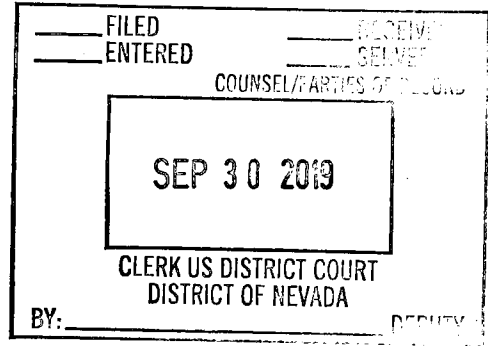


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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

DAVID GILBERT SAFFRON
a/k/a DAVID GILBERT and
CIRCLE SOCIETY, CORP.,

Defendants.

Case No. **2:19-cv-01697-KJD-DJA**

**COMPLAINT FOR INJUNCTIVE
RELIEF, RESTITUTION,
DISGORGEMENT AND CIVIL
MONETARY PENALTIES UNDER THE
COMMODITY EXCHANGE ACT**

Plaintiff, Commodity Futures Trading Commission (“CFTC” or “Commission”), by and through its attorneys, alleges as follows:

I. SUMMARY

1. From at least December 2017 through the present (the “Relevant Period”), David Gilbert Saffron a/k/a David Gilbert (“Saffron”), has engaged in a fraudulent scheme to solicit Bitcoin and United States Dollars (“USD”) from members of the public to participate in a pooled investment vehicle (“commodity pool” or “Pool”) for trading commodity interests, including trading binary options contracts on foreign currency (“forex”) and cryptocurrency pairs.

2. During the early stages of his activity, Saffron individually created a business entity, Circle Society, Corp. (“Circle Society”), on or about September 6, 2018, and used this entity to perpetuate his fraud. Beginning on or about September 6, 2018 through the present,

1 Saffron, individually and as principal and agent of Circle Society (collectively, “Defendants”),
2 has fraudulently solicited members of the public to participate in a commodity pool operated by
3 Circle Society.

4 3. During the Relevant Period, Saffron, and from September 6, 2018 through the
5 present, Defendants, by and through Saffron, have accepted at least \$11 million worth of Bitcoin
6 and USD (Bitcoin, together with USD, “funds”) from no fewer than fourteen members of the
7 public to participate in their unregistered commodity pool, which Defendants referred to as the
8 “System” or as one of the purported Circle Society investment plans. Rather than using pool
9 participants’ funds to trade in binary options contracts as promised, Defendants have
10 misappropriated participants’ funds (including by retaining participants’ funds in Saffron’s
11 personal E-Wallet and by using funds to pay other participants) and lied to participants in order
12 to conceal Defendants’ misappropriation.
13

14 4. In furtherance of their fraudulent scheme, Defendants have made material
15 omissions and misrepresentations in solicitations to actual and prospective pool participants,
16 including misrepresenting Saffron’s experience and track record and misrepresenting that pool
17 participants’ funds would be pooled and invested in, among other things, binary options trading
18 for the benefit of participants.
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20 5. Contrary to Defendants’ representations, Defendants have misappropriated certain
21 pool participants’ funds by soliciting funds for trading and then retaining such funds in Saffron’s
22 personal E-Wallet instead of using them to trade on behalf of the Pool as promised. Defendants
23 did not conduct trading on behalf of participants as promised. Defendants also misappropriated
24 some portions of participants’ funds by providing Bitcoin to earlier-in-time participants using the
25 Bitcoin of later-in-time participants to perpetuate their fraud, in the nature of a “Ponzi” scheme.
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1 6. Saffron acted and continues to act at all times during the Relevant Period as a
2 commodity pool operator (“CPO”) without being registered with the CFTC, as required by the
3 Commodity Exchange Act (“Act”). From September 6, 2018 through the present, Circle Society
4 acted and continues to act as a CPO without being registered with the CFTC, and Saffron acted
5 and continues to act as an associated person (“AP”) of CPO Circle Society without being
6 registered with the CFTC, as required by the Act.

7 7. By this conduct, and the conduct further described herein, Defendants have
8 engaged, are engaging and/or are about to engage in acts and practices in violation of Sections
9 4c(b), 4k(2), 4m(1), and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6c(b), 6k(2), 6m(1), 6o(1)(A)-(B)
10 (2012), and CFTC Regulations (“Regulation(s)”) 4.20(a)(1), (b) and (c), and 32.4, 17 C.F.R.
11 §§ 4.20(a)(1), (b), (c), and 32.4 (2019).

12 8. The acts and omissions described herein have all been done by Saffron in the
13 scope of his employment or office at Circle Society during the September 6, 2018 through the
14 present timeframe. Therefore, Circle Society is liable for all acts and omissions described
15 herein, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation
16 1.2, 17 C.F.R. § 1.2 (2019).

17 9. Saffron was a controlling person of Circle Society and did not act in good faith or
18 knowingly induced Circle Society’s violations of the Act and Regulations described herein
19 during the September 6, 2018 through the present timeframe. Therefore, Saffron is liable for
20 Circle Society’s violations of the Act and Regulations, pursuant to Section 13(b) of the Act,
21 7 U.S.C. § 13c(b) (2012).

22 10. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), the
23 CFTC brings this action to enjoin Defendants’ unlawful acts and practices and to compel their
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1 compliance with the Act and the Regulations promulgated thereunder. In addition, the CFTC
2 seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading
3 and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and
4 such other and further relief as the Court deems necessary and appropriate.

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

8
9 **II. JURISDICTION AND VENUE**

10 12. This Court possesses jurisdiction over this action pursuant to 28 U.S.C. § 1331
11 (2012) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (providing that U.S.
12 district courts have original jurisdiction over civil actions commenced by the United States or by
13 any agency expressly authorized to sue by act of Congress). In addition, Section 6c of the Act,
14 7 U.S.C. § 13a-1 (2012), provides that U.S. district courts possess jurisdiction to hear actions
15 brought by the CFTC for injunctive relief or to enforce compliance with the Act whenever it
16 shall appear that such person has engaged, is engaging, or is about to engage in any act or
17 practice constituting a violation of any provision of the Act or any rule, regulation, or order
18 thereunder.

19
20 13. Venue lies properly with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C.
21 § 13a-1(e) (2012), because Defendants resided and transacted business in this District, and
22 certain transactions, acts, practices, and courses of business alleged in this Complaint occurred,
23 are occurring, or are about to occur in this District.
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III. THE PARTIES

14. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act, 7 U.S.C. §§ 1-26 (2012), and the Regulations promulgated thereunder, 17 C.F.R. pts. 1-190 (2019).

15. Defendant **David Gilbert Saffron** is a citizen of the Commonwealth of Australia and sometimes uses the alias “David Gilbert.” Saffron’s last known residence is in Las Vegas, Nevada. Saffron has never been registered with the CFTC in any capacity.

16. Defendant **Circle Society, Corp.** is a Nevada corporation based in Henderson, Nevada. Circle Society, Corp. was incorporated by Saffron on September 6, 2018, with a purported office at 2450 St. Rose Parkway, Suite 120, Henderson, Nevada. Circle Society, Corp. has never been registered with the CFTC in any capacity.

IV. STATUTORY BACKGROUND

17. Through Section 4c(b) of the Act, 7 U.S.C § 6c(b) (2012), Congress has given the CFTC jurisdiction and plenary rulemaking authority over all commodity option transactions.

18. Binary options are “options,” as defined by Section 1a(36) of the Act, 7 U.S.C. § 1a(36) (2012), and binary options on commodity futures and “commodities,” as defined by Section 1a(9) or (19) of the Act, 7 U.S.C. § 1a(9), (19) (2012), are commodity option transactions pursuant to Section 4c(b) of the Act, 7 U.S.C § 6c(b) (2012), and Regulation 32.2, 17 C.F.R. § 32.2 (2019).

19. 7 U.S.C. § 6c(b) makes it unlawful for any person 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 as, *inter alia*, an “option,” “bid,” “offer,”

1 “put,” or “call,” contrary to any rule, regulation, or order of the CFTC prohibiting any such
2 transaction or allowing any such transaction under such terms and conditions as the CFTC shall
3 prescribe.

4 20. Section 2(c)(2)(B)(i)(I) and (II), 7 U.S.C. § 2(c)(2)(B)(i)(I), (II) (2012), provides
5 in relevant part that the Act applies to, and the CFTC shall have jurisdiction over, an agreement,
6 contract or transaction in foreign currency (“forex”) that is an option and is offered to, or entered
7 into with, a person that is not an eligible contract participant (“ECP”), unless the counterparty, or
8 the person offering to be the counterparty, of the person is one of the enumerated exceptions not
9 applicable here.
10

11 21. An ECP is defined by 7 U.S.C. § 1a(18)(A)(xi) (2012), in relevant part, as an
12 individual who has amounts invested on a discretionary basis, the aggregate of which is in excess
13 of \$10,000,000, or \$5,000,000 and who enters into the agreement, contract or transaction to
14 manage the risk associated with an asset owned or a liability incurred, or reasonably likely to be
15 owned or incurred, by the individual.
16

17 V. FACTS

18 A. **The Fraudulent Scheme**

19 22. During the Relevant Period, Saffron, and from September 6, 2018 through the
20 present, Defendants, by and through Saffron, solicited at least \$11 million worth of funds from
21 no fewer than fourteen participants for the purpose of participating in a commodity pool, which
22 purportedly traded binary options contracts on forex and cryptocurrency pairs, among other
23 things. Defendants knowingly and falsely represented to actual and prospective pool participants
24 that Saffron was an experienced trader producing consistent, high rates of return, including for
25 well-known investors such as Mark Cuban.
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1 23. Saffron used various business entities and trade names, including “Bitcoin Wealth
2 Management,” “Omicron Trust” (or alternatively, “Omicron Trust”), and “Circle Society” to
3 perpetuate his fraud. Defendants solicited and continue to solicit actual and prospective
4 participants through in-person meetings, word-of-mouth, instant messaging services such as
5 Telegram, podcasts, and websites operated by Saffron including *https://circlesociety.com*.

6 24. In a January 2018 video recording of Saffron’s presentation to actual and
7 prospective participants, Saffron performed a hypothetical trading demonstration on a laptop
8 computer using a “BinBot Pro” trading platform and stated in pertinent part:
9

10 The more bots I have running, the more money it is for the bank. Literally, it’s
11 like printing money. Every thirty seconds, you’re making on average anywhere
12 between 1 and 400 fiat [currency], or you’re making 1 and 400 Bitcoin.

13 25. Saffron claimed in his solicitations to actual and prospective participants that he
14 used “BinBot Pro” to trade forex and cryptocurrency options pairs. In his solicitations, Saffron
15 failed to advise actual and prospective customers that “BinBot Pro” is a forex and cryptocurrency
16 trading platform, and that it is unlawful to use it in the United States. Saffron failed to advise
17 actual and prospective customers that the “BinBot Pro” website contains a disclaimer stating in
18 relevant part: “BinBot Pro nor its agents or partners are not registered and do not provide any
19 services on the US territory [sic].”

20 26. Similarly, in a January 2018 audio recording of another presentation to actual and
21 prospective participants, Saffron stated in pertinent part:
22

23 The System basically is any money you put in, within seven calendar days—
24 seven days from when you put it in—you get your outlay back. So whatever you
25 put in, you get your outlay back, fourteen days after that you get two-to-one on
26 your money. Okay, so you’re getting three-to-one on whatever position you have;
27 it can go from one Bitcoin all the way to 10,000 Bitcoin, whatever it is. And I
28 deal with all ranges.

 My personal portfolio as you’ve seen has over \$717 million . . . company

1 portfolio is about \$2 billion. My liquid outlay per day is anywhere between \$2
2 million and \$5 million . . . I know who to call, and I just know how to do things,
3 but I don't know this town yet because I'm integrated in Los Angeles. So you
4 guys know this town. Perfect. Now I can make you all damn rich.

5 Test the System out at first; I'll give you a three-day outlay return, just to show
6 you it works. So three days, you'll have your full return, outlay and two-to-one.
7 Any money you give me, half a Bitcoin, \$1,000, \$2,000, \$500 whatever you have
8 I will triple it in three days and hand it back to you. Then, you can go to your
9 people and go, 'this works.' Any person you bring to me, I'll give you one-to-one
10 on whatever they put in. So you bring someone who has three Bitcoin, he puts
11 three Bitcoin in, fourteen days and then seven-day outlay return, and then another
12 fourteen days, seven days on that outlay return, he gets his money, you get yours.
13 Okay? Very simple.

14 [Question by Prospective Participant]: How . . . you're probably overwhelmed
15 with people bringing you clients at this point?

16 [Saffron's Answer]: Yes, I am. I don't want a client list from you. You're going
17 to deal with the clients, okay. A client comes to you and goes, 'how the f**k do I
18 get in this?' I want fifty Bitcoins to go to this guy. Okay. You go, 'I've got Jim
19 who is putting in fifty Bitcoins.' I set up a wallet for Jim, send you a wallet
20 address. He can check it on the computer its zero transactions. It's his personal
21 wallet. He puts in the fifty Bitcoin. I send you a contract back, it says fifty
22 Bitcoin received 12:04 pm. Fifty Bitcoin would be deposited back into wallet
23 address on Friday, whatever date and fifty Bitcoin will be given to you as your
24 commission. It's one-to-one. So understand the concept of that, okay that's
25 money, millions within a month.

26 27. As noted above in the January 2018 audio recording, Saffron falsely guaranteed
27 actual and prospective participants a return of three hundred percent (300%) on their investment
28 in three weeks. On an annualized, compounded basis, this equals a rate of return on investment
in excess of 186 million percent (186,000,000%).

29 28. To induce actual and prospective participants to give Defendants their assets to
30 purportedly pool and trade on their behalf, Defendants encouraged participants to recommend
31 and refer others to participate in the fraudulent scheme. Defendants sometimes promised actual
32 and prospective participants a "referral fee" of one Bitcoin for every Bitcoin they induced their
33 friends and acquaintances to invest. At other times, Defendants promised actual and prospective

1 participants a “referral fee” equal to twenty percent (20%) of the assets invested by their friends
2 and acquaintances.

3 29. Most recently, Defendants have solicited participants through the Circle Society
4 website, <https://circlesociety.com> (“Website”). Through the Website, Defendants offer
5 participants various investment plans such as “Weekly BTC,” “Year of the Pig,” and “The Power
6 of 3.” The plans vary by amount required to be invested and guarantee rates of return within a
7 specified time period. For example, the Website states that “The Power of 3” provides “Returns
8 300% in 45 days! business days” and “Year of the Pig” provides “Returns 188% in 38 days!
9 business days.”
10

11 30. Through the Circle Society website, participants can transfer their Bitcoin to
12 Circle Society from the participants’ own cryptocurrency wallets. Participants who deposit
13 Bitcoin through the Website are able to log into the Website to view their purported account
14 balance with Circle Society, denominated in Bitcoin.
15

16 31. At Defendants’ instruction, pool participants provided at least \$11 million in
17 funds to Defendants via a Bitcoin wallet address controlled by Saffron and/or through the Circle
18 Society website. Some participants also provided USD to Saffron directly.

19 32. Defendants misappropriated pool participants’ funds by soliciting funds for
20 trading on behalf of the Pool and then holding participants’ funds in Saffron’s personal E-Wallet
21 instead of segregating the funds in a pool account and using the funds to trade on behalf of the
22 Pool.
23

24 33. At no time did Defendants create or operate the Pool as an entity cognizable as a
25 legal entity separate from the pool operator. As a result, at no time were any funds from pool
26 participants received in the Pool’s name because a separate pool was never created.
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1 34. During the Relevant Period, Saffron, and from September 6, 2018 through the
2 present, Defendants, by and through Saffron, failed to maintain pool funds separately from
3 Saffron's own funds. Defendants commingled pool participants' funds with personal funds of
4 Saffron. As described above, pool participants deposited funds into a Bitcoin wallet address
5 controlled by Saffron and/or through the Circle Society website. Defendants then held these
6 funds in Saffron's personal E-Wallet instead of segregating them in a pool account.

7
8 **B. Material Omissions and Misrepresentations of Material Facts**

9 35. In furtherance of the fraudulent scheme, Defendants knowingly made and
10 continue to make material omissions of fact in solicitations and other communications with
11 actual and prospective pool participants, including by failing to disclose that:

- 12 a. Defendants misappropriated pool participants' funds by soliciting funds for trading
13 and then retaining participants' funds in Saffron's personal E-Wallet instead of
14 segregating the funds in a pool account and using the funds to trade on behalf of the
15 Pool;
16
17 b. Defendants were not registered with the CFTC as required by the Act and were
18 therefore operating an unlawful business enterprise; and
19 c. Purported "returns" paid to some pool participants were in fact the principal deposits
20 of other participants and were not generated by profitable trading.

21 36. Similarly, Defendants misrepresented and continue to misrepresent material facts
22 in their solicitations and other communications with actual and prospective pool participants,
23 including by misrepresenting that:

- 24 a. Pool participants' funds would be pooled and used to trade binary options contracts,
25 among other things, for the benefit of participants;
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- 1 b. Guaranteed profits would be paid to participants (*e.g.*, up to a 300% return every
2 three weeks); and
- 3 c. Guaranteed referral fees would be paid to participants in the amount of one Bitcoin
4 for every Bitcoin and/or equal to twenty percent (20%) of the assets invested by their
5 friends and acquaintances.

6 **C. Defendants' Misappropriation and Refusal to Return Participants' Funds**

7 37. As described above, Defendants misappropriated participants' funds by soliciting
8 funds for trading and then holding participants' funds in Saffron's personal E-Wallet instead of
9 segregating the funds in a pool account and using them for trading on behalf of the Pool.
10 Defendants did not disclose to actual and prospective participants that they misappropriated and
11 used their funds for Saffron's personal use.
12

13 38. The Bitcoin tendered by participants to Defendants were held in Saffron's
14 personal E-Wallet and were never placed in any cryptocurrency or other trading accounts for the
15 benefit of the Pool. Similarly, at least some of the USD tendered by participants to Defendants
16 were converted to Saffron's personal use and not placed in any cryptocurrency or other trading
17 accounts for the benefit of the Pool.
18

19 39. Defendants did not use the funds solicited and accepted from participants to trade
20 on behalf of the Pool as promised.

21 40. Defendants also misappropriated some portions of participants' funds by
22 providing Bitcoin to certain participants as purported trading "profits," in order to create the
23 illusion that the Pool was trading, and trading profitably. For example, in early-January 2018,
24 one participant provided Saffron with ten Bitcoin (worth approximately \$150,000 at the time),
25 and Saffron returned thirty Bitcoin (worth approximately \$450,000 at the time) to this participant
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1 as purported “profits” within twenty-four hours. This participant then touted these results to
2 induce other members of the public to invest with Saffron.

3 41. Other pool participants made and continue to make repeated demands on
4 Defendants for the return of their funds. None of the participants received any “profits” within
5 three weeks or at any other time. The majority of participants have been unable to obtain a
6 return of any of their funds.

7 42. Defendants attempted to perpetuate the fraud and conceal their misappropriation
8 of participants’ funds by making false statements to participants. Saffron made and continues to
9 make, individually and as the agent of Circle Society, numerous representations to participants as
10 to why Defendants are not paying profits as promised, including but not limited to: (a) computer
11 shutdowns due to “solar flares”; (b) withdrawal delays at various cryptocurrency exchanges; and
12 (c) transactions being “jammed up” or “frozen in cycle.” Upon information and belief, these
13 representations are false.
14

15 **D. Failure to Register**
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17 43. During the Relevant Period, Saffron acted and continues to act in a capacity as a
18 CPO by soliciting, accepting, and receiving funds from the public while engaged in a business
19 that is of the nature of an investment trust, syndicate, or similar form of enterprise, for the
20 purpose of, among other things, trading in commodity futures, without being registered with the
21 CFTC as a CPO.

22 44. From September 6, 2018 through the present, Circle Society acted and continues
23 to act in a capacity as a CPO by soliciting, accepting, and receiving funds from the public while
24 engaged in a business that is of the nature of an investment trust, syndicate, or similar form of
25 enterprise, for the purpose of, among other things, trading in commodity futures, without being
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1 registered with the CFTC as a CPO.

2 45. From September 6, 2018 through the present, Saffron acted and continues to act
3 in a capacity as an AP of Circle Society by, in his capacity as a partner, officer, employee,
4 consultant or agent of the CPO (Circle Society), soliciting or supervising the solicitation of funds
5 for participation in the Pool, without being registered with the CFTC as an AP of a CPO.

6 **VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT**
7 **AND CFTC REGULATIONS**

8 **COUNT ONE**

9 **Violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), and Regulation 32.4,**
10 **17 C.F.R. § 32.4 (2019)**
11 **(Options Fraud—Defendants Saffron and Circle Society)**

12 46. The allegations set forth in the preceding paragraphs are re-alleged and
13 incorporated herein by reference.

14 47. 7 U.S.C. § 6c(b) makes it unlawful for any person to offer to enter into, enter into,
15 or confirm the execution of, any transaction involving any commodity regulated under the Act
16 which is of the character of, or is commonly known to the trade as, inter alia, an “option,” “bid,”
17 “offer,” “put,” or “call,” contrary to any rule, regulation, or order of the CFTC prohibiting any
18 such transaction or allowing any such transaction under such terms and conditions as the CFTC
19 shall prescribe. Through 7 U.S.C. § 6c(b), Congress has given the CFTC jurisdiction and
20 plenary rulemaking authority over all commodity option transactions.

21 48. 17 C.F.R. § 32.4, promulgated in part pursuant to 7 U.S.C. § 6c(b), provides that,
22 in or in connection with an offer to enter into, the entry into, or the confirmation of the execution
23 of, any commodity option transaction, it shall be unlawful for any person, directly or indirectly:
24 (a) to cheat or defraud or attempt to cheat or defraud any other person; (b) to make or cause to be
25 made to any other person any false report or statement thereof or cause to be entered for any
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1 person any false record thereof; or (c) to deceive or attempt to deceive any other person by any
2 means whatsoever.

3 49. As described herein, Defendants cheated or defrauded, or attempted to cheat or
4 defraud, and deceived, or attempted to deceive, other persons in connection with Defendants'
5 offers to enter into commodity option contracts by, among other things: (a) failing to advise
6 participants that they were misappropriating participants' funds; (b) failing to advise participants
7 that they were not trading their funds as promised; (c) failing to advise participants that they
8 were not earning "profits" of up to 300% every three weeks; (d) misrepresenting that
9 participants' funds would be pooled and used to trade binary options trading, among other things,
10 for the benefit of the Pool; and (e) falsely guaranteeing "profits" of up to 300% every three
11 weeks along with referral fees.
12

13 50. The foregoing acts, omissions, and failures by Saffron occurred within the scope
14 of his employment, agency, or office with Circle Society during the September 6, 2018 through
15 the present timeframe. Therefore, Circle Society is liable for Saffron's violations of 7 U.S.C.
16 § 6c(b) and 17 C.F.R. § 32.4, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)
17 (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2019).
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19 51. Saffron held and exercised direct and indirect control over Circle Society and
20 either did not act in good faith or knowingly induced Circle Society's violations of 7 U.S.C.
21 § 6c(b) and 17 C.F.R. § 32.4 during the September 6, 2018 through the present timeframe. As a
22 controlling person of Circle Society, Saffron is liable for Circle Society's violations of 7 U.S.C.
23 § 6c(b) and 17 C.F.R. § 32.4 pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).
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25 52. Each misrepresentation, omission of material fact, false statement, and
26 misappropriation, including but not limited to those specifically alleged herein, is alleged as a
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1 separate and distinct violation of 7 U.S.C. § 6c(b) and 17 C.F.R. § 32.4.

2 **COUNT TWO**

3 **Violations of Section 4o(1)(A)-(B) of the Act, 7 U.S.C. § 6o(1)(A)-(B) (2012)**
4 **(Fraud by a CPO—Defendants Saffron and Circle Society; Fraud by an AP of a CPO—**
5 **Defendant Saffron)**

6 53. The allegations set forth in the preceding paragraphs are re-alleged and
7 incorporated herein by reference.

8 54. During the Relevant Period, Saffron acted and continues to act as a CPO, as
9 defined by Section 1a(11) of the Act, 7 U.S.C. § 1a(11) (2012), by soliciting, accepting, or
10 receiving funds or property (in the form of Bitcoin) from the public while engaged in a business
11 that is of the nature of an investment trust, syndicate, or similar form of enterprise, for the
12 purpose of trading in commodity interests, including, in relevant part, commodity options
13 authorized under Section 4c of the Act, 7 U.S.C. § 6c.

14 55. From September 6, 2018 through the present, Circle Society acted and continues
15 to act as a CPO, as defined by Section 1a(11) of the Act, 7 U.S.C. § 1a(11) (2012), by soliciting,
16 accepting, or receiving funds or property (in the form of Bitcoin) from the public while engaged
17 in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise,
18 for the purpose of trading in commodity interests, including, in relevant part, commodity options
19 authorized under 7 U.S.C. § 6c.

20 56. An AP of a CPO is defined by Regulation 1.3, 17 C.F.R. § 1.3 (2019), as any
21 person who is associated with a CPO as a partner, officer, employee, consultant, or agent (or any
22 natural person occupying a similar status or performing similar functions), in any capacity which
23 involves (i) the solicitation of funds, securities, or property for a participation in a commodity
24 pool or (ii) the supervision of any person or persons so engaged. From September 6, 2018
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1 through the present, Saffron acted and continues to act as an AP of CPO Circle Society by
2 soliciting funds or property (in the form of Bitcoin) for the Pool.

3 57. 7 U.S.C. § 6o(1)(A)-(B) prohibits CPOs and APs of CPOs, whether registered
4 with the CFTC or not, from using the mails or any means or instrumentality of interstate
5 commerce, directly or indirectly, from employing devices, schemes or artifices to defraud any
6 actual or prospective participant, or engaging in transactions, practices, or courses of business
7 which operate as a fraud or deceit upon any actual or prospective participant.
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9 58. As alleged herein, Defendants employed or are employing a device, scheme, or
10 artifice to defraud actual and prospective participants or engaged or are engaging in transactions,
11 practices, or a course of business which operated or operates as a fraud or deceit upon any actual
12 or prospective participant, including without limitation: misappropriation of participants' funds
13 and misrepresenting and/or omitting material facts in solicitations and communications with
14 participants, all in violation of 7 U.S.C. § 6o(1)(A)-(B).
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16 59. The foregoing acts, omissions, and failures by Saffron occurred within the scope
17 of his employment, agency, or office with Circle Society during the September 6, 2018 through
18 the present timeframe. Therefore, Circle Society is liable for Saffron's violations of 7 U.S.C.
19 § 6o(1)(A)-(B) pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

20 60. Saffron held and exercised direct and indirect control over Circle Society and
21 either did not act in good faith or knowingly induced Circle Society's violations of 7 U.S.C.
22 § 6o(1)(A)-(B) during the September 6, 2018 through the present timeframe. As a controlling
23 person of Circle Society, Saffron is liable for Circle Society's violations of 7 U.S.C. § 6o(1)(A)-
24 (B), pursuant to 7 U.S.C. § 13c(b).
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1 person.”

2 68. During the Relevant Period, Saffron, and from September 6, 2018 through the
3 present, Circle Society, while acting as CPOs, violated 17 C.F.R. § 4.20(c) by commingling pool
4 funds with the personal funds of Saffron.

5 **COUNT FOUR**

6 **Violations of Section 4m(1) and 4k(2) of the Act, 7 U.S.C. §§ 6m(1), 6k(2)(2012)**
7 **(Failure to Register as a CPO—Defendants Saffron and Circle Society; Failure to Register**
8 **as an AP of a CPO—Defendant Saffron)**

9 69. The allegations set forth in the preceding paragraphs are re-alleged and
10 incorporated herein by reference.

11 70. 7 U.S.C. § 6m(1) makes it unlawful for any CPO, unless registered with the
12 CFTC, to make use of the mails or any means or instrumentality of interstate commerce in
13 connection with its business as a CPO.

14 71. During the Relevant Period, Saffron acted as a CPO by engaging in a business
15 that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and
16 in connection therewith, solicited, accepted, or received from others, funds, securities, or
17 property, either directly or otherwise, for the purpose of trading in commodity interests,
18 including without limitation, commodity options, while failing to register with the CFTC as a
19 CPO in violation of 7 U.S.C. § 6m(1). During the Relevant Period, Saffron was not exempt from
20 registration as a CPO.

21 72. From September 6, 2018 through the present, Circle Society acted as a CPO by
22 engaging in a business that was in the nature of a commodity pool, investment trust, syndicate, or
23 similar enterprise, and in connection therewith, solicited, accepted, or received from others,
24 funds, securities, or property, either directly or otherwise, for the purpose of trading in
25 commodity interests, including without limitation, commodity options, while failing to register
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1 with the CFTC as a CPO in violation of 7 U.S.C. § 6m(1). From September 6, 2018 through the
2 present, Circle Society was not exempt from registration as a CPO.

3 73. 7 U.S.C. § 6k(2) makes it unlawful for any person to be associated with a CPO as
4 an officer or agent (or any person occupying a similar status or performing similar functions), in
5 any capacity that involves the solicitation of funds, securities, or property for participation in a
6 commodity pool, unless such person is registered with the CFTC as an AP of a CPO.

7 74. From September 6, 2018 through the present, Saffron was associated with CPO
8 Circle Society as an officer or agent in a capacity that involved the solicitation of funds,
9 securities, or property for participation in a commodity pool, while failing to register with the
10 CFTC as an AP of the CPO Circle Society in violation of 7 U.S.C. § 6k(2). From September 6,
11 2018 through the present, Saffron was not exempt from the requirement to register as an AP of a
12 CPO.
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14 75. The foregoing acts, omissions, and failures by Saffron occurred within the scope
15 of his employment, agency, or office with Circle Society during the September 6, 2018 through
16 the present timeframe. Therefore, Circle Society is liable for Saffron's violations of 7 U.S.C.
17 § 6k(2), pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.
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19 76. Saffron held and exercised direct and indirect control over Circle Society and
20 either did not act in good faith or knowingly induced Circle Society's violations of 7 U.S.C.
21 § 6m(1) during the September 6, 2018 through the present timeframe. As a controlling person of
22 Circle Society, Saffron is liable for Circle Society's violations of 7 U.S.C. § 6m(1), pursuant to
23 7 U.S.C. § 13c(b).
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1 E. An order of permanent injunction prohibiting Defendants and any other person or
2 entity in active concert with them from, directly or indirectly:

- 3 1) Trading on or subject to the rules of any registered entity (as that term is
4 defined by Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));
- 5 2) Entering into any transactions involving “commodity interests” (as that term is
6 defined in Regulation 1.3, 17 C.F.R. § 1.3 (2019)), for accounts held in the
7 name of Defendants or for accounts in which Defendants have a direct or
8 indirect interest;
- 9 3) Having any commodity interests traded on Defendants’ behalf;
- 10 4) Controlling or directing the trading for, or on behalf of any other person or
11 entity, whether by power of attorney or otherwise, in any account involving
12 commodity interests;
- 13 5) Soliciting, receiving, or accepting any funds from any person for the purpose
14 of purchasing or selling of any commodity interests;
- 15 6) Applying for registration or claiming exemption from registration with the
16 CFTC in any capacity, and engaging in any activity requiring such registration
17 or exemption from registration with the CFTC, except as provided for in
18 Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2019); and
- 19 7) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R.
20 § 3.1(a) (2019)), agent, or any other officer or employee of any person
21 registered, exempted from registration, or required to be registered with the
22 CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)
23 (2019);
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1 F. An order requiring Defendants, as well as any successors thereof, to disgorge,
2 pursuant to such procedures as the Court may order, all benefits received including, but not
3 limited to, salaries, commissions, loans, fees, revenues, and trading profits derived, directly or
4 indirectly, from acts or practices which constitute violations of the Act and Regulations as
5 described herein, including pre-judgment and post-judgment interest;

6 G. An order requiring Defendants, as well as any successors thereof, to make full
7 restitution, pursuant to such procedures as the Court may order, to every person or entity who
8 sustained losses proximately caused by Defendants' violations described herein, including pre-
9 judgment and post-judgment interest;

10 H. An order directing Defendants, as well as any successors thereof, to rescind,
11 pursuant to such procedures as the Court may order, all contracts and agreements, whether
12 implied or express, entered into between them and any of the participants whose funds were
13 received by Defendants as a result of the acts and practices that constituted violations of the Act
14 and Regulations, as described herein;

15 I. An order directing Defendants, as well as any successors thereof, to pay a civil
16 monetary penalty, to be assessed by the Court, in an amount not to exceed the penalty prescribed
17 by Section 6c(d)(1) of the Act, 7 U.S.C. § 13a-1(d)(1) (2012), as adjusted for inflation pursuant
18 to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-
19 74, tit. VII, § 701, 129 Stat. 584, 599-600, *see* 17 C.F.R. § 143.8 (2019), or subsequent annually
20 adjusted amounts, for each violation of the Act and Regulations, as described herein;

21 J. An order directing that Defendants, and any successors thereof, make an
22 accounting to the Court of all of their assets and liabilities, together with all funds they received
23 from and paid to participants and other persons in connection with commodity interests and all
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1 disbursements for any purpose whatsoever of funds received from commodity interests,
2 including salaries, commissions, interest, fees, loans, and other disbursement of money or
3 property of any kind from at least December 2017 to the date of such accounting;

4 K. An order requiring Defendants, and any successors thereof, to pay costs and fees
5 as permitted by 28 U.S.C. §§ 1920 and 2413(a)(2) (2012); and

6 L. Such other and further relief as this Court may deem necessary and appropriate
7 under the circumstances.

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9 Dated: September 30, 2019

Respectfully submitted,

10 By: /s/ Danielle E. Karst
11 Danielle E. Karst
12 Timothy J. Mulreany
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