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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

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U.S. Commodity Futures Trading)	
Commission,)	
)	
	Plaintiff,)	Case No.
)	
	v.)	
)	COMPLAINT
Michael Justin Hoopes,)	
)	
	Defendant.)	
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COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND FOR CIVIL MONETARY PENALTIES UNDER THE COMMODITY EXCHANGE ACT

I. SUMMARY

1. From at least September 2007 to the present (“the relevant time”), Michael Justin Hoopes (“Hoopes”) fraudulently solicited and accepted over two million dollars from at least ten individuals, most of whom were Idaho residents, for the purpose of trading stock index

commodity futures in a commodity pool he owns, controls, and operates called Aspen Trading, LLC (“Aspen Trading”). Hoopes solicited and accepted an additional \$9.6 million from other mostly Idaho residents during the same time period, at least \$673,429 of which was used for futures trading and at least \$1,706,663 of which was commingled with Hoopes’ personal funds.

2. Hoopes misrepresented to at least two pool participants the potential for profit and risk of loss of participating in Aspen Trading, claiming that they would earn a 20% annual return on their investments.

3. Hoopes provided false account statements to at least one pool participant showing that as of December 2009, Aspen Trading had over \$2.2 million in a commodity futures trading account carried at Dorman Trading, LLC (“Dorman”), a futures commission merchant (“FCM”) registered with the Commodity Futures Trading Commission (“CFTC” or “Commission”). However, Aspen Trading has never had an account with Dorman, and Hoopes’ two personal trading accounts with Dorman had a combined balance of only approximately \$1,000 as of December 31, 2009. Hoopes also misappropriated pool participants’ funds, using them for personal expenses and to pay purported profits to other pool participants in the manner of a Ponzi scheme.

4. By making misrepresentations and material omissions to at least two pool participants regarding profits and losses, misappropriating pool participants’ funds, and issuing false account statements to at least one pool participant, Hoopes cheated, defrauded and deceived pool participants and prospective pool participants in violation of the Commodity Exchange Act (“Act”) as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act

of 2010 (“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.*, specifically, Sections 4b(a)(2)(i)-(iii), 7 U.S.C. § 6b(a)(2)(i)-(iii) (2006), for acts committed before June 18, 2008; Sections 4b(a)(1)(A)-(C), to be codified at 7 U.S.C. § 6b(a)(1)(A)-(C), for acts committed on or after June 18, 2008; and Section 4o(1), 7 U.S.C. § 6o(1) (2006). Hoopes also commingled pool participants’ funds with his personal funds in violation of Commission Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2011). Finally, Hoopes acted in a capacity requiring registration with the CFTC without the benefit of registration in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

5. Plaintiff CFTC has jurisdiction over Hoopes’ unlawful acts and practices and brings this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, and Section 2(c)(2) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2), to enjoin such acts and practices and to compel Hoopes’ compliance with the Act and Commission Regulations. In addition, the CFTC seeks restitution, disgorgement of Hoopes’ ill-gotten gains, rescission, civil monetary penalties, and such other equitable relief as this Court may deem necessary or appropriate.

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

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(a), 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 or any rule, regulation, or order promulgated thereunder, the CFTC may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

8. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(e), because Hoopes resides in this District and the acts and practices in violation of the Act occurred within this District.

III. THE PARTIES

9. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, 7 U.S.C. §§ 1 *et seq.*, and the regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.*

10. Defendant **Michael Justin Hoopes** resides in Rexburg, Idaho. He owns and operates Aspen Trading. He also acts as a commodity pool operator (“CPO”) for the Aspen Trading commodity pool. He has never been registered with the Commission in any capacity.

IV. FACTUAL BACKGROUND

A. Statutory Background

11. Prior to July 16, 2011, Section 1a(20) of the Act, 7 U.S.C. § 1a(20), defined an FCM as an individual, association, partnership, corporation or trust that solicits or accepts orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that accepts payment from or extends credit to those whose orders are accepted. Upon the effective date of Title VII of the Dodd-Frank Act on July 16, 2011, the definition of an FCM was expanded and re-designated in Section 1a(28) of the Act.

12. Prior to July 16, 2011, Section 1a(23) of the Act, 7 U.S.C. § 1a(23), defined an introducing broker (“IB”) as any person engaged in soliciting or accepting orders for the purchase or sale of commodity futures contracts, who does not accept any money, securities, or property or extend credit, to margin, guarantee, or secure any trades or contracts that result. Upon the effective date of Title VII of the Dodd-Frank Act on July 16, 2011, the definition of an IB was expanded and re-designated in Section 1a(31) of the Act.

13. Prior to July 16, 2011, Section 1a(5) of the Act, 7 U.S.C. § 1a(5), defined a CPO as any firm or individual engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and that, in connection therewith, solicits, accepts, or receives from others funds, securities, or property, either directly through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market. Upon the effective date of Title VII of the Dodd-Frank Act on July 16, 2011, the definition of a CPO was expanded and re-designated in Section 1a(11) of the Act.

B. Hoopes’ Commodity Futures Trading Accounts

14. Hoopes maintained two futures trading accounts at Dorman, account numbers XXX16 and XXX43, in the names of Hoopes and his wife, Harley Hoopes. These accounts were introduced to Dorman by Mirus Futures (“Mirus”), an IB registered with the Commission. Hoopes opened account XXX16 in October 2006 and account XXX43 in January 2007, and he represented in opening account documents for these accounts that they were proprietary and did not contain any third party customer funds.

15. Between October 2006 and March 2009, Hoopes deposited \$2,299,397 into account XXX16. Although Hoopes obtained at least \$1,474,070 of these funds from third party customers who invested with him for the purpose of trading commodity futures in a commodity

pool, when Mirus' president questioned him as to the source of these funds in February 2008, Hoopes falsely claimed that his "family sold some land, so it is my inheritance."

16. Between October 2006 and May 31, 2010, Hoopes suffered net losses of over 90% trading futures at Dorman. Specifically, of the \$2,299,397 Hoopes deposited into account XXX16, he suffered net losses of approximately \$2,055,598 and withdrew approximately \$243,102. At least \$152,000 of the funds he withdrew were customer funds, and he used those funds for personal expenses, including paying his mortgage, car and credit card payments.

17. Hoopes has not placed any trades in his two Dorman accounts since July 2009. Account XXX16 has had a balance of approximately \$1,000 since August 2009, and account XXX43 has had a \$0 balance since August 2007.

C. Solicitation Fraud

18. Sometime in 2007, Hoopes informed his cousin, Richie Webb ("Webb"), that he was earning very good returns "day trading," and that he was confident he could earn 20% per year trading. Webb considered investing with Hoopes and spoke to his brother-in-law, Stephen Crandall ("Crandall"), a certified public accountant in Rexburg, Idaho, about the possibility of investing with Hoopes.

19. Crandall then met with Hoopes in November or December 2007 to discuss the possibility of investing with him. Hoopes told Crandall that he was earning returns well in excess of 25%-30% annually "day trading," and that he could offer Crandall a 25% return annually if Crandall decided to invest with him. Specifically, Hoopes told Crandall that customers who invested in 2008 would earn a 25% return on their investments for that year, customers who invested in 2009 would earn an annual return of 20% on their investments, and that Hoopes would take any profits over 25% as his commission. Hoopes later provided

promissory notes to Crandall and Webb reflecting that their investments included an interest rate of 20% annually.

20. Hoopes informed Crandall that he had suffered some isolated trading losses but was able to make up the losses by the end of each year and, consequently, had not lost any money trading. Hoopes also told Crandall that he was able to minimize the risks of trading by getting in and out of the market quickly and not holding positions overnight.

21. In reality, Hoopes' futures trading in the Dorman trading accounts in his and his wife's names resulted in net losses totaling \$3,797 in 2006 and \$240,444 in 2007, including losses of over \$100,000 in November 2007 and over \$26,000 in December 2007.

22. Based on Hoopes' representations regarding his trading success, Webb and Crandall decided to invest with him. In January 2008, they formed a company called SHR Investments, LLC ("SHR") with their friend Hollis Murri ("Murri"), for the purpose of investing funds with Hoopes for "day trading." Crandall and Webb did not know exactly what products Hoopes was trading with SHR's funds at first, but account statements Hoopes eventually provided to Crandall revealed that he was trading commodity futures. In addition to investing Webb's, Murri's and Crandall's funds, SHR also invested funds with Hoopes for seven others for the purpose of "day trading." Some of these investors made their checks payable to SHR for investment in Aspen Trading on their behalf, and some of these investors made their checks directly payable to Aspen Trading. The investments from the ten individuals associated with SHR totaled \$2,068,103 and were made in various installments in 2008 and 2009.

23. Hoopes told Crandall and Webb that all of the funds invested by and through SHR would be pooled into one account in the name of Aspen Trading and that Hoopes would use the funds to engage in "day trading." Hoopes also told Webb and Crandall that he controlled the

Aspen Trading account, which was traded at Dorman, and that he made the trading decisions for the account.

24. Hoopes has acted as a CPO since at least September 2007, in that he has solicited and accepted over two million dollars from at least ten pool participants for the purpose of trading futures in his Aspen Trading pool. Additionally, Hoopes has maintained his futures trading accounts in his name. He did not disclose to Mirus or Dorman that the accounts contain customer funds, and he failed to disclose this information to pool participants. Hoopes also violated the Commission's registration requirements and did not disclose his failure to register to pool participants.

25. Hoopes traded out of his home office, where he had computers and five or six computer screens that he told Crandall and Webb he used for trading. He also had a television screen continuously playing Bloomberg. Hoopes invited Crandall and Webb to his home office after they invested with him and showed them how he used his computer equipment to follow trends in the market.

26. In the fall of 2010, Hoopes told Crandall and Webb for the first time that he lost SHR's money trading in the Aspen Trading account at Dorman and that his representations both verbally and in account statements that he provided to Crandall were not true. Specifically, Hoopes said he "was not honest with" Crandall and that he had "lost money" trading in the Aspen Trading account.

27. In total, Hoopes lost approximately \$1,698,414 of the \$2,068,103 that SHR invested in Aspen Trading.

D. False Reports

28. Hoopes distributed false monthly account statements to Crandall via hand delivery and email for December 2008 and January, May, June, October, November and

December 2009, reflecting that Aspen Trading maintained an account with Dorman that was earning monthly profits as high as 83.52%, with only one losing month, and had a \$2,210,584 balance as of December 2009. In reality, Aspen Trading has never maintained an account with Dorman. The trading accounts at Dorman in Hoopes' and Harley Hoopes' names lost \$244,768 from December 2008 through December 2009, have not traded since July 2009, and have had a balance of approximately \$1,000 since August 2009.

29. The account number for one of the trading accounts at Dorman in Hoopes' and Harley Hoopes' names, XXX16, was the same as the account number on the Aspen Trading statements that Hoopes provided to Crandall on Dorman letterhead. Thus, on information and belief, Hoopes altered at least seven of the statements he received from Dorman for account XXX16 to appear as though they were account statements for Aspen Trading, and to appear as though he was earning large profits trading futures in this account.

30. Additionally, in order to secure a \$430,000 loan from a third party individual, Keith Cornelison ("Cornelison"), in or about September 2010, Hoopes drafted a letter to Cornelison on Mirus' letterhead falsely stating that he had \$430,000 in an account at Dorman in the name of Aspen Trading. Hoopes forged the signature of a Mirus employee on the letter. As of September 2009, the actual combined balance of the two trading accounts at Dorman in Hoopes' and Harley Hoopes' names was approximately \$1,000.

E. Misappropriation and Commingling of Customer Funds

31. During the relevant time, Hoopes solicited and accepted at least \$2,068,103 from the SHR pool participants for the purpose of trading futures in an account in the name of Aspen Trading, but he used no more than \$1,474,070 of that amount to trade futures. Hoopes instructed pool participants to invest via check made payable to Aspen Trading. He then deposited their

funds into a bank account in the name of Aspen Trading and transferred at least \$1,607,009 of pool participant funds to his personal bank accounts.

32. From there, he transferred at least \$1,474,070 to his personal futures trading accounts at Dorman, and he used at least \$151,693 of that for his personal expenses, including credit card payments, car loan payments, and mortgage payments. Hoopes also made payments of purported profits totaling \$594,339 to participants in the manner of a Ponzi scheme. Hoopes did not disclose to pool participants that he would use their funds for these purposes.

33. In addition to depositing pool participants' funds that he solicited and accepted for the purpose of trading futures into his personal bank accounts, Hoopes commingled his personal funds with those participant funds. For example, between January 28, 2008 and May 29, 2009, Hoopes deposited \$79,287 from his personal bank accounts into the Aspen Trading account and commingled those funds with approximately \$1,990,094 of customer funds he solicited and accepted for the purpose of commodity futures trading. Hoopes also commingled pool participants' funds with his personal funds in the trading accounts in his and Harley Hoopes' names at Dorman.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE

**VIOLATIONS OF SECTION 4b(a) OF THE ACT:
FRAUD BY MISREPRESENTATION AND MISAPPROPRIATION**

34. The allegations set forth in paragraphs 1 through 33 are re-alleged and incorporated by reference.

35. Prior to being amended by the CRA, Section 4b(a)(2)(i), (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i), (iii), made 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;
[or]

* * *

(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 or agency performed with respect to such order or contract for such person

36. 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), make it unlawful:

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity . . . for future delivery . . . 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; [or] . . . (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for . . . the other person.

37. Beginning in at least January 2007 and continuing through the present, Hoopes violated Section 4b(a)(2)(i), (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i), (iii), for conduct occurring before June 18, 2008, and violated 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 occurring on or after June 18, 2008, by, among other things: (1) soliciting investments through fraudulent misrepresentations about Hoopes' and Aspen Trading's past and current trading performance; and (2) misappropriating funds received from pool participants for the purpose of trading commodity futures.

38. Each material misrepresentation or omission Hoopes made from at least January 2007 to the present, 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 for conduct occurring before June 18, 2008, and Sections 4b(a)(1)(A), (C) of the Act for conduct occurring on or after June 18, 2008.

COUNT TWO

**VIOLATIONS OF SECTION 4b(a) OF THE ACT:
FRAUD BY MAKING FALSE STATEMENTS**

39. The allegations set forth in paragraphs 1 through 33 are re-alleged and incorporated herein.

40. Prior to being amended by the CRA, Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii), made 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—

* * *

(ii) willfully to make or cause to be made to such other person any false report or statement thereof, or willfully to enter or cause to be entered for such person any false record thereof

41. Section 4b(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(1)(B), makes it unlawful for any person to willfully make or cause to be made to other persons false reports or statements, or willfully to enter or cause to be entered for other persons false records in or in connection with orders to make, or the making of, contracts of sale of commodities, for future delivery, made, or to be made, for or on behalf of such other persons.

42. Hoopes violated Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii), for conduct occurring before June 18, 2008, and violated Section 4b(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(1)(B), for conduct occurring on or after June 18, 2008, by, among other things, making or causing to be made false statements issued or communicated to at least one pool participant who invested money with Hoopes to trade commodity futures contracts.

43. Each false report or statement Hoopes made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(ii) of the Act for conduct occurring before June 18, 2008, and Section 4b(a)(1)(B) of the Act for conduct occurring on or after June 18, 2008.

COUNT THREE

VIOLATIONS OF SECTION 4o(1) OF THE ACT: FRAUD BY COMMODITY POOL OPERATORS

44. The allegations set forth in paragraphs 1 through 33 are re-alleged and incorporated herein.

45. Section 4o(1)(A), (B) of the Act, 7 U.S.C. § 6o(1)(A), (B) (2006), prohibits any CPO from directly or indirectly employing any device, scheme or artifice to defraud any client, participant or prospective client or participant, or engaging in transactions, practices or a course of business which operate as a fraud or deceit upon any client or participant or prospective client or participant by using the mails or other means or instrumentalities of interstate commerce.

46. Beginning in or about January 2007 and continuing through the present, Hoopes, while acting as a CPO, violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in that he employed or is employing schemes or artifices to defraud pool participants or prospective pool participants or has engaged or is engaging in transactions, practices or a course of business which operated or

operates as a fraud or deceit upon pool participants or prospective pool participants by using the mails or other means or instrumentalities of interstate commerce. The fraudulent acts include, but are not limited to, the following: (1) soliciting investments through fraudulent misrepresentations about Hoopes' and Aspen Trading's past and current trading performance; (2) issuing false statements to at least one pool participant; and (3) misappropriating funds received from pool participants for the purpose of trading commodity futures.

47. Each act by Hoopes of making a material misrepresentation or omission, issuing a false statement, or misappropriating pool participant funds during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1) of the Act.

COUNT FOUR

VIOLATION OF SECTION 4m(1) OF THE ACT: FAILURE TO REGISTER AS A CPO

48. Paragraphs 1 through 33 are re-alleged and incorporated herein.

49. With certain exemptions and exclusions not applicable here, all CPOs operating a commodity pool are required to be registered with the Commission pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

50. Hoopes engaged in activities as a CPO without the benefit of registration as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

51. Each use of the mails or any means or instrumentality of interstate commerce in connection with Hoopes' business as a CPO without proper registration during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

COUNT FIVE

VIOLATIONS OF COMMISSION REGULATION 4.20(c): COMMINGLING

52. Paragraphs 1 through 33 are re-alleged and incorporated herein.

53. Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2011), prohibits a CPO from commingling the property of any pool it operates with the property of any other person. Hoopes, while acting as a CPO, violated Regulation 4.20(c) by commingling pool participants' funds intended for investment in his Aspen Trading commodity pool with his personal funds.

54. Each act of commingling by Hoopes while acting as a CPO during the relevant time period is alleged as a separate and distinct violation of Regulation 4.20(c).

VI. RELIEF REQUESTED

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

A. An order finding that Hoopes violated Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), for conduct occurring before 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 occurring on or after June 18, 2008; Sections 4o(1) and 4m(1) of the Act, 7 U.S.C. §§ 6o(1) and 6m(1); and Regulation 4.20(c), 17 C.F.R. 4.20(c);

B. A statutory restraining order and an order of preliminary injunction pursuant to Section 6c(a) of the Act restraining Hoopes and all persons or entities insofar as they are acting in the capacity of Hoopes' agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Hoopes 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 Hoopes, wherever located, including all such records concerning Hoopes' business operations.
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 Hoopes, wherever located, including all such records concerning Hoopes' business operations; and
3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account, whether domestic or foreign, held by, under the control, or in the name of Hoopes;

C. Enter orders of preliminary and permanent injunction enjoining Hoopes and all persons insofar as they are acting in the capacity of Hoopes' agents, servants, employees, 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. Engaging in conduct in violation of Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Act, and Commission Regulation 4.20(c);

2. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a;
3. Entering into any transactions involving commodity futures, options on commodity futures, 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 Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”), for his own personal or proprietary account or for any account in which he has a direct or indirect interest;
4. Having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on his behalf;
5. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;
6. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
7. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except

as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011);
and

8. 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 (as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a) 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) (2011);

D. Enter an order directing that Hoopes make an accounting to the Court of all of (i) Hoopes' assets and liabilities, together with all funds Hoopes received from and paid to pool participants or any other persons in connection with futures transactions or purported futures transactions, including the names, mailing addresses, email addresses, and telephone numbers of any such persons from whom Hoopes received such funds from January 1, 2007 to the date of such accounting; and (ii) all disbursements for any purpose whatsoever of funds received from pool participants and other persons, including salaries, commissions, fees, loans, and other disbursements of money and property of any kind, from January 1, 2007 to and including the date of such accounting;

E. Enter an order requiring Hoopes immediately to identify and provide an accounting of all assets and property that he currently maintains outside the United States, including, but not limited to, all funds on deposit in any financial institution, futures commission merchant, bank, or savings and loan accounts held by, under the control of, or in the name of Michael Justin Hoopes or Aspen Trading, LLC, or in which any such person or entity has a beneficial interest of any kind, whether jointly or otherwise, and requiring Hoopes to repatriate

all funds held in such accounts by paying them to the Clerk of the Court, or as otherwise ordered by the Court, for further disposition in this case;

F. Enter an order requiring Hoopes to disgorge to the Commission 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 and/or Commission Regulations as described herein, including pre- and post-judgment interest;

G. Enter an order directing Hoopes and any of his successors 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 participants whose funds were received by Hoopes as a result of the acts and practices that constitute violations of the Act and/or Commission Regulations as described herein;

H. Enter an order requiring Hoopes to make restitution by making whole each and every pool participant or other person or entity whose funds were received or utilized by him in violation of the provisions of the Act and/or Commission Regulations as described herein, including pre- and post-judgment interest;

I. Enter an order requiring Hoopes to pay civil monetary penalties under the Act, to be assessed by the Court, in amounts of not more than the higher of \$140,000 for each violation of the Act and Regulations occurring on or after October 22, 2008 and \$130,000 for each violation of the Act and Regulations occurring before October 22, 2008, or triple the monetary gain to Hoopes for each violation of the Act and Regulations described herein, plus post-judgment interest;

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

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

Dated: October 25, 2011

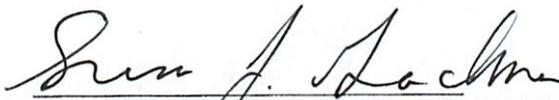
Respectfully Submitted,



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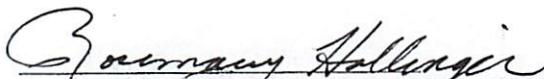
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