

SUMMONS ISSUED
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
BROOKLYN DIVISION

FILED *ejd*
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ FEB 07 2011 ★
BROOKLYN OFFICE

U.S. COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
v.)
HASAAN R. STEEL,)
)
Defendant.)

CASE NO.
CV 11 - 0590
GARAUFIS, J. GOLD, M.J.

COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL MONETARY PENALTY, AND
OTHER EQUITABLE RELIEF UNDER THE COMMODITY EXCHANGE ACT

Plaintiff U.S. Commodity Futures Trading Commission (CFTC) alleges as follows:

I. SUMMARY

1. From at least August 2007 to the present, defendant Hasaan R. Steel (defendant), an unregistered commodity pool operator (CPO), has been operating a fraudulent scheme in which he has induced at least 28 pool participants to invest at least \$1 million with defendant's commodity pool. Defendant has been soliciting pool participants to trade in commodity futures contracts (futures) and stocks.

2. To entice prospective pool participants, defendant has been touting, among other things, his purported trading skills and expertise, long successful trading track record, and guarantee that he would generate monthly trading returns of 30-100 percent—all with regard to futures and stocks.

3. Defendant's actual trading records do not support his claims. Defendant did not have a long track record of earning 30-100 percent per month trading futures and stocks.

Further, it appears defendant only traded futures and stocks in 9 different months over the life of his entire scheme, with only 3 months of positive trading.

4. Defendant also has been defrauding pool participants by falsely claiming that he would use their funds to trade futures and stocks on their behalf. In reality, defendant—who never opened a pooled trading account or made any required pool disclosures—has been trading very little of the funds that he has solicited. Of the approximately \$1 million taken in from pool participants, defendant has only traded approximately \$133,000 or 13.1 percent; instead, defendant has been misappropriating the vast majority of pool participants' funds. Defendant has been spending pool participant funds on, among other things, gambling, food, cable TV/Internet, telephone, hotels, and other personal uses. Defendant also been giving money to certain family members.

5. Additionally, defendant has been making false statements to pool participants by repeatedly assuring them that his futures and stock trading was and has been earning excellent returns. Moreover, defendant has been providing false computer-screen snapshots of the pool's purported account balances at registered futures commission merchants (FCMs) TD Ameritrade and Rosenthal Collins Group LLC (RCG). Defendant has been using these statements, both oral and written, to not only entice prospective pool participants, but also to lull his current pool participants into a false sense of security that their funds are safe and actually being traded.

6. By making false written and oral statements to current and prospective pool participants regarding the pool's purported trading activity, performance, and account balances; misappropriating pool participant funds; failing to register as a CPO; unlawfully commingling pool funds; failing to treat the pool as a separate entity; and failing to comply with pool disclosure and reporting requirements, defendant has engaged in, is engaged in, or is about to

engage in acts and practices that violate anti-fraud and other provisions of the Commodity Exchange Act (Act), 7 U.S.C. § 1 *et seq.* (2006), for conduct that occurred prior to June 18, 2008; the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act (CRA)), § 13102, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. § 1 *et seq.*, for conduct that occurred on or after June 18, 2008; and CFTC Regulations promulgated thereunder (Regulations), 17 C.F.R. § 1.1 *et seq.* (2010).

7. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, to enjoin defendant's unlawful acts and practices and to compel his compliance with the Act, as amended by the CRA, and the Regulations. In addition, the CFTC seeks rescission, restitution, disgorgement, a civil monetary penalty, and such other equitable relief as this Court may deem necessary or appropriate.

II. JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the CFTC that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act; the Act, as amended by the CRA; or the Regulations, the CFTC may bring an action in the proper district court of the United States against such person to enjoin such practice or to enforce compliance with the Act, as amended by the CRA, and the Regulations.

9. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because the acts and practices in violation of the Act; the Act, as amended by the CRA; and the Regulations have occurred and are occurring within this District.

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

III. THE PARTIES

11. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with administering and enforcing the Act, 7 U.S.C. §§ 1 *et seq.* (2006), as amended by the CRA and 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, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations, promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2010).

12. Defendant **Hasaan R. Steel** is an individual with a last known address in Brooklyn, New York. He is a self-described day trader of futures and stocks. Defendant has been operating a commodity pool in his own name, but has never been registered with the CFTC in any capacity.

IV. FACTUAL BACKGROUND

13. Beginning no later than August 2007 and continuing to the present, defendant has been soliciting pool participants for the commodity pool operating in defendant's name.

14. Defendant set up two accounts in his own name at Bank of America, both of which have been receiving funds from pool participants. Defendant explained to a number of, if not all, pool participants that he manages the pool participants' funds as a block and the individual pool participants own a *pro rata* share of the pool's total funds. Accordingly, pool

participants' investment returns are purportedly based on the overall trading performance of the pool.

15. Defendant did not set up the pool as a legally recognized entity separate from himself, and he did not register as a CPO with the CFTC.

16. Defendant has solicited at least \$1 million, from at least 28 pool participants, to trade in futures and stocks.

A. Defendant Has Been Fraudulently Soliciting Pool Participants.

17. Defendant's solicitations to prospective pool participants—by and through, among other things, emails, text messages, and phone calls—have been replete with fraud.

18. For example, during the solicitation of a then-prospective pool participant—a solicitation that lasted for many months, defendant claimed that he had been earning a minimum of 20-30 percent a month trading stocks and futures. Defendant promised that the then-prospective pool participant's money would only be used for trading stocks and futures and would never leave defendant's control (*i.e.*, no one else would trade the funds or have input into how the funds would be traded). Defendant's statements were false. Defendant's actual trading did not average monthly returns between 20-30 percent. Defendant used pool participant funds for, among other things, gambling, food, cable TV/Internet, telephone, hotels, and other personal uses. Defendant gave money to certain family members. Also, several months after the then-prospective pool participant invested money in defendant's pool, defendant admitted to the pool participant that he used pool funds to participate in a real estate investment.

19. In a March 11, 2009 email to a then-prospective pool participant, defendant stated that he earned 10 percent trading futures that day. Defendant's statement was false. Defendant's

actual trading records show that he earned nothing trading futures on March 11, 2009. In fact, defendant did not even have a funded futures trading account on that day.

20. In addition, in a March 30, 2009 email, a pool participant asked defendant for information about the pool to share with prospective pool participants. On that same day, defendant responded that (1) he had been trading professionally for 4-5 years; (2) his “track record is always within that range of 20-30-100% per month”; and (3) he has never had a losing month trading. Each of these representations was false. It appears that defendant’s earliest stock trading account opened in August 2007, and his earliest futures trading account opened in September 2008. Further, defendant’s actual trading did not average monthly returns between 20-100 percent as of March 30, 2009 (or as of any time for that matter). Rather, in sporadic, limited trading, defendant averaged monthly losses of approximately 1 percent prior to March 30, 2009. Additionally, in the five years preceding his email, defendant traded futures and stocks, off and on, for a total of only 7 months. During these limited months that he actually traded, defendant had 5 months of negative returns.

21. Defendant also makes misrepresentations in his “Investment Program Contract” that he provided to numerous prospective pool participants before they could participate in defendant’s pool. For example, the contract provides that the individual pool participant’s funds are to be wired into the same Bank of America account as the other pool participants’ funds and later transferred into the “designated trading accounts where the stocks and futures trading will commence.” Only 13.1 percent of pool participant funds, however, were ever deposited into a trading account.

22. In addition, the contract contains misrepresentations regarding defendant's trading prowess that are substantially similar to those contained in defendant's email communications:

Hasaan has explained an investment program, which all monies invested in the program will be traded via the stocks and futures market, and is **guaranteed to generate a minimum of 30-100% profit on a monthly basis to be paid to the investor minus 15-20% trader commission (to be deducted from the monthly profit). **This profit number and much higher, have been maintained for a very long period of time, and because of that, this investment is guaranteed.** Hasaan is bound to only use the trading system that has generated this consistent profit number **and has protected any and all monies traded.****

(emphasis added). As stated previously, defendant has neither achieved nor maintained monthly returns approaching anywhere near 30-100 percent. Defendant also has not been utilizing a trading system that "generate[s] a consistent profit number" or that "protect[s] any and all monies traded."

23. Defendant was aware that his representations regarding, among other things, the pool's purported trading strategy and purported past performance were being shared by at least one pool participant with multiple prospective pool participants.

24. Defendant has been failing to provide required pool disclosure documents to pool participants. Such disclosures, among other things, would have informed pool participants of the pool's true performance and identified for pool participants some of the risks associated with futures trading. Further, it appears that defendant otherwise failed to inform pool participants of these risks.

25. In an effort to conceal and/or prolong defendant's fraudulent scheme, he required at least one pool participant, before joining the pool, to represent that he was "not an informant" and that he was not

associated with any government agency of the United States of America, or any other country, such as the Secret Service, Internal Revenue Service, Federal Bureau of Investigation, Central Intelligence Agency, Securities and Exchange Commission, Banking Commission, National Futures Association, Commodities

[sic] Futures Trading Commission, or any agencies whose purpose is to gather information regarding such offerings.

B. Defendant Has Been Sending False Account Information to Pool Participants.

26. Defendant—by and through, among other things, emails, text messages, and phone calls—has been providing false account balances and investment returns to pool participants.

27. For example, defendant sent emails with the following account information to pool participants:

- a. on April 14, 2009, defendant reported that he earned 9 percent trading futures on April 13, 2009;
- b. on April 16, 2009, defendant reported that he earned 2.5 percent by shorting the S&P 500 futures contract that day; and
- c. on August 13, 2009, defendant reported that he earned almost 22 percent trading futures that day.

The information contained in these emails was false. In each instance, defendant's actual trading records show that he earned nothing trading futures that day, and, in fact, defendant did not even have a funded futures trading account on any of the days in question.

28. Similarly, defendant provided pool participants with fictitious statements from numerous financial institutions, including, but not limited to, TD Ameritrade and RCG. For instance, defendant provided pool participants with fictitious TD Ameritrade account balances (in the form of supposed computer-screen snapshots of the purported pool's TD Ameritrade account) in an apparent effort to prove that defendant managed funds and had large account

balances, as he had claimed. For example, defendant emailed the following fictitious TD Ameritrade computer-screen snapshots to pool participants:

- a. on April 17, 2009, defendant sent a computer-screen snapshot that purportedly shows a total account balance at TD Ameritrade of approximately \$607,000 as of April 15, 2009;
- b. on April 17, 2009, defendant sent a computer-screen snapshot that purportedly shows total account balances at TD Ameritrade of approximately \$278,000 as of January 1, 2009 and \$578,000 as of March 31, 2009;
- c. on April 27, 2009, defendant sent a computer-screen snapshot that purportedly shows a total account balance at TD Ameritrade of approximately \$773,000 as of April 27, 2009;
- d. on May 5, 2009, Steel sent two different computer-screen snapshots to two different pool participants that purportedly show different total account balances at TD Ameritrade as of May 5, 2009—one showed approximately \$1.01 million and the other showed \$1.04 million;
- e. on May 6, 2009, Steel sent a computer-screen snapshot that purportedly shows a total account balance at TD Ameritrade of approximately \$1.04 million as of May 6, 2009; and
- f. on June 4, 2009, defendant sent a computer-screen snapshot that purportedly shows a total account balance at TD Ameritrade of approximately \$1.4 million as of June 4, 2009.

All of these computer-screen snapshots were fictitious, and the information contained therein false. First, defendant's balance in his TD Ameritrade account never exceeded \$126,000.

Second, defendant sent statements to two pool participants with different balances that supposedly represented the pool's balance at TD Ameritrade for the same day—May 5, 2009. Third, defendant did not even open his account at TD Ameritrade until April 24, 2009. Forth, defendant never set up a TD Ameritrade account (or any other trading account) in the name of the pool.

29. Defendant also provided at least one pool participant with fictitious RCG account balances (in the form of supposed computer-screen snapshots of the pool's purported RCG account) in an apparent effort to prove that defendant managed funds and had large account balances, as he had claimed. For example, defendant emailed the following fictitious RCG computer-screen snapshots to a pool participant:

- a. on May 19, 2009, defendant sent a computer-screen snapshot that purportedly shows a total account balance at RCG of approximately \$202,000 as of May 19, 2009; and
- b. on June 4, 2009, defendant sent a computer-screen snapshot that purportedly shows a total account balance at RCG of approximately \$389,000 as of June 3, 2009.

All of these computer-screen snapshots were fictitious, and the information contained therein false. First, defendant had a negative balance in his RCG account in May and June 2009, and, at no time, did defendant's RCG account balance exceed \$41,000. Second, defendant never set up an RCG account (or any other trading account) in the name of the pool.

30. Further, in an April 29, 2009 email to a pool participant, defendant represented that he hired a programmer to develop a program that would allow defendant "to data mine at point blank speed!" As such, defendant claimed that, "instead of 30-50-100% a month, I'd make

those returns, on average, every week!!!!” Defendant’s representations, at least as to the purported returns, were false. An analysis of defendant’s actual trading records shows that his average monthly returns have never been close to between 30-100 percent, either before or after his April 29, 2009 email.

C. Defendant Has Been Misappropriating and Commingling Pool Participant Funds.

31. Defendant, an unregistered CPO, has never established a separate cognizable legal entity to serve as the pool in which pool participant funds would be invested. Instead, funds that pool participants invested with defendant (and made payable to defendant) have been deposited into two accounts at Bank of America in defendant’s name.

32. Only 13.1 percent of the funds received from pool participants have ever been transferred into a trading account, and all those funds have been placed into individual trading accounts in defendant’s name.

33. Defendant has been commingling pool participant funds with defendant’s personal funds.

34. Defendant has been making significant cash withdrawals of pool participant funds (approximately \$222,000) from his Bank of America accounts.

35. Defendant has been spending pool participant funds on, among other things, gambling, food, cable TV/Internet, telephone, hotels, and other personal uses.

36. It also appears that defendant has been disbursing money (approximately \$33,000) to apparent family members.

37. Defendant also has been failing to honor pool participants’ withdrawal requests. One such request was made as recently as November 2010. When confronted by a pool participant about his failure to honor withdrawal requests and told that the pool participant would

contact various governmental authorities, defendant responded that it did not matter because, in essence, he would only have to spend a few years in jail.

V. VIOLATIONS OF THE ACT AND REGULATIONS

**COUNT ONE
FRAUD IN CONNECTION WITH FUTURES**

Violations of Section 4b(a)(2)(i)-(iii) of the Act (for Conduct Prior to June 18, 2008) and Section 4b(a)(1)(A)-(C) of the Act, as Amended by the CRA (for Conduct On or After June 18, 2008)

38. The allegations set forth in paragraphs 1 through 37 are re-alleged and incorporated by reference.

39. With respect to conduct occurring prior to June 18, 2008, Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) (2006), makes 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, made or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (A) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, or (B) determining the price basis of any transaction in interstate commerce in such commodity, or (C) delivering any such commodity sold, shipped or received in interstate commerce for the fulfillment thereof –

- (i) to cheat or defraud or attempt to cheat or defraud such other person;
- (ii) willfully to make or caused to be made to such other person any false report or statement thereof, or willfully to enter or caused to be entered for such other person any false record thereof;
- (iii) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or the disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person.

40. With respect to conduct occurring on or after June 18, 2008, Section 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), makes 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 or willfully to enter or cause to be entered for the other person any false record;

(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, in the case of paragraph (2), with the other person.

41. Beginning in at least August 2007 and continuing to the present, defendant (1) has been soliciting pool participants through fraudulent, material misrepresentations and omissions, including, among other things, misrepresentations and omissions regarding defendant's past and current trading performance; (2) has been making or causing to be made false reports or statements to pool participants who invested money with defendant to trade, among other things, futures; and (3) has been misappropriating funds received from pool participants for the purpose of trading, among other things, futures, all in violation of Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), with respect to acts or omissions occurring before June 18, 2008, and in violation of Section 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), with respect to acts or omissions occurring on or after June 18, 2008.

42. Defendant has been engaging in the acts and practices described above knowingly or with reckless disregard for the truth.

43. Each material misrepresentation or omission, false report or statement, or misappropriation including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) with respect to acts occurring before June 18, 2008, and Section 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), with respect to acts occurring on or after June 18, 2008.

COUNT TWO
FRAUD BY A COMMODITY POOL OPERATOR

**Violations of Section 4o(1) of the Act, 7 U.S.C. § 6o(1),
and Regulation 4.41(a), 17 C.F.R. § 4.41(a)**

44. The allegations set forth in paragraphs 1 through 43 are re-alleged and incorporated by reference.

45. As defined in Section 1a(5) of the Act, 7 U.S.C. § 1a(5), a CPO is

any person engaged in a 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 . . . 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.

46. Section 4o(1) of the Act, 7 U.S.C. § 6o(1), prohibits CPOs from using the mails or any other means of interstate commerce to:

- (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.

47. Regulation 4.41(a), 17 C.F.R. § 4.41(a), provides that no CPO may advertise in a manner that:

- (1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client; or
- (2) Involves any transaction, practice, or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client.

48. Since at least August 2007, defendant has been acting as a CPO by soliciting, accepting or receiving funds from others and engaging in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, for the purpose of trading, among other things, futures.

49. Defendant, while acting as a CPO, has been employing devices, schemes or artifices to defraud pool participants and prospective pool participants or has been engaging in transactions, practices or courses of business which have been operating as a fraud or deceit upon defendant's pool participants and prospective pool participants in violation of Section 40(1) of the Act, 7 U.S.C. § 60(1), by (1) soliciting pool participants through fraudulent, material misrepresentations and omissions, including, among other things, misrepresentations and omissions regarding defendant's past and current trading performance; (2) making or causing to be made false reports or statements to pool participants who invested money with defendant's pool to trade, among other things, futures; and (3) misappropriating funds received from pool participants for the purpose of trading, among other things, futures. The material misrepresentations and omissions also constitute violations of Regulation 4.41(a)(1) and (2), 17 C.F.R. § 4.41(a)(1) and (2), by defendant.

50. Defendant has been engaging in the acts and practices described above knowingly or with reckless disregard for the truth.

51. Each material misrepresentation or omission, false report or statement, or misappropriation including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 40(1) of the Act, 7 U.S.C. § 60(1), and Regulation 4.41(a), 17 C.F.R. § 4.41(a).

COUNT THREE
FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR

Violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1)

52. The allegations set forth in paragraphs 1 through 51 are re-alleged and incorporated by reference.

53. Section 4m(1) of the Act, 7 U.S.C. § 6m(1), provides that it is unlawful for any CPO, unless registered under the Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as a CPO.

54. Since at least August 2007, defendant has used the mails or instrumentalities of interstate commerce—including, but not limited to, emails and wires—in or in connection with his business as a CPO, while failing to register as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

COUNT FOUR
COMMINGLING OF POOL FUNDS WITH THOSE OF OTHER PERSONS AND
FAILING TO TREAT THE POOL AS A SEPARATE ENTITY

Violations of Regulation 4.20(a)-(c), 17 C.F.R. § 4.20(a)-(c)

55. The allegations set forth in paragraphs 1 through 54 are re-alleged and incorporated by reference.

56. Regulation 4.20(a) requires a CPO to operate its pool as an entity cognizable as a legal entity separate from that of the CPO. Regulation 4.20(b) requires a CPO to receive property from pool participants in the name of the pool that it operates or intends to operate. Regulation 4.20(c) prohibits a CPO from commingling the property of any pool that it operates, or that it intends to operate, with the property of any other person.

57. Defendant has never established a separate pool entity or accounts in the names of a separate pool entity; instead, defendant has been depositing pool participants' funds into

individual accounts in defendant's name and thereby failed to operate the pool separate from himself, in violation of Regulation 4.20(a), 17 C.F.R. § 4.20(a).

58. Defendant has been receiving pool participants' funds in his own name, rather than in the name of the pool, in violation of 4.20(b), 17 C.F.R. § 4.20(b).

59. Defendant has been commingling pool assets by depositing pool participant funds into accounts containing monies from non-pool participants, in violation of Regulation 4.20(c), 17 C.F.R. § 4.20(c).

60. Each failure to operate the pool as an entity separate from the CPO, each failure to receive property in the pool's name, and each instance of commingling of pool funds is alleged as a separate and distinct violation of Regulation 4.20(a)-(c), 17 C.F.R. § 4.20(a)-(c).

**COUNT FIVE
FAILURE TO COMPLY WITH DISCLOSURE AND REPORTING REQUIREMENTS**

Violations of Regulation 4.21, 17 C.F.R. § 4.21

61. The allegations set forth in paragraphs 1 through 60 are re-alleged and incorporated by reference.

62. Regulation 4.21, 17 C.F.R. § 4.21, provides that

each commodity pool operator registered or required to be registered under the Act must deliver or cause to be delivered to a prospective participant in a pool that it operates or intends to operate a Disclosure Document for the pool prepared in accordance with §§4.24 and 4.25 by no later than the time it delivers to the prospective participant a subscription agreement for the pool.

63. Defendant has not been providing a pool disclosure document in the form specified by Regulation 4.21, 17 C.F.R. § 4.21, to prospective pool participants.

64. Each failure to furnish required disclosure documents to prospective pool participants and pool participants, including but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.21, 17 C.F.R. § 4.21.

VI. RELIEF REQUESTED

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

A. An order finding that defendant violated Section 4b(a)(2)(i)-(iii), 7 U.S.C. § 6b(a)(2)(i)-(iii) for conduct prior to June 18, 2008; Section 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), for conduct on or after June 18, 2008; Section 4q(1) of the Act, 7 U.S.C. § 6q(1); Section 4m(1) of the Act, 7 U.S.C. § 6m(1); and Regulations 4.20(a)-(c), 4.21, and 4.41(a) found at 17 C.F.R. §§ 4.20(a)-(c), 4.21, and 4.41(a);

B. An order of permanent injunction prohibiting defendant, and any other person or entity associated with defendant, from engaging in conduct that violates any sections of the Act, as amended by the CRA and the Dodd-Frank Act, and the Regulations that defendant allegedly violated in this Complaint;

C. An order of permanent injunction prohibiting defendant and any of his agents, servants, employees, assigns, attorneys, and persons in active concert or participation, 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 of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. § 1a);
2. entering into any transactions involving futures, options on 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 2(c)(2)(C)(i) of the Act, as amended by the CRA and the Dodd-Frank Act (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 on futures, 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 on futures, commodity options, and/or forex contracts;
5. soliciting, receiving, or accepting any funds from any person or entity for the purpose of purchasing or selling any futures, options on futures, 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);
7. acting as a principal (as that term is defined in Regulation 3.1(a)), 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); and
8. from engaging in any business activities related to futures, options on futures, commodity options, and/or forex contracts trading;

D. Enter an order requiring defendant, as well as any successors of defendant, 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; the Act, as amended by the CRA; and the Regulations, as described herein, including pre- and post-judgment interest thereon from the date of such violations;

E. Enter an order directing the defendant, as well as any successors of defendant, 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 pool participants whose funds were received by him as a result of the acts and practices which constituted violations of the Act; the Act, as amended by the CRA; and the Regulations, as described herein;

F. Enter an order requiring defendant to make full restitution to every person or entity whose funds defendant received or caused another person or entity to receive, from the

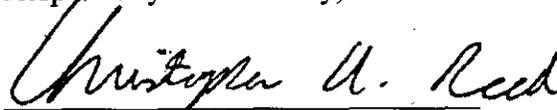
acts or practices that constitute violations of the Act; the Act, as amended by the CRA; and the Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

G. Enter an order requiring defendant to pay a civil monetary penalty, to be assessed by the Court, in amounts of not more than the higher of: (1) triple the monetary gain to defendant for each violation of the Act; the Act, as amended by the CRA; and the Regulations, or (2) a penalty of \$130,000 for each violation committed between October 23, 2004 and October 22, 2008, or \$140,000 for each violation committed on or after October 23, 2008;

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

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

Respectfully submitted by,



Christopher A. Reed
Missouri Bar No. 59025
Charles D. Marvine
Missouri Bar No. 44906
Rachel Hayes
Missouri Bar No. 48713
U.S. Commodity Futures Trading Commission
Division of Enforcement
Two Emanuel Cleaver II Blvd., Suite 300
Kansas City, MO 64112
816-960-7740 (Reed)
816-960-7743 (Marvine)
816-960-7741 (Hayes)
816-960-7750 (fax)
creed@cftc.gov
cmarvine@cftc.gov
rhayes@cftc.gov

and

Rick Glaser
New York Bar No. 8652
U.S. Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street NW
Washington, DC 20581
202-418-5358
rglaser@cftc.gov

Attorneys for Plaintiff

Dated: February 7, 2011