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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT CALIFORNIA**

12 COMMODITY FUTURES
13 TRADING COMMISSION,

14 Plaintiff,

15 vs.

16 WILLIAM KOO ICHIOKA,

17 Defendant.

**CONSENT ORDER FOR
PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF
AGAINST DEFENDANT WILLIAM
KOO ICHIOKA**

Hon. _____

Case No. _____

18 **I. INTRODUCTION**

19 Plaintiff Commodity Futures Trading Commission (“Commission” or
20 “CFTC”) has filed a Complaint against Defendant **William Koo Ichioka**
21 (**“Ichioka”**) seeking injunctive and other equitable relief for violations of the
22 Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1–26, and the Commission’s
23 Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. pts. 1–190 (2022).
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II. CONSENTS AND AGREEMENTS

To effect settlement of the matters alleged in the Complaint against Defendant Ichioka without a trial on the merits or any further judicial proceedings, while reserving a determination of other monetary relief, including restitution and a civil monetary penalty, Defendant Ichioka:

1. Consents to the entry of this Consent Order for Permanent Injunction, and Other Equitable Relief Against Defendant Ichioka (“Consent Order”);
2. Affirms that he has read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the CFTC or any member, officer, agent, or representative thereof, or by any other person, to induce consent to this Consent Order;
3. Acknowledges service of the summons and Complaint;
4. Admits the jurisdiction of this Court over him and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1;
5. Admits the jurisdiction of the CFTC over the conduct and transactions at issue in this action pursuant to the Act;
6. Admits that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e);
7. Waives:
 - a) Any and all claims that he may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2022), relating to, or arising from, this action;
 - b) Any and all claims that he may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–53, 110 Stat. 847, 857–74 (codified as amended at

1 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and
2 15 U.S.C.), relating to, or arising from, this action;

3 c) Any claim of Double Jeopardy based upon the institution of this
4 action or the entry in this action of any order imposing a civil
5 monetary penalty or any other relief, including this Consent Order;
6 and

7 d) Any and all rights of appeal from this action;

8 8. Consents to the continued jurisdiction of this Court over him for the
9 purpose of implementing and enforcing the terms and conditions of this Consent
10 Order and for all orders and decrees, including orders setting the appropriate amount
11 of civil monetary penalty, that may be entered herein, to entertain any suitable
12 application or motion for additional relief within the jurisdiction of the Court, to
13 assure compliance with this Consent Order and for any other purpose relevant to this
14 action, even if Ichioka now or in the future resides outside the jurisdiction of this
15 Court;

16 9. Agrees that he will not oppose enforcement of this Consent Order on
17 the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules
18 of Civil Procedure and hereby waives any objection based thereon;

19 10. Agrees that neither he nor any of his agents or employees under his
20 authority or control shall take any action or make any public statement denying,
21 directly or indirectly, any allegation in the Complaint or the Findings of Fact or
22 Conclusions of Law in this Consent Order, or creating or tending to create the
23 impression that the Complaint and/or this Consent Order is without a factual basis;
24 provided, however, that nothing in this provision shall affect his: (a) testimonial
25 obligations, or (b) right to take legal positions in other proceedings to which the
26 CFTC is not a party. Ichioka shall comply with this agreement, and shall undertake
27 all steps necessary to ensure that all of his agents and/or employees under his
28 authority or control understand and comply with this agreement;

1 11. Admits to all of the findings made in this Consent Order and all of the
2 allegations in the Complaint;

3 12. Agrees, for purposes of the waiver of any and all rights under the Equal
4 Access to Justice Act and the Small Business Regulatory Enforcement Fairness Act
5 of 1996 specified in Paragraph 7, Ichioka agrees that the Commission is the
6 prevailing party in this action;

7 13. Agrees to provide immediate notice to this Court and the CFTC by
8 certified mail, in the manner required by paragraph 63 of Part VI. of this Consent
9 Order, of any bankruptcy proceeding filed by, on behalf of, or against him, whether
10 inside or outside the United States; and

11 14. Agrees that no provision of this Consent Order shall in any way limit or
12 impair the ability of any other person or entity to seek any legal or equitable remedy
13 against him in any other proceeding.

14 15. Consents to pay restitution, plus post-judgment interest, in an amount
15 to be determined upon subsequent consent order or motion by the CFTC and/or
16 hearing before this Court.

17 16. Consents to pay a civil monetary penalty, plus post-judgment interest,
18 in an amount to be determined upon subsequent consent order or motion by the
19 CFTC and/or hearing before this Court.

20 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

21 The Court, being fully advised in the premises, finds that there is good cause
22 for the entry of this Consent Order and that there is no just reason for delay. The
23 Court therefore directs the entry of the following Findings of Fact, Conclusions of
24 Law, permanent injunction and equitable relief pursuant to Section 6c of the Act,
25 7 U.S.C. § 13a-1, as set forth herein.

1 **THE PARTIES AGREE AND THE COURT HEREBY FINDS:**

2 **A. Findings of Fact**

3 **The Parties to this Consent Order**

4 17. Plaintiff **Commodity Futures Trading Commission** is an independent
5 federal regulatory agency that is charged by Congress with administering and
6 enforcing the Act and the Regulations.

7 18. Defendant **William Koo Ichioka** is 30 years old and currently resides
8 in New York City, NY, but at various times has lived in San Francisco, California.
9 Ichioka has represented that he was the manager of a purported entity called Ichioka
10 Ventures. Ichioka has never been registered with the Commission in any capacity.

11 **Other Entity**

12 19. **Ichioka Ventures, LLC (“IVLLC”)** is located in New York City, NY
13 and was formed by Ichioka as a Delaware limited liability corporation on August 2,
14 2019, under the original name of Ichioka Ventures, GP, LLC. On or about
15 October 3, 2019, Ichioka changed the entity’s name to Ichioka Ventures, LLC.
16 IVLLC has never been registered with the Commission in any capacity.

17 **Ichioka’s Fraudulent Scheme**

18 20. Beginning no later than in or about 2018, through at least in or about
19 November 2021, Ichioka launched a commodity pool. To induce prospective
20 participants to deposit funds, Ichioka represented to prospective participants that he
21 would invest their money in various ways – including, among other instruments,
22 commodity interests, including forex, and digital asset commodities, including
23 bitcoin and ether. He also represented to prospective participants that they would
24 earn 10% returns every 30 business days (or approximately 42 calendar days) to
25 induce their investments, and that his investment and trading activities had actually
26 been generating and/or had the ability to generate returns in excess of these
27 amounts.

1 21. In or about 2019, Ichioka began doing business under the name
2 “Ichioka Ventures,” creating various business entities including ICHIOKA
3 VENTURES LLC.

4 22. In 2019, Ichioka also created a website for Ichioka Ventures at
5 www.ichiokaventures.com that Ichioka used as a platform to solicit participants and
6 to communicate with them regarding making an investment with the Ichioka
7 Ventures pool (referred to on the website as a “fund”). The website’s publicly
8 accessible homepage describes Ichioka as a “self-made investor” who “began his
9 quest at a very early age and has already amassed a multimillion-dollar fortune.”
10 The website further describes Ichioka as a “savant in his craft” who “seeks to deliver
11 a consistent enhanced total return through his ability to identify and execute
12 immediately on global market opportunities.”

13 23. The website stated, among other things: “The investment term is 30
14 business days with a 10% return” and “Principal and profits are distributed directly
15 to account balance and can easily be withdrawn or reinvested.” The Ichioka
16 Ventures website further allowed participants to create and login to accounts to
17 “Invest,” “Re Invest/Withdraw,” view balances, view “Transaction History,” among
18 other things. Ichioka presented investment contracts, including styled as a
19 “Promissory Note,” in which investors agreed to entrust funds to Ichioka and/or
20 Ichioka Ventures.

21 25. Ichioka invested some participant funds in, for example, commodity
22 interests, including forex, and digital asset commodities, including bitcoin and ether,
23 precious metals, and stock in start-up companies. However, he failed to invest other
24 portions of the participants funds entrusted to him as he had promised. Instead,
25 Ichioka commingled participant money with his own funds and used participant
26 money to fund his own personal expenses (such as rent for his personal residence,
27 restaurants and bars, grocery stores, taxi or car share rides, retail stores, gym
28

1 membership fees, and online purchases, among other things) and to make purchases
2 of luxury items (such as watches and other jewelry, and luxury vehicles).

3 26. The terms “forex,” “retail forex transactions,” “forex agreements” or
4 “forex contracts” described herein refer to leveraged, margined, or financed
5 transactions with customers that are not ECPs as described in Section 2(c)(2)(C) of
6 the Act. These transactions are commodity interests.

7 27. Moreover, Ichioka and Ichioka Ventures did not actually earn 10%
8 returns every 30 business days for participants throughout the time that Ichioka
9 represented that it did. Rather, Ichioka and Ichioka Ventures sustained losses from
10 portions of funds that Ichioka had invested. Though Ichioka asserts that he believed
11 it was possible to earn such returns, by the end of 2019 – unbeknownst to
12 participants – Ichioka had privately acknowledged that the “[c]ompany hasn’t made
13 any money since we started.”

14 28. Ichioka also concealed and hid, and caused to be concealed and hidden,
15 the acts done and the purpose of the acts done in furtherance of the scheme,
16 including to further perpetuate the scheme. These concealments included, but were
17 not limited to:

- 18 a) Ichioka doctored, and/or caused to be doctored, financial documents to
19 falsely overstate the value of assets, including bank, brokerage, and
20 cryptocurrency exchange materials. For example, in or about
21 November 2019, Ichioka falsified a purported “proof of funds” letter
22 and screenshot indicating the value of his holdings with the
23 cryptocurrency exchange Kraken to be approximately 1200 Bitcoin
24 (BTC) (valued at approximately \$10.8 million) and a balance of
25 \$500,000 U.S. dollars, when in fact his holdings with that exchange did
26 not exceed approximately 18 BTC (valued at approximately \$150,000)
27 and/or a balance of approximately \$100,000 U.S. dollars.

1 b) Ichioka provided doctored documents showing falsely overstated
2 values of assets to prospective participants. For example, on or about
3 October 11, 2019, Ichioka emailed a falsified Bank of America
4 statement for account to a participant showing a purported balance of
5 approximately \$1.5 million (when in fact the accounts' balance during
6 this time did not exceed \$200,000).

7 c) Ichioka presented false statements of account to participants, including
8 via participant account updates on the Ichioka Ventures website,
9 divorced from the actual performance or value of invested funds with
10 him.

11 d) Ichioka repaid existing participants' principal amounts and/or purported
12 gains ("profits") using new participant funds.

13 29. Ichioka transmitted and/or caused to be transmitted in interstate and
14 foreign commerce numerous wire communications for the purpose of executing the
15 scheme to defraud, for example: (a) \$200,000 wire transfer on or about August 2,
16 2018 from a participant via Fedwire Funds Transfer to his J.P. Morgan Chase
17 ("JPMC") personal checking account ending in -2053, funds that Ichioka
18 misdirected for personal expenses (including the purchase of a luxury vehicle,
19 payment of rent, and credit card payments); (b) \$150,000 wire transfer on or about
20 June 12, 2019 from a participant via Fedwire Funds Transfer System to his JPMC
21 personal checking account ending in -2053, funds that he misdirected for personal
22 expenses (including jewelry and credit card payments) and repayment of other
23 participants; and (c) \$200,000 wire transfer on or about February 13, 2020 from a
24 participant via Fedwire Funds Transfer System to his Ichioka Ventures Bank of
25 America account ending in – 7517, following his transmittal of doctored financial
26 documents overstating the value of his and/or Ichioka Ventures' holdings.

27 30. The money and property obtained by Ichioka through this fraudulent
28 scheme totaled more than \$21 million.

1 **B. Conclusions of Law**

2 **Jurisdiction and Venue**

3 31. This Court possesses jurisdiction over this action pursuant to 28 U.S.C.
4 § 1331 (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (providing
5 that U.S. district courts have original jurisdiction over civil actions commenced by
6 the United States or by any agency expressly authorized to sue by Act of
7 Congress). Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), provides that the CFTC
8 may bring actions for injunctive relief or to enforce compliance with the Act or any
9 rule, regulation, or order thereunder in the proper district court of the United States
10 whenever it shall appear to the CFTC that any person has engaged, is engaging, or is
11 about to engage in any act or practice constituting a violation of any provision of the
12 Act or any rule, regulation, or order thereunder.

13 32. Venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e),
14 because Defendant Ichioka transacted business in this District and the acts and
15 practices in violation of the Act occurred within this District.

16 **Violations of Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), and Regulation**
17 **180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2022) (Fraud by Deceptive**
18 **Device or Contrivance)**

19 33. Section 6(c)(1) of the Act, 7 U.S.C. § 9(1), makes it unlawful for any
20 person, directly or indirectly, to:

21 [U]se or employ, or attempt to use or employ, in connection with any
22 swap, or a contract of sale of any commodity in interstate commerce, or
23 for future delivery on or subject to the rules of any registered entity, any
24 manipulative or deceptive device or contrivance, in contravention of such
25 rules and regulations as the Commission shall promulgate

26 34. Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2022), provides:

27 It shall be unlawful for any person, directly or indirectly, in connection
28 with any swap, or contract of sale of any commodity in interstate

1 commerce, or contract for future delivery on or subject to the rules of any
2 registered entity, to intentionally or recklessly:

3 (1) Use or employ or attempt to use or employ, any manipulative device,
4 scheme, or artifice to defraud;

5 (2) Make, or attempt to make, any untrue or misleading statement of a
6 material fact or to omit to state a material fact necessary in order to make
7 the statements made not untrue or misleading; [and/or]

8 (3) Engage, or attempt to engage, in any act, practice, or course of business,
9 which operates or would operate as a fraud or deceit upon any person

10

11 35. A digital asset is anything that can be stored and transmitted
12 electronically and has associated ownership or use rights. Digital assets include
13 virtual currencies such as bitcoin and ether, which are digital representations of
14 value that function as mediums of exchange, units of account, and/or stores of value.
15 Certain digital assets are “commodities,” including those alleged herein, as defined
16 under Section 1a(9) of the Act, 7 U.S.C. § 1a(9). There are commodity futures
17 contracts on bitcoin and ether that trade on the Chicago Mercantile Exchange, a
18 designated contract market regulated by the CFTC.

19 36. By the conduct described in paragraphs 1 through 35 above, Defendant
20 Ichioka cheated and defrauded, or attempted to cheat and defraud, and willfully
21 deceived, or attempted to deceive, his pool participants by, among other things, in
22 connection with digital asset commodities, including bitcoin or ether, by
23 misappropriating pool participant funds, in violation of 7 U.S.C. § 9(1) and
24 17 C.F.R. § 180.1(a)(1)-(3).

25 37. As described above, Ichioka also violated 7 U.S.C. § 9(1) and
26 17 C.F.R. § 180.1(a)(1)-(3) by, among other things, in connection with any swap
27 contract, contract of sale of any commodities in interstate commerce, or contracts
28 for future delivery on or subject to the rules of any registered entity, intentionally or

1 recklessly making false and misleading statements of material fact, or omitting to
2 state material facts, to pool participants and prospective participants:

- 3 a) Falsely representing Ichioka’s trading expertise and past profitability;
- 4 b) Misrepresenting the expected profits and risk of loss of investing with
5 Ichioka; and
- 6 c) Failing to disclose that participant funds were commingled with other
7 participants’ funds and were being used to pay Ichioka’s personal
8 expenses and to pay other participants in a manner akin to a Ponzi
9 scheme.

10 **Violations of Section 4b(a)(2)(A) and (C), 7 U.S.C. § 6b(a)(2)(A), (C), and**
11 **Regulation 5.2(b), 17 C.F.R. § 5.2(b)(1), (3) (2022) (Fraud in Connection**
12 **with Forex Transactions)**

13 38. 7 U.S.C. § 6b(a)(2)(A) and (C) makes it unlawful “for any person, in or
14 in connection with any order to make, or the making of, any contract for sale of any
15 commodity for future delivery . . . that is made, or to be made, for or on behalf of, or
16 with any other person, other than on or subject to the rules of a designated contract
17 market—(A) to cheat or defraud or attempt to cheat or defraud the other person; . . .
18 [or] (C) willfully to deceive or attempt to deceive the other person by any means
19 whatsoever in regard to any order or contract or the disposition or execution of any
20 order or contract, or in regard to any act of agency performed, with respect to an
21 order or contract for or, in the case of paragraph (2), with the other person.”

22 39. Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C), among other
23 things, contains three grants which make clear that the CFTC has jurisdiction over,
24 and that certain antifraud provisions in the Act apply to, retail forex:

- 25 a) Pursuant to 7 U.S.C. § 2(c)(2)(C)(ii)(I), forex agreements, contracts, or
26 transactions described in 7 U.S.C. § 2(c)(2)(C)(i) “shall be subject to”
27 the antifraud provisions of 7 U.S.C. §§ 6b and 6o, among other
28 Sections of the Act;

1 b) Pursuant to 7 U.S.C. § 2(c)(2)(C)(iv), 7 U.S.C. § 6b “shall apply to” the
2 forex agreements, contracts, or transactions described in 7 U.S.C.
3 § 2(c)(2)(C) “as if” they were a contract of sale of a commodity for
4 future delivery; and

5 c) Pursuant to 7 U.S.C. § 2(c)(2)(C)(vii), “[t]his Act applies to, and the
6 Commission shall have jurisdiction over, an account or pooled
7 investment vehicle that is offered for the purpose of trading, or that
8 trades,” forex agreements, contracts, or transactions described in
9 7 U.S.C. § 2(c)(2)(C)(i).

10 40. The foreign currency transactions offered by Ichioka are retail forex
11 transactions pursuant to Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2022). Moreover,
12 17 C.F.R. § 5.2(b)(1), (3) (2022), makes it unlawful “for any person, by use of the
13 mails or by any means or instrumentality of interstate commerce, directly or
14 indirectly, in or in connection with any retail forex transaction: (1) [t]o cheat or
15 defraud or attempt to cheat or defraud any person; . . . or (3) [w]illfully to deceive or
16 attempt to deceive any person by any means whatsoever.”

17 41. Defendant Ichioka violated 7 U.S.C. § 6b(a)(2)(A), (C) and 17 C.F.R.
18 § 5.2(b)(1), (3), by knowingly and willfully, among other things:

- 19 a) Falsely representing Ichioka’s trading expertise and past profitability;
20 b) Misrepresenting the expected profits and risk of loss of investing with
21 Ichioka;
22 c) Failing to disclose that participant funds were commingled with
23 Ichioka’s own funds and were being used to pay Ichioka’s personal
24 expenses and to pay other participants in a manner akin to a Ponzi
25 scheme; and
26 d) Misappropriating pool participant funds.

27 42. Defendant Ichioka engaged in such acts by the use of the mails or other
28 means or instrumentality of interstate commerce.

1 **Violations of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A), (B)**
2 **(Fraud and Deceit by a Commodity Pool Operator)**

3 43. A commodity pool is defined in Section 1a(10) of the Act, 7 U.S.C.
4 § 1a(10), as “any investment trust, syndicate, or similar form of enterprise operated
5 for the purpose of trading in commodity interests”

6 44. A Commodity Pool Operator (“CPO”) is defined in Section 1a(11) of
7 the Act, 7 U.S.C. § 1a(11), as “any person . . . engaged in a business that is of the
8 nature of a commodity pool, investment trust, syndicate or similar form of
9 enterprise, and who, in connection therewith, solicits, accepts, or receives from
10 others, funds, securities or property . . . for the purpose of trading in commodity
11 interests”

12 45. During the Relevant Period, Ichioka acted as a CPO by soliciting,
13 accepting, or receiving funds from others for the purpose of trading for a pooled
14 investment in “commodity interests” (as that term is defined in Commission
15 Regulation 1.3, 17 C.F.R. § 1.3 (2022)), including forex.

16 46. 7 U.S.C. § 6o(1)(A) and (B) makes it unlawful for a CPO or an
17 associated person of a CPO, “by use of the mails or any means or instrumentality of
18 interstate commerce, directly or indirectly—(A) to employ any device, scheme, or
19 artifice to defraud any client or participant or prospective client or participant; or
20 (B) to engage in any transaction, practice, or course of business which operates as a
21 fraud or deceit upon any client or participant or prospective client or participant.”

22 47. Ichioka, while acting as a CPO, committed fraud in violation of
23 7 U.S.C. § 6o(1)(A) and (B) by misappropriating pool participant funds.

24 48. Ichioka, acting as a CPO, also committed fraud by misrepresentation
25 and omission of material fact in violation of 7 U.S.C. § 6o(1)(A) and (B) by, among
26 other things:

27 a) Falsely representing Ichioka’s trading expertise and past profitability;
28

1 b) Misrepresenting the expected profits and risk of loss of investing with
2 Ichioka; and

3 c) Failing to disclose that participant funds were commingled with
4 Ichioka’s own funds and were being used to pay Ichioka’s personal
5 expenses and to pay other participants in a manner akin to a Ponzi
6 scheme.

7 **Violations of Sections 2(c)(2)(C)(iii)(I)(cc) and 4m(1) of the Act, 7 U.S.C.**
8 **§§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1), and Regulation 5.3(a)(2)(i), 17 C.F.R.**
9 **§ 5.3(a)(2)(i) (2022) (Failure to Register as a CPO)**

10 49. Section 2(c)(2)(C)(iii)(I)(cc) of the Act, 7 U.S.C.

11 § 2(c)(2)(C)(iii)(I)(cc), makes it unlawful for any person, unless registered as a
12 CPO, to operate or solicit funds for any pooled investment vehicle in connection
13 with any forex contract that accepts non-Eligible Contract Participants (“ECPs”).

14 For an individual to qualify as an ECP, he or she must have invested on a
15 discretionary basis at least \$10 million, or at least \$5 million if the investments are
16 in order to hedge risk. Section 1a(18)(A)(xi) of the Act, 7 U.S.C. § 1a(18)(A)(xi).

17 In addition, Section 4m(1) of the Act, 7 U.S.C. § 6m(1) states that it shall be
18 “unlawful for any commodity trading advisor or commodity pool operator, unless
19 registered under this Act, to make use of the mails or any means or instrumentality
20 of interstate commerce in connection with his business as such commodity trading
21 advisor or commodity pool operator” Regulation 5.3(a)(2)(i), 17 C.F.R.

22 § 5.3(a)(2)(i), requires anyone acting as a CPO for a pooled investment vehicle that
23 engages in retail forex transactions to register as a CPO.

24 50. Ichioka acted as a CPO by operating, or soliciting funds for, a pooled
25 investment vehicle that engages in retail forex transactions without limiting
26 participants to ECPs and used the mails or means of interstate commerce in
27 connection with his business as a CPO, while not being registered with the
28 Commission as a CPO.

1 51. Ichioka violated 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and
2 17 C.F.R. § 5.3(a)(2)(i), by acting as a CPO without the benefit of registration with
3 the Commission.

4 **Violations of Regulation 4.20(c), 17 C.F.R. § 4.20(c)**
5 **(Commingling of Funds by a CPO)**

6 52. Under 17 C.F.R. § 4.20(c), a CPO may not “commingle the property of
7 any pool that it operates or that intends to operate with the property of any other
8 person.”

9 53. Ichioka caused pool participant funds to be commingled with funds of
10 other persons.

11 54. By reason of the foregoing, Ichioka commingled participant funds in
12 violation of 17 C.F.R. § 4.20(c).

13 55. Unless restrained and enjoined by this Court, there is a reasonable
14 likelihood that Ichioka will continue to engage in the acts and practices alleged in
15 the Complaint and in similar acts and practices in violation of the Act and
16 Regulations.

17 **IV. PERMANENT INJUNCTION**

18 **IT IS HEREBY ORDERED THAT:**

19 56. Based upon and in connection with the foregoing conduct, pursuant to
20 Section 6c of the Act, 7 U.S.C. § 13a-1, Defendant Ichioka is permanently
21 restrained, enjoined and prohibited from directly or indirectly:

- 22 a) [U]sing or employing, or attempting to use or employ, in connection
23 with any swap, or a contract of sale of any commodity in interstate
24 commerce, or for future delivery on or subject to the rules of any
25 registered entity any manipulative or deceptive device or contrivance,
26 in contravention of such rules and regulations as the Commission shall
27 promulgate in violation of Section 6(c)(1) of the Act, 7 U.S.C. § 9(1);
28

- 1 b) in connection with any swap, or contract of sale of any commodity in
2 interstate commerce, or contract for future delivery on or subject to the
3 rules of any registered entity, intentionally or recklessly:
- 4 (1) Using or employing or attempting to use or employ, any manipulative
5 device, scheme, or artifice to defraud;
- 6 (2) Making, or attempting to make, any untrue or misleading statement
7 of a material fact or to omit to state a material fact necessary in order
8 to make the statements made not untrue or misleading; and/or
- 9 (3) Engaging, or attempting to engage, in any act, practice, or course of
10 business, which operates or would operate as a fraud or deceit upon
11 any person in violation of Regulation 180.1(a), 17 C.F.R. § 180.1(1)
12 (2022);
- 13 c) in, or in connection with any order to make, or the making of, any
14 contract for sale of any commodity for future delivery, that is made, or
15 to be made, for or on behalf of, or with any other person, other than on
16 or subject to the rules of a designated contract market: (A) cheating or
17 defrauding or attempting to cheat or defraud the other person; or
18 (C) willfully deceiving or attempting to deceive the other person by any
19 means whatsoever in regard to any order or contract or the disposition
20 or execution of any order or contract, or in regard to any act of agency
21 performed, with respect to an order or contract for or . . . with the other
22 person,” in violation of Section 4b(a)(2)(A) and (C) of the Act,
23 7 U.S.C. § 6b(a)(2)(A), (C), and Regulation 5.2(b)(1) and (3),
24 17 C.F.R. § 5.2(b)(1), (3) (2022);
- 25 d) while acting as a CPO, using the mails or any means or instrumentality
26 of interstate commerce . . . (A) to employ any device, scheme, or
27 artifice to defraud any client or participant or prospective client or
28 participant; or (B) to engage in any transaction, practice, or course of

1 business which operates as a fraud or deceit upon any client or
2 participant or prospective client or participant, in violation of Section
3 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A),(B);

4 e) operating or soliciting funds for any pooled investment vehicle in
5 connection with any forex contract that accepts non-ECPs, unless
6 registered under the Act as a commodity pool operator, in violation of
7 Sections 2(c)(2)(C)(iii)(I)(cc) and 4m(1) of the Act, 7 U.S.C.

8 §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1), and Regulation 5.3(a)(2)(i),
9 17 C.F.R. § 5.3(a)(2)(i) (2022); and

10 f) while acting as a CPO, commingling the property of any pool that it
11 operates or intends to operate with the property of any other person, in
12 violation of Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2022).

13 57. Defendant Ichioka is also permanently restrained, enjoined and
14 prohibited from directly or indirectly:

15 a) Trading on or subject to the rules of any registered entity (as that term
16 is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40);

17 b) Entering into any transactions involving “commodity interests” (as that
18 term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022) or digital
19 asset commodities, including bitcoin and ether, for his own personal
20 account or for any account in which he has a direct or indirect interest;

21 c) Having any commodity interests, or digital asset commodities,
22 including bitcoin and ether, traded on his behalf;

23 d) Controlling or directing the trading for or on behalf of any other person
24 or entity, whether by power of attorney or otherwise, in any account
25 involving commodity interests, or digital asset commodities, including
26 bitcoin and ether;

- 1 e) Soliciting, receiving or accepting any funds from any person for the
2 purpose of purchasing or selling any commodity interests or digital
3 asset commodities, including bitcoin and ether;
- 4 f) Applying for registration or claiming exemption from registration with
5 the Commission in any capacity, and engaging in any activity requiring
6 such registration or exemption from registration with the Commission,
7 except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)
8 (2022); and/or
- 9 g) Acting as a principal (as that term is defined in Regulation 3.1(a),
10 17 C.F.R. § 3.1(a) (2022)), agent or any other officer or employee of
11 any person (as that term is defined in 7 U.S.C. § 1a(38)), registered,
12 exempted from registration or required to be registered with the
13 Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

14 **V. RESTITUTION AND CIVIL MONETARY PENALTY**

15 58. Defendant Ichioka shall pay restitution, plus post-judgment interest, to
16 each defrauded participant.

17 59. Defendant Ichioka shall pay a civil monetary penalty, plus post-
18 judgment interest to the CFTC.

19 60. The Court shall determine the amounts of restitution and civil monetary
20 penalty and the procedures for payment and distribution of these monetary sanctions
21 by further order upon: motion of the parties submitting to the Court a proposed
22 consent order setting out their agreement on the amounts of restitution and civil
23 monetary penalty to be paid by Ichioka in this matter; subsequent motion by the
24 CFTC; and/or hearing before this Court. In connection with any Commission
25 motion for restitution and civil monetary penalties, and at any hearing held on such
26 motion: (a) Defendant Ichioka will be precluded from arguing that he did not
27 violate the federal laws as agreed to in this Consent Order; (b) Defendant Ichioka
28 may not challenge the validity of his consent and agreement herein or this Consent

1 Order; (c) the Findings of Fact and Conclusions of Law of this Consent Order shall
2 be accepted as and deemed true by the Court; and (d) the court may determine the
3 issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn
4 testimony, witness testimony, and documentary evidence, without regard to the
5 standards for summary judgment contained in Rule 56(c) of the Federal Rules of
6 Civil Procedure. In connection with the Commission's motion for restitution and
7 civil monetary penalties, the parties may take discovery, including discovery from
8 appropriate non-parties.

9 61. Ichioka shall cooperate fully and expeditiously with the CFTC,
10 including the CFTC's Division of Enforcement, and any other governmental agency
11 or any self-regulatory organization, in this action, and in any current or future CFTC
12 investigation or action related thereto. Defendant Ichioka shall also cooperate in
13 any investigation, civil litigation, or administrative matter related to, or arising from,
14 this action. As part of such cooperation, Ichioka shall comply, to the full extent of
15 his abilities, promptly and truthfully with any inquiries or requests for information
16 including but not limited to, requests for production of documents and
17 authentication of documents, and shall provide assistance at any trial, proceeding, or
18 investigation related to the subject matter of this action, including but not limited to,
19 requests for testimony, depositions, and/or interviews. Should the CFTC file any
20 additional action related to the subject matter of this action, Ichioka is directed to
21 appear in the judicial district in which such action is pending, or in a suitable
22 judicial district agreed to by the parties, to provide deposition testimony and trial
23 testimony should such testimony be necessary.

24 62. Ichioka shall also cooperate in any investigation, civil litigation, or
25 administrative matter related to, or arising from, this action.

26 **VI. MISCELLANEOUS PROVISIONS**

27 63. Notice: All notices required to be given by any provision in this
28 Consent Order shall be sent certified mail, return receipt requested, as follows:

1 Notice to CFTC:

2 Robert T. Howell
3 Deputy Director
4 Commodity Futures Trading Commission
5 Division of Enforcement
6 77 W. Jackson Blvd., Suite 800
7 Chicago, IL 609604
8

9 Notice to Defendant:

10 William Koo Ichioka, through his counsel:
11 Attorney for William Koo Ichioka
12 John D. Cline
13 Law Office of John D. Cline
14 600 Stewart Street, Suite 400
15 Seattle, WA 98101

16 All such notices to the CFTC shall reference the name and docket number of this
17 action.

18 64. Change of Address/Phone: Until such time as Ichioka satisfies in full
19 his restitution obligation, and civil monetary penalties as set forth in this Consent
20 Order, Ichioka shall provide written notice to the Commission by certified mail of
21 any change to his telephone number and mailing address within ten calendar days of
22 the change.

23 65. Entire Agreement and Amendments: This Consent Order incorporates
24 all of the terms and conditions of the settlement among the parties hereto to date.
25 Nothing shall serve to amend or modify this Consent Order in any respect
26 whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and
27 (c) approved by order of this Court.
28

1 66. Invalidation: If any provision of this Consent Order or if the
2 application of any provision or circumstance is held invalid, then the remainder of
3 this Consent Order and the application of the provision to any other person or
4 circumstance shall not be affected by the holding.

5 67. Waiver: The failure of any party to this Consent Order or of any pool
6 participant at any time to require performance of any provision of this Consent
7 Order shall in no manner affect the right of the party or pool participant at a later
8 time to enforce the same or any other provision of this Consent Order. No waiver in
9 one or more instances of the breach of any provision contained in this Consent
10 Order shall be deemed to be or construed as a further or continuing waiver of such
11 breach or waiver of the breach of any other provision of this Consent Order.

12 68. Continuing Jurisdiction of this Court: This Court shall retain
13 jurisdiction of this action to ensure compliance with this Consent Order and for the
14 determination of damages under Section 6c of the Act, and for all other purposes
15 related to this action, including any motion by Defendant to modify or for relief
16 from the terms of this Consent Order.

17 69. Until such time as Ichioka satisfies in full his restitution and civil
18 monetary penalty obligations that may be imposed in this action, upon the
19 commencement by or against Ichioka of insolvency, receivership or bankruptcy
20 proceedings or any other proceedings for the settlement of Ichioka's debts, all
21 notices to creditors required to be furnished to the Commission under Title 11 of the
22 United States Code or other applicable law with respect to such insolvency,
23 receivership bankruptcy or other proceedings, shall be sent to the address below:
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1 Secretary of the Commission
2 Office of the General Counsel
3 Commodity Futures Trading Commission
4 Three Lafayette Centre
5 1155 21st Street N.W.
6 Washington, DC 20581

7 70. Injunctive and Equitable Relief Provisions: The injunctive and
8 equitable relief provisions of this Consent Order shall be binding upon Ichioka, upon
9 any person under his authority or control, and upon any person who receives actual
10 notice of this Consent Order, by personal service, e-mail, facsimile or otherwise
11 insofar as he or she is acting in active concert or participation with Ichioka.

12 71. Counterparts and Facsimile Execution: This Consent Order may be
13 executed in two or more counterparts, all of which shall be considered one and the
14 same agreement and shall become effective when one or more counterparts have
15 been signed by each of the parties hereto and delivered (by facsimile, e-mail, or
16 otherwise) to the other party, it being understood that all parties need not sign the
17 same counterpart. Any counterpart or other signature to this Consent Order that is
18 delivered by any means shall be deemed for all purposes as constituting good and
19 valid execution and delivery by such party of this Consent Order.

20 72. Contempt: Ichioka understands that the terms of the Consent Order,
21 except with respect to restitution or the civil monetary penalty, are enforceable
22 through contempt proceedings to the fullest extent of applicable law, and that, in any
23 such proceedings he may not challenge the validity of this Consent Order.

24 73. Agreements and Undertakings: Ichioka shall comply with all of the
25 undertakings and agreements set forth in this Consent Order.
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1 There being no just reason for delay, the Clerk of the Court is hereby ordered
2 to enter this *Consent Order for Permanent Injunction and Other Equitable Relief*
3 *against Defendant William Koo Ichioka* forthwith and without further notice.
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5 **IT IS SO ORDERED** on this 14 day of August, 2023.
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9 **UNITED STATES DISTRICT JUDGE**
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