

Commodity Futures Trading Commission,

Plaintiff,

v.

American Futures and Options Exchange,
Metro Financials and American Futures and
Options Trading Commission

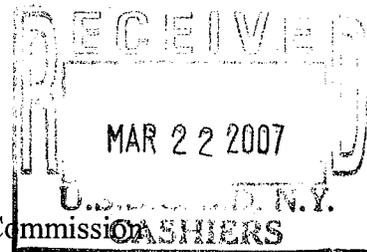
Defendants.

07 CIV _____

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

I.
SUMMARY

The United States Commodity Futures Trading Commission



("Commission" or "CFTC"), by its attorneys, alleges as follows:

1. American Futures and Options Exchange ("AFOEX"), Metro Financials ("Metro") and American Futures and Options Trading Commission ("AFOTC") defrauded prospective customers by falsely representing that AFOEX is a futures exchange, Metro is its broker, and that AFOTC is an independent agency created by Congress to regulate commodity futures and options markets in the United States.
2. Defendants fraudulently solicited and accepted money from their prospective customers to trade commodity options by making exaggerated profit claims.
3. In reality, customers lost virtually all of their investments through Defendants' misappropriation of customer funds.
4. AFOEX violated Section 4(a) of the Commodity Exchange Act (the "Act"), 7 U.S.C. § 6(a) (2005), by offering to enter into or entering into futures

transactions that are not executed on a board of trade designated by, or registered with, the Commission as either a contract market or a derivatives transaction execution facility.

5. Defendants violated Section 4c(b) of the Act, 7 U.S.C. §6c(b), and Section 32.9(a) and (c) of the Regulations, 17 C.F.R. § 32.9(a) and (c), by engaging in fraudulent solicitation in connection with an offer to enter into, entering into, or confirming the execution of any transaction involving commodity options.

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

7. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), Plaintiff CFTC brings this action to enjoin the unlawful acts and practices of Defendants and to compel their compliance with the provisions of the Act and Regulations thereunder, as well as for civil monetary penalties, permanent injunctive relief and other relief, including restitution and disgorgement.

II. JURISDICTION AND VENUE

8. The Act establishes a comprehensive system for regulating the purchase and sale of commodity options and futures contracts.

9. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear 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.

10. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2002), in that the acts and practices in violation of the Act or any rule, regulation or order thereunder have occurred, are occurring, or are about to occur within this district.

III. THE PARTIES

11. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2002), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2002).

12. Defendant American Futures and Options Exchange- operates a web site, www.afoex.com, on which it lists a false address of 131 Pearl Street, New York, NY 10005. On its web site, AFOEX purports to be “world renowned for its development of energy futures and options contracts as means of bringing price transparency and risk management to this vital market.” AFOEX is not registered with the Commission in any capacity.

13. Metro Financials – operates a web site on which it lists a false mailing address of 194 William Street, New York, NY 10038. On its web site, Metro claims to be a broker for AFOEX and solicits customers to open accounts to trade options on energy futures and foreign currency, purportedly on the AFOEX exchange. Metro is not registered with the Commission.

14. American Futures & Options Commission – operates a web site, www.afotc.com, on which it lists a false address of 503 N Michigan Ave, #1950, Chicago, IL 60601. On its web site, AFOTC states that, “Congress created the AFOTC

in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The agency's mandate has been renewed and expanded several times since then, most recently by the Commodity Futures Modernization Act of 2000 (CFMA)."

IV. FACTS

A. AFOEX Purports To Be An Exchange on Which Futures Contracts Are Purportedly Traded

15. AFOEX through representations made on its website, www.foex.com, purports to be an exchange for energy products located at 131 Pearl Street, New York, New York 10005. The web site, www.foex.com is registered to an address in New York with a phone number of (971) 742-4278.

16. The AFOEX website describes the energy futures and options contracts for which AFOEX purportedly serves as an exchange and the expiry schedules for those futures contracts.

17. AFOEX is not a board of trade which has been designated by, or registered with, the Commission as either a contract market or a derivatives transaction execution facility.

18. Moreover, there is no such entity located at the New York address listed on the AFOEX website.

B. Metro Fraudulently Solicits Customers to Trade Options Purportedly Traded on AFOEX

19. Metro fraudulently solicits customers, including at least one retail customer, to purchase commodity options purportedly traded on AFOEX.

20. Metro's website, www.metrofinancials.com, appears to be hosted by Net Access Corporation of Parsippany, NJ. The website is registered to an address in New York, with a telephone number of (971) 742-4278.

21. Metro solicited customers to trade options on commodities, including energy and currency, with AFOEX through direct telephone solicitations. These customers are led to believe that AFOEX is an exchange and Metro is its broker, both located in the United States.

22. The Metro website directs customers to a fax number of (646) 619-4236 and a toll free number (888) 265-5806 to mislead them to believe that Metro is located in the United States.

23. The fax number (646) 619-4236 is registered to U.S. communications company, j2 Global Communications, which maintains servers located in New York, New York.

24. The Metro website directs customers to the AFOTC website, www.afotc.com, which purports to be the regulatory body created by the U.S. Congress to regulate commodity futures and options markets in the United States, with an address at 503 N. Michigan Ave., #1950, Chicago, IL 60601.

25. The AFOTC is a fictitious entity and its website contains significant portions of the contents of the CFTC's website, www.cftc.gov. AFOTC's website appears to be hosted by California Regional Intranet, Inc., 8929A Complex Drive, San Diego, CA 92123. The web site is registered to an address in Boston, Massachusetts, with a telephone number of (978) 636-4934.

26. Once the customers are solicited, the customers are then advised that they have opened an online trading account on AFOEX which they can access through the AFOEX website and are instructed to wire their funds to bank accounts located in Singapore.

27. Customers were promised substantial profits when, in fact, most customers lost money.

V.
VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS

COUNT I

**Violations by AFOEX of Section 4(a) of the Act:
Offer of Illegal Off-Exchange Futures Contracts**

28. Paragraphs 1 through 27 are re-alleged and incorporated herein.

29. Section 4(a) of the Act, 7 U.S.C. § 6(a) (2002), provides that unless exempted by the Commission, “it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States ... for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery...” when: (1) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity; (2) such contract has not been executed or consummated by or through such contract market; and (3) such contract is not evidenced by a written record showing the date, parties, property covered, price, and terms of delivery.

30. AFOEX offered to enter into, executed, confirmed the execution of, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions were not conducted on or subject to the rules of a board of trade which was designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, (b) such contracts were not executed or consummated by or through such contract market, and (c) such contract is not evidenced by a written record showing the date, parties, property covered, price, and terms of delivery, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2002).

31. Each offer to enter into a futures transaction not conducted on a designated contract market or registered derivatives transaction execution facility, including but not limited to those offered by AFOEX as specifically alleged herein, is alleged as a separate and distinct violation of Section 4(a) of the Act.

COUNT II
Violations by Defendants of Section 4c(b) of the Act and
Section 32.9(a) and (c) of the Regulations:
Options Fraud

32. Paragraphs 1 through 31 are re-alleged and incorporated herein.

33. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under the Act which is of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty," contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

34. Commission Regulation 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c), makes it unlawful for any person, directly or indirectly (a) to cheat or defraud or attempt to cheat or defraud any person; or (c) to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of any commodity option transaction.

35. AFOEX, Metro and AFOTC, in connection with offers to enter into, the entry of, or the confirmation of the execution of commodity options transactions, cheated or defrauded or attempted to cheat or defraud customers and prospective customers, and deceived or attempted to deceive customers and prospective customers, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.9(a) and (c) of the Commissions Regulations, 17 C.F.R. §§ 32.9(a) and (c).

36. Each material misrepresentation or omission, false statement, or misappropriation of investor funds, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act.

VI.
RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), and pursuant to the Court's own equitable powers enter:

A. an order finding that Defendants violated Section 4c(b) of the Act, 7 U.S.C. §§ 6c(b), and Commission Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c) and that AFOEX violated Section 4(a) of the Act, 7 U.S.C. §6(a);

B. an *ex parte* statutory restraining order and an Order of preliminary injunction restraining and enjoining the Defendants and all persons insofar as they are

acting in the capacity of their agents, servants, 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 directly or indirectly:

1. destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendants, wherever located, including all such records concerning the Defendants' business operations; and
2. refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendants, wherever located, including all such records concerning the Defendants' business operations.

C. preliminary and permanent injunctions prohibiting Defendants from engaging in conduct in violation of Sections 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c) and prohibiting AFOEX from violating Section 4(a) of the Act, 7 U.S.C. § 6(a); including prohibiting the Defendants from operating the fraudulent websites;

D. an order directing Defendants to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act or of the Commission Regulations, as described herein, and interest thereon from the date of such violations;

E. an order directing Defendants to make full restitution, pursuant to such procedure as the Court may order, to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;

F. an order assessing a civil monetary penalty against each Defendant in the amount of not more than the higher of \$130,000 or triple the monetary gain to the Defendant for each violation by the Defendant of the Act and Commission Regulations;

G. an order directing that the Defendants make an accounting to the Court of all their assets and liabilities, together with all funds they received from and paid to clients and other persons in connection with commodity futures and options transactions or purported commodity futures and options transactions, and all disbursements for any purpose whatsoever of funds received from commodity transactions, including salaries, commissions, interest, fees, loans and other disbursements of money and property of any kind; and

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

Dated: New York, NY
March 22, 2007

COMMODITY FUTURES TRADING
COMMISSION

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