTC in any capacity.

12. Defendant **Gold & Bennett LLC** is a limited liability company whose principal place of business is located at 48 Wall Street, 7th Floor, New York, New York, 10005. Gold & Bennett was incorporated in the state of New York on April 17, 2008. Gold & Bennett has never been registered with the CFTC in any capacity. Upon information and belief, GBFX and Gold & Bennett share an office address and a website, and they are both doing business as a single entity.

IV. STATUTORY BACKGROUND

13. For the purposes of trading forex, an "introducing broker" is defined in Regulation 5.1(f)(1), 17 C.F.R. § 5.1(f)(1) (2011), as any person who solicits or accepts orders from a customer who is not an ECP as defined in section 1a(12) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 1a(12), in connection with retail forex transactions.

14. An ECP is defined by the Act, in relevant part, as an individual 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." Section 1a(12)(A)(xi) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 1a(12)(A)(xi).

V. FACTS

15. On October 18, 2010, the Commission enacted new regulations implementing certain provisions of the Dodd-Frank Act and the CRA. For the purpose of forex transactions, the new regulations, among other things, require IBs to register with the CFTC.

16. GBFX and Gold & Bennett solicited funds from United States customers for the purpose of opening self-directed or managed retail foreign currency accounts and trading off-

exchange forex contracts. GBFX and Gold & Bennett solicited funds for forex trading from customers who were not ECPs through their internet website at www.goldbennetfx.com.

17. On their website, Defendants state that "GBFX acts as an Introducing Broker (IB) and authorized referring agent for foreign exchange clearing firm, City Credit Capital (UK) Ltd." ("City Credit").

18. Potential customers open forex trading accounts with GBFX and Gold & Bennett through the website by completing a "Customer Account Application Form" and then returning the form to GBFX or Gold & Bennett by mail, facsimile, or email.

19. GBFX and Gold & Bennett also corresponded with customers through its website and accepted customer email correspondence at: info@goldbennettfx.com and info@gb4x.com. They also accepted customer telephone calls through a United States telephone number, (212) 847-7434.

20. On information and belief, the forex transactions for which GBFX and Gold & Bennett solicited customers to trade at City Credit neither resulted in delivery within two days nor created an enforceable obligation to deliver between a seller and a buyer who had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these forex contracts were to remain open from day to day and ultimately were offset without anyone making or taking delivers of actual currency (or facing an obligation to do so).

21. Furthermore, Lucid is not exempt from registration by virtue of meeting any of the descriptions in sub-paragraph (aa), (bb), (cc)(AA), (dd), (ee), or (ff) of Section 2(c)(2)(B)(i)(II) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(B)(i)(II).

22. As of the date of filing this complaint, Defendants have not registered with the CFTC in any capacity.

VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE:
VIOLATION OF SECTION 2(c)(2)(C)(iii)(I)(aa) OF THE ACT, AS AMENDED BY THE CRA, TO BE CODIFIED AT 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa)
FAILURE TO REGISTER

23. Paragraphs 1 through 22 are realleged and incorporated herein.

24. During the relevant period, Defendants solicited or accepted orders and continue to solicit or accept orders from non-ECPs in connection with forex transactions at an RFED. Defendants have engaged and continue to engage in this conduct without being registered as IBs, as required by Regulation 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(5)(i) (2011), in violation of Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa).

25. Each day that Defendants engaged in this conduct since October 18, 2010, is alleged as a separate and distinct violation of Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa).

COUNT TWO:
VIOLATION OF REGULATION 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(i) (2011)
FAILURE TO REGISTER AS AN INTRODUCING BROKER

26. Paragraphs 1 through 22 are realleged and incorporated herein.

27. As set out in Paragraphs 1 through 22, during the relevant period, GBFX and Gold & Bennett acted as IBs, as defined in Regulation 5.1(f)(1), 17 C.F.R. § 5.1(f)(1) (2011), and failed to register as IBs, in violation of Regulation 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(5)(i) (2011).

28. Each day that GBFX and Gold & Bennett failed to register as IBs since October 18, 2010, is alleged as a separate and distinct violation of Regulation 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(5)(i) (2011).

VII. RELIEF REQUESTED

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

A. An order finding that Defendants violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa);

B. An order finding that Defendants violated Regulation 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(5)(i) (2011);

C. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from engaging in conduct in violation of Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa);

D. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from engaging in conduct violative of Regulation 5.3(a)(5)(i), 17 C.F.R. § 5.3(a)(5)(i) (2011);

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

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

2) Entering into any transactions involving futures, options, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2011) (commodity options)), and/or foreign currency (as described in Section 2(c)(2)(B), 2(c)(2)(C)(i) of the Act, as amended by the by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(B), 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;

3) Having any futures, options, commodity options, and/or forex contracts traded on their 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 futures, options, commodity options, and/or forex contracts;

5) Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any futures, options, commodity options, and/or forex contracts;

6) Applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011); and

7) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), agent or any other officer or employee of any person

registered, exempted from registration or required to be registered with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011).

F. An order requiring Defendants, as well as any successors, to disgorge to any officer appointed or directed by the Court all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices that constitute violations of the Act or Regulations, including pre-judgment interest;

G. An order directing Defendants, 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 them and any of the investors whose funds were received by them as a result of the acts and practices that constituted violations of the Act or Regulations, as described herein;

H. An order requiring Defendants to make full restitution to every person or entity whose funds they received or caused another person or entity to receive, from the acts or practices that constitute violations of the Act or Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

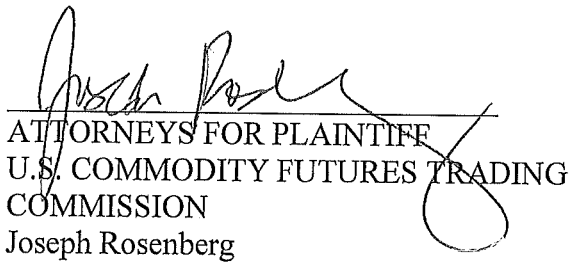
I. An order requiring Defendants to pay a civil monetary penalty under the Act, to be assessed by the Court, in amounts of not more than the higher of $140,000 or triple the monetary gain to each Defendant for each violation of the Act or Regulations, plus post-judgment interest;

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

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

Date: September 7, 2011

Respectfully submitted,



ATTORNEYS FOR PLAINTIFF
U.S. COMMODITY FUTURES TRADING COMMISSION
Joseph Rosenberg
Senior Trial Attorney
Eastern Regional Office
140 Broadway, 19th Floor
New York, New York 10005
(646) 746-9765
(646) 746-9940 (facsimile)
jrosenberg@cftc.gov

John C. Einstman
Chief Trial Attorney, Division of Enforcement
1155 21st Street, N.W.
Washington D.C. 20581
(202) 418-5337
(202) 418-5987 (facsimile)
jeinstman@cftc.gov

Tara R. Kelly
Senior Trial Attorney, Division of Enforcement
1155 21st Street, N.W.
Washington D.C. 20581
(202) 418-5914
(202) 418-5987 (facsimile)
t_kelly@cftc.gov