# UNITED STATES DISTRICT COURT

for the

Middle District of Florida

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| COMMODITY FUTURES TRADING COMMISSION<br><br>*Plaintiff(s)*<br>v.<br><br>RONALD MONTANO, MONTANO ENTERPRISES LLC, & MICHAEL WRIGHT<br><br>*Defendant(s)* | ) | Civil Action No.<br>6:18-cv-1607-ORL-41-DCI |

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Ronald Montano
5251 Carson St
Saint Cloud, FL 34771-7621

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Allison V. Passman
Commodity Futures Trading Commission
525 W. Monroe, Suite 1100
Chicago, IL 60661

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: 09/27/2018

*Signature of Clerk or Deputy Clerk*

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

Case No.: 6:18-Civ-1607-ORL-41-DCI

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

Hon._____

vs.

RONALD MONTANO, MONTANO ENTERPRISES, LLC, & MICHAEL WRIGHT,

Defendants.

**COMPLAINT FOR INJUNCTIVE AND EQUITABLE RELIEF AND PENALTIES UNDER THE COMMODITY EXCHANGE ACT**

The Commodity Futures Trading Commission ("CFTC" or "Commission"), by and through its attorneys, hereby alleges as follows:

## I. SUMMARY

1. Beginning in at least September 2013 through at least December 2016 ("Relevant Period"), Ronald Montano and Montano Enterprises (collectively, "Montano Defendants"), acting as affiliate marketers and as commodity trading advisors ("CTAs"), conducted at least thirty-five (35) fraudulent binary options affiliate marketing campaigns ("campaigns") in which they fraudulently solicited millions of prospective customers to open and fund illegal, off-exchange binary options trading accounts ("binary options account(s)") through websites operated by unregistered binary options brokers ("Broker(s)").

2. As affiliate marketers, Montano Defendants disseminated–and recruited other affiliate marketers to disseminate on their behalf–fraudulent marketing campaigns which

advised unsuspecting prospective customers to open and fund binary options accounts with Brokers to get free access to Montano Defendants' automated trading software that purported to generate astronomical profits with no risk of loss. Montano Defendants' marketing materials included numerous false and misleading statements about the marketed trading software, including: (i) fictitious trading performance and account statements showing consistent profits with no losses; (ii) actors depicted as true users and/or creators of the binary options automated trading software falsely claiming they had earned significant profits through use of the software; and/or (iii) false representations of actual live automated binary options trading and results using the marketed software.

3. During the Relevant Period, Mike Wright ("Wright"), willfully aided and abetted the Montano Defendants' fraud by creating fraudulent emails, scripts, and/or videos that Montano Defendants used to fraudulently solicit prospective customers and customers in their binary options scheme.

4. During the Relevant Period, at least one and a half million (1,500,000) prospective customers viewed fraudulent marketing websites and sales videos which Montano Defendants and/or Wright (collectively, "Defendants") created and/or disseminated and which advised customers to open a binary options account with purported "recommended" Brokers and use the marketed trading software. In response to the marketing campaign, at least ten thousand (10,000) customers deposited over two and a half million dollars ($2,500,000) to initially fund their accounts.

5. Montano Defendants received a flat commission, customarily between approximately $250 and $350, for every customer that viewed one of their online campaigns

and opened and funded a binary options account with a Broker as a result. Montano Defendants also earned commissions from disseminating thousands of solicitations that included material false or misleading statements that other affiliate marketers created.

6. Montano Defendants intentionally or recklessly created and sent out to prospective customers and customers materially false or misleading statements and information in the marketing materials.

7. Wright knowingly participated in the creation of marketing and solicitation materials used by Montano Defendants which included false or misleading statements.

8. By virtue of this conduct and further conduct described below, Montano Defendants have engaged, are engaging, or are about to engage, in acts and practices in violation of the following sections of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1-26 (2012), and accompanying regulations ("Regulation(s)"), 17 C.F.R. Pts. 1-190 (2018):

a. Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), and Regulation 32.4, 17 C.F.R. § 32.4 (2018), which prohibit fraud in connection with commodity options transactions;

b. Section 4*o*(1) of the Act, 7 U.S.C. § 6*o*(1) (2012), which prohibits fraud by, among others, a CTA;

c. Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2018), which prohibit deceptive devices, schemes and/or artifices in connection with, among other things, swap transactions and prohibit false statements;

d. Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2018), which prohibits fraud in advertising by, among others, a CTA or any principal thereof, and also mandates that certain disclosures appear prominently with any testimonials; and

e. Regulation 4.41(b), 17 C.F.R. § 4.41(b) (2018), which mandates that certain disclosures appear prominently and in immediate proximity to any advertised hypothetical or simulated trading results or performance.

9. Additionally, pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a) (2018), Wright aided and abetted Montano Defendants' violations of the Act and Regulations listed above.

10. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), the Commission brings this action to enjoin all of the Defendants' unlawful acts and practices and to compel Defendants' compliance with the Act and Regulations, and to further enjoin Defendants from engaging in certain commodity options and swaps-related activities.

11. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

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

## II. JURISDICTION & VENUE

13. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (2012) (federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). Section 6c(a) of the Act, 7 U.S.C. § 13a-l(a) (2012), authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice that violates any provision of the Act or any rule, regulation, or order promulgated thereunder.

14. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Montano Defendants and Wright are found in, inhabit, or transact business in the Middle District of Florida, and the acts and practices in violation of the Act and Regulations have occurred within this District, among other places.

## III. THE PARTIES

15. Plaintiff **Commodity Futures Trading Commission** is the independent federal regulatory agency charged with the administration and enforcement of the Commodity Exchange Act and regulations promulgated thereunder.

16. Defendant **Ronald "Ronnie" Canullas Montano** ("Montano") is 40 years old and resides in Saint Cloud, Florida. Montano was born in the Philippines and is a United States citizen. Montano has never been registered with the Commission in any capacity.

17. **Montano Enterprises LLC** ("Montano Enterprises") is a New Jersey limited liability company formed in November 2001, with its principle place of business in Orlando, Florida. Montano is the Managing Member and sole employee of Montano Enterprises.

During the Relevant Period, Montano directed, controlled and/or had the authority to control, the acts and practices of Montano Enterprises. Montano Enterprises has never been registered with the Commission in any capacity.

18. **Michael Wright** ("Wright") is 64 years old and lives in Seattle, Washington. Wright has never been registered with the Commission in any capacity.

## IV. STATUTORY BACKGROUND AND FACTS

### A. Prohibition Against Off-Exchange Retail Swaps and Options Trading

19. Section 1a(12)(A) of the Act, 7 U.S.C. § 1a(12)(A) (2012), defines "commodity trading advisor" as any person who "for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or advisability of trading in" any commodity for future delivery, security futures product, swap, and/or commodity option.

20. Section 2(e) of the Act, 7 U.S.C. § 2(e) (2012), makes it unlawful for "any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a board of trade designated as a contract market under section 5 [7 U.S.C. § 7]."

21. 7 U.S.C. § 1a(47)(A) defines "swap" to include, among other things, any agreement, contract, or transaction that: (a) is an option of any kind; (b) provides for payment dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency; or (c) provides on an executory basis for payments based on the value or level of one or more interest or other rates, currencies, commodities, securities, instruments of

indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, without also conveying an ownership interest in any asset or liability.

22. Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), 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 to the trade as, inter alia, an "option", "bid", "offer", "put", or "call", contrary to any rule, regulation or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

23. Regulation 32.2, 17 C.F.R. § 32.2 (2018), makes it unlawful for any person to offer to enter into, enter into, confirm the execution of, maintain a position in, or otherwise conduct activity related to any transaction in interstate commerce that is a commodity option transaction, unless such transaction is conducted in compliance with and subject to the provisions of the Act, including any Commission rule, regulation, or order thereunder, otherwise applicable to any swap.

24. None of the Brokers to which Montano Defendants directed their web traffic from their campaigns was registered with the Commission in any capacity.

**B. Overview of Montano Defendants' Scam: Affiliate Marketing in Binary Options**

i. Binary Options

25. This case involves affiliate marketing in binary options. A binary option is a type of option contract in which the payout depends entirely on the outcome of a discrete event – usually a "yes/no" proposition. The yes/no proposition typically relates to whether the price of a particular asset will rise above or fall below a specified amount at a specified

date and time. For example, the yes/no proposition might be whether the price of silver will be higher than $33.40 per ounce at 11:17 am on a particular day, or if the exchange rate between the US Dollar and the Euro will be above $1.18 at 2:15 pm on a given day.

26. Once the option holder acquires a binary option through payment of a premium, there is no further decision for the holder to make as to whether or not to exercise the binary option because binary options exercise automatically. Unlike other types of options, a binary option does not give the holder the right to purchase or sell the underlying asset—instead, it is "cash settled." When the binary option expires, the option holder is entitled to a pre-determined amount of money if the customer has made a correct prediction. If the customer has made an incorrect prediction, he or she gets nothing and loses the entire premium paid.

ii. Binary Options Affiliate Marketing

27. There are various players participating in binary options schemes. They include affiliate marketers, Broker intermediaries, Brokers and the trading platforms. Customers open trading accounts with Brokers and deposit funds into those accounts through Brokers. Affiliates marketers either work directly with Brokers or they use Broker intermediaries to direct prospective customers and customers from their marketing campaigns to the Broker website.

28. This case involves affiliate marketers and those that assist them in carrying out their marketing campaigns. Affiliate marketers initiate the binary options fraudulent scheme by creating and disseminating solicitations that include material false or misleading

statements to induce prospective customers to open an account and trade binary options through a Broker.

29. Affiliate marketing is a form of performance-based marketing that is predominantly conducted via email solicitations and promotional materials made available on internet websites. An affiliate marketing campaign is a promotion of a product/service designed to convince the audience to take a specific action, including purchasing a product or service or opening and funding a trading account. Affiliate marketing is referred to as a campaign or funnel because the advertising is designed to funnel (i.e. drive) customers to the service provider or product owner. Affiliate marketing occurs in various business segments, including Internet Marketing ("IM"), Business Opportunities ("BizOp"), Foreign Exchange ("Forex"), Binary Options, and, more recently, Virtual Currencies.

30. Affiliate marketers in binary options either act as Affiliates or sub-affiliates. Affiliates interface with Brokers or Broker intermediaries and are generally responsible for creating marketing materials. Affiliates generally come up with a marketing angle, write or procure a script with fictional characters and trading results, and then produce (or retain someone to produce) sales videos based on those scripts which advise prospective customers to use binary options "software" or "automated tools" that purportedly activate upon funding a trading account with a specified Broker. Affiliates also generally create solicitation communications that include materially false or misleading information disseminated through email to lead lists. At times, Affiliates use solicitation materials created by others that they "partner" with for specific binary options campaigns.

31. Affiliates may also act as recruiters for the binary options advertising campaign by soliciting other sub-affiliates to send out the Affiliates' marketing or solicitation materials to the sub-affiliates' lead lists. Affiliates also disseminate marketing materials for their own campaigns to their lead lists. Affiliate marketers' and sub-affiliates' lead lists can range from thousands to millions of email addresses.

32. Binary options affiliate marketers depended upon each other to "support" their campaigns to reach as many prospective customers as possible and thus increase the likelihood of converting the leads to new trading accounts. To avoid stepping on toes and saturating the market, Affiliates established systems whereby they each signed up for dates to launch their campaigns. While not all Affiliates followed the "calendar", failing to abide by its schedule could result in less (or no) support from sub-affiliates. Affiliates skirted the "rules" by establishing strategic partnerships with other Affiliates who managed the front-end of a marketing campaign by recruiting sub-affiliates and identifying the campaign as their own in exchange for sharing in the profits of the campaign.

33. The solicitation communications used by Affiliates and sub-affiliates include an embedded link to a campaign website that is usually prepared by Affiliates (or their partners). The first landing page for the campaign–i.e., where the link in the email is directed–generally includes a streaming sales video and an "opt-in" where a potential customer enters his or her name and email to get access to the full sales video and/or for more information. Affiliates mine that data to add to their "lead lists" for future campaigns. Campaigns with multiple web pages usually include additional opportunities for a customer to further opt-in by providing additional personal data to open a trading account with the

designated Broker; that page may also have a second video. Affiliates and call centers established by the Broker follow up via email or telephone calls with prospective customers who fail to open or fund an account or who have questions before doing so.

34. In this matter, Montano Defendants did not work directly with any Brokers and instead relied on Broker intermediaries. Broker intermediaries maintain direct relationships with various Brokers and select which ones to use for each campaign. Broker intermediaries generally use multiple Brokers for each campaign and obtain commission payments directly from Brokers for each customer that opens and funds a trading account for the first time (known in the industry as a first time depositor, "FTD"). Brokers pay a flat commission for each FTD that deposits a minimum threshold (generally $250), regardless of the customer's subsequent trading results or deposits. Broker intermediaries also pay the Affiliates with whom they work a portion of the commission that they receive from Brokers; Affiliates generally earn between $250-$450 in commission per FTD. Affiliates then determine the sub-set of their commission that they pay-out to sub-affiliates.

iii. Montano Defendants' Roles as Affiliates & Sub-Affiliates

35. Montano Defendants were among the first affiliate marketers to enter the binary options space. Between mid-2012 and the first part of 2013, Montano notified affiliate marketers that he worked with about upcoming binary options campaigns called My Binary Code and My Binary Recoded. Montano contended that these campaigns would pay higher commissions than they could earn in IM or BizOp affiliate marketing. He added that affiliate marketers earned commission when a customer opened and funded a trading account and that a third party call center would follow up on any leads affiliate marketers generated

to increase the likelihood of converting the leads to funded trading accounts. My Binary Code and My Binary Recoded used the same type of marketing materials from IM and BizOp, but tailored the solicitations to advertising trading software that purported to help prospective customers successfully trade in binary options using an account with a specific Broker.

36. During the Relevant Period, Montano Defendants, primarily through Montano, conducted at least thirty-five (35) fraudulent binary options campaigns as Affiliates and/or sub-affiliates: (1) Binary Cash Code (2013); (2) Free Cash App (2013); (3) Free Profits (2013/2014); (4) Trader App (~2014); (5) Binary Matrix Pro (March/April 2014); (6) Automobile Code (October 2014); (7) Binary Brain (October 2014); (8) Stock Matrix Pro (October 2014); (9) Money Platform (January 2015); (10) Larry's Cash Machine (February 2015); (11) Live Profits (February 2015); (12) Copy Trade Profit (April 2015); (13) A.I. App. ( April 2015); (14) Home Online Earners (April 2015); (15) Binary Hijack (May 2015); (16) Cash Code (June 2015); (17) Peak Profits (July 2015); (18) 3 week millionaire (August 2015); (19) 10k in 7 Days (September 2015); (20) Overnight Profits (September 2015); (21) Auto Profit Signals (September 2015); (22) Coffee Cash Cheat Sheet (November 2015); (23) Stock Matrix Pro (2) (December 2015); (24) Medallion(aire) App (December 2015/January 2016); (25) Azure Method (2016); (26) Centument (January 2016); (27) Binary Bank Breaker (February 2016); (28) Trianasoft (February 2016); (29) Stark Trading System (February 2016); (30) Cloud Trader (March 2016); (31) Binary Interceptor (March 2016); (32) Trade Tracker Pro (March 2016); (33) Binary Interceptor (2) (April 2016); (34) Mobile Binary Code (June 2016); and (35) Centument Redux/Centument 2.0 (August 2016).

37. For at least twenty-one (21) of the campaigns identified above, Montano Defendants acted as Affiliates, including for: (1) Binary Cash Code; (2) Free Cash App; (3) Free Profits; (4) Trader App; (5) Automobile Code; (6) Binary Brain; (7) Stock Matrix Pro; (8) Money Platform; (9) Larry's Cash Machine; (10) Live Profits; (11) Copy Trade Profit; (12) Binary Hijack; (13) 3 week millionaire; (14) Stock Matrix Pro (2); (15) Azure Method; (16) Centument; (17) Trianasoft; (18) Binary Interceptor; (19) Binary Interceptor (2); (20) Mobile Binary Code; and (21) Centument Redux.

38. Montano Defendants' campaigns marketed trading software, systems, and applications ("Trading System(s)") which purported to successfully trade automatically or provide profitable trading recommendations in binary options related to commodity futures, swaps, foreign exchange currency pairings, rates, indices, securities, and/or other assets. Montano Defendants lured customers in their marketing materials by promising free access to their Trading System. Their marketing materials included campaign websites, emails, and sales videos. Montano Defendants' goal was earn commissions by inducing prospective customers to open and fund a binary options trading account.

39. Some solicitation materials explicitly referenced the underlying asset for binary options as commodity futures, currency pairings, and/or swaps, like in Mobile Binary Code. Other campaigns depicted screenshots showing those assets as available to trade and/or as having been traded using the marketed Trading Systems. For example, the LCM sales video depicted at least seven purported customers' screenshots showing recommendations for and/or trades in commodity futures or currency pairings.

40. For each of the thirty-five campaigns for which Montano Defendants acted as Affiliates and/or sub-affiliates, Montano Defendants sent bulk email solicitations designed to entice the recipients to click an embedded electronic link in the email that routed the user to the related binary options campaign websites ("website). Each website, in turn, included a streaming VSL and/or a power-point style ("keynote") promotional video created or procured by Montano Defendants, their partners, or other Affiliates.

41. When acting as an Affiliate for at least twenty-one campaigns, Montano Defendants, primarily through Montano and/or Montano Defendants' partners, generated websites that served as the vehicles through which Montano Defendants carried out their binary options campaigns.

42. Montano paid for and handled certain logistics for Montano Defendants, including with respect to web hosting services, domain registration, and/or auto-responders. Montano reviewed the websites for all of Montano Defendants' launches in advance of going public with the campaign.

43. Montano Defendants' campaign websites often contained multiple webpages, including a landing page, members' page, and registration page. Prospective customers arrived at Defendants' landing page(s) of their websites by clicking on a link embedded in an unsolicited email ("spam"). Defendants' landing pages typically consisted of a single webpage with a streaming VSL or keynote video, along with a field for the customer to enter a name and email address to get more information and/or register and fund an account and gain access to the marketed Trading System.

44. Montano (individually and on behalf of Montano Defendants) created and/or procured approximately half of the VSLs and keynote videos streamed on the campaign websites and otherwise used sales videos provided by Affiliate and/or Broker intermediary partners.

45. Montano Defendants' solicitation emails and corresponding campaign websites contained numerous false or misleading statements about the marketed Trading System's performance, results, and risk of loss. Montano Defendants intentionally or recklessly included materially false or misleading statements in their marketing materials.

46. Montano Defendants, directly or indirectly through sub-affiliates, sent at least fourteen million emails fraudulently soliciting binary options accounts during the Relevant Period for the twenty-one marketing campaigns that they launched.

47. Montano Defendants also sent thousands of solicitation emails when acting as sub-affiliates for binary options campaigns.

48. Montano Defendants received a pre-determined flat commission (generally between $250-$350) from a Broker for each FTD resulting from their solicitation efforts.

49. Montano Defendants often ran contests with prizes for their launches to encourage sub-affiliates to promote their campaigns more aggressively. Montano Defendants regularly paid thousands of dollars in prizes and in at least one instance offered a Ferrari to the winner.

50. Following receipt of their commissions, Montano Defendants paid-out to sub-affiliates a portion of the total commissions for FTDs opened from the sub-affiliates' efforts. Montano Defendants retained their own commissions in addition to the difference between

the total commission and the portion paid-out to sub-affiliates as the "advertiser profits" for each of their campaigns.

51. When acting as sub-affiliates for other Affiliates' campaigns, Montano Defendants frequently earned prizes based on their performance including thousands of dollars in cash and a Rolex, including for campaigns run by Affiliates in Miami, Florida called Auto Money App, Cash Code, Easy Money Machines/Easy Money Method, and Push Money App. Indeed, Montano came in first place (i.e., generated the greatest number of FTDs) among sub-affiliates for the Binary Bank Breaker campaign, Stark Trading Systems, and Trade Tracker Pro campaigns.

52. In addition to commissions and advertiser profits, Montano Defendants' campaigns generated the personal information of prospective customers and/or customers from their launches. Montano Defendants mined that data to use in future campaigns and/or sold it to other affiliate marketers.

### C. Montano Defendants Worked with Other Affiliates, and Broker Intermediaries To Carry Out Their Fraud

53. Montano Defendants partnered with other Affiliates and Broker intermediaries for at least eleven (11) of the twenty-one campaigns that they launched (identified in Paragraph 41). On most of those occasions, Montano Defendants recruited other affiliates to widely disseminate the fraudulent solicitations for the campaign even though they did not have as much direct involvement with the creation of the marketing materials. Nonetheless, Montano Defendants reviewed the marketing materials for all campaigns and they intentionally or recklessly launched and disseminated solicitations which included materially false or misleading statements.

54. During the Relevant Period, Montano Defendants partnered with Broker Intermediary A on at least two campaigns: the first iterations of Centument and Binary Interceptor. For those campaigns, Broker Intermediary A supplied Montano Defendants with marketing materials for Montano Defendants to launch and Montano Defendants retained all of the advertiser profits. Montano Defendants partnered with Intermediary B on at least one campaign (Trader App) and retained most of the advertiser profits from that venture.

55. Montano Defendants also partnered with other affiliates for at least nine campaigns. Montano Defendants partnered with Affiliate 1 and/or Affiliate 2 primarily for Affiliates 1 and 2 to avoid appearing as though they were using all of the available launch dates themselves, including on at least four campaigns: Free Profits, Money Platform, Live Profits, 3 week millionaire, and Azure Method. At a minimum, Montano had a direct role in creating the marketing materials for Money Platform, Free Profits, and Azure Method. Montano recruited sub-affiliates to disseminate these campaigns on behalf of Montano Defendants. Montano Defendants split the profits from those campaigns with Affiliates 1 and/or 2 and retained between approximately 30%-40% of the proceeds.

56. Montano Defendants worked with Affiliate 3 on at least three campaigns, commencing around 2014. Affiliate 3 sought to partner with Montano Defendants because they were known as "king" in the affiliate marketing community with "huge" spamming capabilities. Affiliate 3 hoped to leverage Montano Defendants' reputation to generate support from other sub-affiliates for his own campaigns. Affiliate 3 relied on Montano Defendants' lead lists to get campaigns they worked on together started, which in turn showed sub-affiliates that the campaign was successful and worthy of their time. Montano

Defendants partnered with Affiliate 3 because they were too busy to create the solicitation materials themselves, but wanted to launch new campaigns.

57. Montano directed Affiliate 3 to hire a specific copywriter and video producer for the campaign later named Larry's Cash Machine ("LCM"). Affiliate 3 also hired a designer to work on the LCM website and worked with Montano to populate the website with content for their campaign. Affiliate 3 managed the backend logistics and Montano served as the "face" by recruiting sub-affiliates. The campaign succeeded and they split the advertiser profits and costs.

58. Montano thereafter asked Affiliate 3 to manage Montano Defendants' next campaign, Copy Trade Profit, and Affiliate 3 received a portion of the advertiser profits in return.

59. After Copy Trade Profit, Affiliate 3 created the marketing materials for the Binary Hijack campaign. Montano, on behalf of Montano Defendants, served as an Affiliate by recruiting sub-affiliates for Binary Hijack and identified that campaign as his own in those efforts.

### D. Wright Willfully and Substantially assisted Montano Defendants to Fraudulently Solicit Prospective Customers and Customers

60. Montano retained Wright to work on Montano Defendants' binary options projects from approximately 2012 through at least September 2016 while Montano resided in this district. Wright worked on Montano Defendants' earliest binary options campaigns, including My Binary Code and My Binary Recoded, by preparing the sales video for those campaigns in 2012 and early 2013. During the Relevant Period, Wright worked on marketing materials used in at least nine of Montano Defendants' campaigns, including:

(1) Binary Cash Code; (2) Automobile Code; (3) Live Profits; (4) Azure Method; (5) Copy Trade Profit; (6) Trianasoft; (7) Binary Interceptor; (8) Centument; and (9) Centument Redux/Centument 2.0.

61. Affiliate 1 (who also resides in this district) and Montano were Wright's biggest clients during the Relevant Period. Affiliate 1 and Montano Defendants worked together on at least two (2) binary options projects that Wright was involved with: Live Profits and Azure Method. Montano Defendants also disseminated other fraudulent binary options marketing materials that Wright prepared for Affiliate 1 during the Relevant Period.

62. Wright charged Montano Defendants based on the number of words in a script, the length of time for a video, and the number of emails he was asked to draft for campaigns. Montano Defendants generally paid Wright via PayPal for his services from accounts in this district.

63. Wright knew that the binary options solicitations he worked on included materially false or misleading statements.

64. Wright knew that the marketing materials he created for Montano Defendants, including emails, scripts and/or keynote videos would be made available to prospective customers and customers through emails and websites.

65. Wright also knew the purpose of the marketing materials that he created was to induce prospective customers to register with a specific Broker to open an account and trade binary options.

66. In approximately 2015 or early 2016, Wright had concerns about binary options scams. By spring of 2016, Wright determined not to work on binary options

anymore, especially after Affiliate 1 "expressed concern" and reported that the CFTC was looking into Affiliate 1's involvement with binary options. Affiliate 1 suggested that Wright not work on binary options anymore and asked him to delete all project files related to binary options and any communications with Affiliate 1. Wright followed Affiliate 1's instructions and deleted binary options materials.

67. Nonetheless, around the summer of 2016, Montano asked Wright to work on revising a binary options script and Wright accepted the job because Montano was persistent and agreed to double Wright's fee. Wright created the script for Centument 2.0, which included materially false or misleading statements and was developed into a VSL and used to solicit prospective customers via the internet. Wright thereafter continued to do work for Montano Defendants through at least September 2016 related to binary options, including writing over one hundred swipes for at least three binary campaigns.

68. By at least June 2013, Montano Defendants retained Video Producer A, who worked with Wright, to produce more elaborate VSLs for their binary options campaigns that included actors and props instead of just text and voiceovers.

69. During the Relevant Period, Video Producer A produced at least eighteen (18) VSLs related to campaigns where Montano Defendants acted as Affiliates. On at least four (4) occasions, Montano Defendants used VSLs that Video Producer A created for Affiliate 1 and which Wright worked on.

70. Video Producer A used scripts provided by Montano Defendants and/or referred them to Wright to create the copy or sub-titles for VSLs used by Montano Defendants.

71. Wright willfully assisted Montano Defendants in creating fraudulent solicitations. For example, in an April 2015 Skype chat between Video Producer A and Wright, Video Producer A described Montano as a "giant scam artist" and Wright acknowledged thinking and wanting to say to the affiliate marketers he worked for: "You spoiled fucking piece of scam shit". Wright also conceded: "But I'm a willing participant and I like their money."

**E. Defendants' Fraudulent Email Solicitations**

72. Montano had responsibility for sending out bulk spam emails for campaigns to prospective customers on behalf of Montano Defendants. Montano did so for the fraudulent campaigns Montano Defendants launched and also when Montano Defendants acted as a sub-affiliate for fraudulent binary options campaigns launched by others. Montano Defendants intentionally or recklessly distributed these bulk spam emails which included materially false or misleading statements.

73. These bulk emails (usually disseminated using Montano Defendants' auto-responders) contained numerous false or misleading statements about the marketed Trading Systems, such as that users can and have already "made millions" trading with the Trading Systems and achieved "mind-blowing results" very quickly. The emails often created the appearance of urgency by stressing that "spots are limited" or "time is running out."

74. Montano Defendants (through Montano) hired Wright to write targeted short emails ("swipes") for Montano Defendants' campaigns, primarily to use as follow-ups with prospective customers who didn't take the bait with just the initial solicitation. Montano Defendants used that content to spam prospective customers on their lead lists (directly or

indirectly using autoresponders). Montano Defendants also made the swipes available to sub-affiliates for them to use while promoting Montano Defendants' campaigns.

75. Sometimes Montano hired Wright to write swipes related to projects Wright had already worked on. In addition, at other times Montano provided a VSL or script to Wright and asked him to write swipes based on the information in those materials alone. Wright generally drafted dozens of unique swipes for a campaign when he was retained. For example, Wright drafted forty-seven (47) swipes for Centument 2.0, twenty-eight (28) swipes for Auto Mobile Code, sixty swipes (60) for Azure Method, and thirty (30) swipes for Mobile Binary Code. Montano Defendants paid Wright over $3,600 for those 165 swipes.

76. All of the swipes Wright prepared for Montano Defendants during the Relevant Period included false or misleading statements because they were based on fictional characters and fake trading performance and results. Wright knew that the swipes he drafted were fictitious because he made up the information and did not know anything about the actual performance or results of any binary options Trading System being marketed.

77. Even though Montano Defendants and/or sub-affiliates sent out the swipes, those emails often appeared as though the fictional character(s) depicted in the campaign's VSL or keynote video had sent the communication. For example, Montano and Affiliate 3 each sent swipes to prospective customers for their LCM campaign as "Larry", the name of the character depicted in the LCM VSL as the founder of the LCM System. Montano Defendants made it appear as though emails to prospective customers came from the owner or support department of the marketed Trading System so the solicitation looked more persuasive and credible.

78. Similarly, on April 15, 2016, an email from "Support Department" at Trianasoft (using an email address of michael@trianasoftltd.com) claimed the marketed Trading System went viral because "it ACTUALLY WORKS. Believe it or not, there is an actual software out there that's going to allow you to trade Binary Options profitably. . . on COMPLETE autopilot . . . ." On April 19, 2016, an email from "Triana" of Trianasoft Ltd claims: "We have put years of experience into every element of this software to ensure that it's profitable in 99% of all the trades it makes . . . (No one is perfect) . . . ." In fact, Montano Defendants sent these emails, Trianasoft Ltd never existed, and the referenced performance history is fake.

79. Montano Defendants also sent swipes (directly, through autoresponders, or through sub-affiliates) to remind prospective customers to go back to the website and finish setting up their account when prospective customers did not finish setting up and funding their trading account. On September 23, 2016, an email from "Support Department" for the Binary Interceptor campaign warned that only eight members could take advantage of a matching deposit offer so the recipient needed to act quickly and stop ignoring the emails. The solicitation went on:

> "You have zero risk . . . . And don't worry, the money is still yours . . . you're still not paying a single penny for the software that makes me $10K a day on autopilot . . . . So your money is secure and will still be in your hands . . . . It's like transferring your money into another bank account . . . ."

In fact, Defendants sent the email, "zero risk" was a lie, and the report of $10K per day profits trading using the Binary Interceptor System was fake.

80. Montano touted the effectiveness of his swipes to Affiliate 4 and Affiliate 5, and provided them with examples that Wright wrote for Centument that had worked well. One of Wright's swipes claimed that a multi-billionaire used the Centument System to make over $100 million a year. Another of Wright's swipes identified Centument LTD, as "one of the leading Binary Options firms in Wall Street." Montano made these swipes available in the Centument campaign for sub-affiliates to use and send out even though all of the information in the swipes was fake.

81. Montano Defendants' solicitation emails included testimonials, but the emails did not disclose that the testimonial was no guarantee of future performance or success as required by 17 C.F.R. § 4.41(a)(3).

82. Montano Defendants' solicitation emails included simulated and/or hypothetical performance results but the emails did not disclose the fact that those results were simulated and/or hypothetical in immediate proximity to those statements as required by 17 C.F.R. § 4.41(b)(2).

### F. Montano Defendants' Websites Featured Elaborate Sales Videos Designed to Deceive Prospective Customers To Open and Fund Binary Options Accounts

83. All of Montano Defendants' campaign websites featured at least one VSL or keynote video that depicted a fictional story about a System portrayed by paid actors representing fictional characters making false or misleading statements about the System's trading results, risk of loss, and profits earned. Montano Defendants intentionally or recklessly disseminated VSLs or keynote videos with these false or misleading statements.

84. Each of the VSLs and keynote videos used by Montano Defendants contained numerous false or misleading statements about the marketed Trading System. Montano

Defendants knew, or were reckless in not knowing, that the VSLs and keynote videos did not represent real users or creators of the System, actual trading activity, testimonials, and/or real trading results.

85. Montano Defendants' websites included testimonials but, to the extent any disclosure was present on the website at all, the websites did not prominently disclose that the testimonials were no guarantee of future performance or success as required by 17 C.F.R. § 4.41(a)(3).

86. Montano Defendants' websites included simulated and/or hypothetical performance results but, to the extent any disclosure was present on the websites at all, the websites did not prominently disclose the fact that those results were simulated and/or hypothetical in immediate proximity to those statements as required by 17 C.F.R. § 4.41(b)(2).

87. For approximately a dozen campaigns, Montano Defendants (directly or indirectly) created a fictional story about the marketed Trading System and reported fake results and success stories purportedly from use of that System. Montano either wrote the script for the VSLs and keynote videos that Montano Defendants procured or they retained Wright to do so.

i. Wright willfully and substantially assisted Montano Defendants in Drafting Scripts and Creating Videos

88. During the Relevant Period, Wright drafted or revised at least five to ten binary options scripts for Montano Defendants, including Centument 2.0. Montano generally provided Wright an idea for the "rich lifestyles" story he wanted in a script and provided Wright with bank or trading account screenshots to weave in as well.

89. Montano reviewed all of Wright's scripts, usually made changes, and approved all final versions before sending payment via PayPal or wire from accounts in this district.

90. Montano Defendants also retained Wright to create keynote videos based on scripts Montano provided and/or Wright wrote for Montano Defendants. Montano Defendants often asked Wright to include multiple versions of keynote videos, sometimes even dozens of versions of a binary campaign. Those videos included text and images in a power-point style with an actor reading the text depicted on the screen in the background. When creating those videos, Montano asked Wright to include images of luxury items and large homes as props, which Wright did by using stock images from iStock.

91. All of the scripts Wright drafted or revised for Montano Defendants included materially false or misleading statements about the marketed trading software's performance and/or results. Wright knew that the scripts he wrote reflected fake trading results and performance based on his experience with Montano and other affiliates, and because he made them up without having any knowledge about binary options and/or the marketed Trading System.

92. For example, the information Wright received from his clients (including Montano) was vague at best and Wright was tasked with coming up with a fictional story based on generalities to entice prospective customers. Wright did not believe that the "users" he wrote about and/or made videos about had actually made the huge returns from the marketed Trading System, but did his best to make it appear as realistic as possible. Wright re-used income proofs that he had used in previous projects and some Affiliates also told

Wright that they would make proof (like bank account screenshots) to match whatever he came up with.

93. Wright nonetheless worked on binary options projects for Montano Defendants and others like Affiliate 1 because the money was really good.

ii. Montano Defendants Used VSLs as Part of Their Scam

94. When using Video Producer A to make their VSLs, Montano provided Video Producer A with scripts and images of bank and trading account statements for the videos, selected the setting or location for the shoot, and choose the actors who would bring the script to life on screen.

95. Montano Defendants' VSLs included purported trading profits, actors portrayed as the founders of the advertised System with vast experience in trading, and other misrepresentations designed to assure the viewer that the information relayed was real even though everything was fake. Montano has never traded binary options and does not know of any real customers' experience(s) that could serve as the basis for events portrayed in Montano Defendants' VSLs.

96. For example, Montano Defendants' binary options VSLs that depicted historical and/or live trading results were fake. Montano generally supplied Video Producer A with the images of bank and trading account statements to accompany the false statements about earnings and performance as "proof" in Montano Defendants' VSLs. At times, Video Producer A re-used bank or trading account "proof" from earlier videos he had worked on. On at least one occasion, Montano provided Video Producer A with a screenshot of his bank

account and asked Video Producer A to disguise his name; Video Producer A subsequently used the image in the VSL to depict the profits of a successful binary options trader.

97. Montano Defendants' binary option campaigns not only included false profits, but guaranteed them. Montano Defendants' VSLs generally described use of the System as "risk-free" and promised customers that they would make outlandish profits.

98. Video Producer A procured "props" for the VSLs used by Montano Defendants to make it appear as though the advertised System resulted in wealth and to create an overall "life of the rich and famous" image. The lavish props depicted in VSLs used by Montano were designed to mislead viewers into believing that success with the advertised System enabled the characters to live such lifestyles. Montano Defendants' VSLs included props like luxury vehicles, a private jet, and mansions–all rented to create the video and not in fact owned or purchased by any user of the advertised System. Montano either specified the type of lavish props to use and/or approved all props included in the VSLs Video Producer A created for Montano Defendants.

99. Montano Defendants' binary options VSLs also included fake "testimonials" of purported users of the marketed Trading Systems. For Montano Defendants' VSLs, Montano wrote and/or directed Wright to draft testimonials based on fictional characters' pretend experiences and false results.

100. The testimonials in VSLs used by Montano Defendants' binary options failed to prominently disclose that they may not represent the experience of other users of the marketed Trading System, that the testimonials were not a guarantee of future performance

or that the testimonials were fake and depicted by paid actors or misappropriated images from the internet.

101. Other common false statements in Montano Defendants' binary options campaigns were designed to convince prospective customers that they should invest immediately to take advantage of the opportunity. Specifically, they involved the limited availability of the marketed Trading System, and/or some restriction on the amount of time left to take advantage of the opportunity. These misrepresentations appear in VSLs, on Montano Defendants' binary options websites and in email solicitations to prospective customers. In fact, Montano Defendants' binary options campaigns were widely disseminated to millions of email addresses.

102. For example, the LCM VSL featured an actor playing a Harvard Professor and other actors posing as users for purposes of providing fake testimonials. The VSL also depicted fake bank and trading account statements showing purported profits resulting from use of Larry's Cash Machine trading in binary options involving gold and currency pairings. The VSL included the following material false or misleading statements:

- A Harvard professor invented software that has generated over $38 million in binary options profits in just the prior 36 months.
- The "100 percent automated" software operates on an "average mathematical certainty" of 97.8% and turns $250 into $4,000 in one day.
- "Julia," a single mother who needs money, opens an account and deposits $250, returns to find her account balance has increased to $1,400. Some 11 months later, Julia returns to say she has $1.8 million in binary trading profits and a new house.
- A testimonial claiming Larry's Cash Machine made someone $657 in 60 seconds.

- A user saying after depositing $250, the account showed $1,489.00 within an hour.
- A testimonial from a hedge fund manager who said his trading profits increased by 544% using LCM.
- A pastor who used profits from LCM to build a new church.
- 100 test subjects earned $148 million in less than a year.
- "This is not our estimate, this is our track record. A mathematical certainty which is why I can absolutely guarantee with everything behind my name that you'll be a millionaire one year from now."

103. Montano reviewed the final version of each of Montano Defendants binary options VSLs before posting them on Montano Defendants' campaign websites.

104. Montano Defendants' fictitious scripts provided instructions on how to portray scenes to make them enticing and believable and Montano Defendants knew their partners did the same thing. Montano Defendants intentionally or recklessly s disseminated VSLs on the internet that depicted totally fictitious stories, characters, trading performance, and testimonials. Montano Defendants disseminated campaign marketing materials on the internet and email solicitations that did not include the required 17 C.F.R. § 4.41 disclosures.

**G. Defendants Tried to Cover Their Tracks**

105. Montano deleted all documents related to binary options at least by mid-2016.

106. In late 2017, Montano contacted Wright and informed him that Video Producer A had received a subpoena and that Montano's name had come up. Montano asked whether Wright had also received a subpoena. Montano was nervous about the investigations and described himself to Wright as a mere "consultant" related to binary

options projects. Wright understood that Montano was trying to distance himself from binary options activities based on that conversation and knew that in fact Montano directed the projects he had been involved with and did not act as a mere consultant.

107. Montano primarily communicated with Wright via Skype during the Relevant Period. Around late 2017 or January 2018, Montano told Wright to sign up for Telegram so that they could communicate there instead of through Skype. Montano told Wright over Telegram that he did not want a record of their conversations.

**H. Montano Defendants Successfully Scammed Thousands of Individuals**

108. Montano Defendants, directly, indirectly, and through sub-affiliates, disseminated over fourteen million fraudulent solicitations for at least twenty-one campaigns. Montano Defendants' fraudulent VSLs for those campaigns were viewed over a million times, and between approximately 9,000 to 10,000 new binary options trading accounts were opened as a result. Based on the Brokers' $250 minimum deposit threshold, those customers initially deposited at least $2.2 to 2.5 million into their trading accounts.

109. Montano Defendants, Affiliate 3, and/or sub-affiliates disseminated over four million fraudulent solicitations for the LCM, Binary Hijack and Copy Trade Profit campaigns alone. Those fraudulent VSLs for those campaigns were viewed over 400,000 times, resulting in between about 3,300-4,250 new binary options trading accounts with initial deposits between $825000 and $1,062,500.

110. For the two binary options campaigns that Montano launched with Affiliates 1 and 2, they disseminated (directly, indirectly, or through sub-affiliates) at least ten million fraudulent solicitations, the fraudulent VSLs were viewed at least 100,000 to 200,000 times,

and at least 2,000 customers opened new binary options trading accounts with initial deposits of at least $500,000.

111. Montano Defendants' remaining fraudulent VSLs for the twenty-one campaigns were viewed over 600,000 times and resulted in at least 3,688 new binary options trading accounts funded with at least $922,000.

112. Montano Defendants earned additional commissions by acting as sub-affiliates for other fraudulent binary options campaigns. Montano Defendants also frequently won cash and other prizes for promoting sub-affiliates campaigns.

113. Between at least September 2013 and December 2016, Montano Defendants earned over five million dollars ($5,000,000) related to affiliate marketing.

## V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND REGULATIONS

### COUNT ONE
### Violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2012), and Regulation 32.4, 17 C.F.R. § 32.4 (2018)
### Options Fraud

114. The allegations in the foregoing paragraphs are incorporated by reference as if fully set forth herein.

115. 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 to the trade as, inter alia, an "option", "bid", "offer", "put", or "call", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

116. 17 C.F.R. § 32.4 provides that, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction, it shall be unlawful for any person directly or indirectly: (a) to cheat or defraud or attempt to cheat or defraud any other person; (b) to make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof; or (c) to deceive or attempt to deceive any other person by any means whatsoever.

117. Montano Defendants intentionally or recklessly used fraudulent solicitations in emails, websites, and fictitious VSLs and keynote videos promising free access to Trading Systems to induce prospective customers to open and fund a binary options trading account with a recommended Broker so that Montano Defendants could earn commissions.

118. Wright knowingly participated in Montano Defendants' fraudulent solicitations by creating marketing materials used in Montano Defendants' campaigns that included materially false and misleading statements.

119. During the Relevant Period, Montano Defendants, by the conduct alleged in the foregoing paragraphs, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction directly or indirectly: (a) cheated or defrauded, and attempted to cheat and defraud, customers and prospective customers; (b) made or caused to be made to customers and prospective customers false reports or statements; and (c) deceived or attempted to deceive customers and prospective customers, in violation of 7 U.S.C. § 6c(b) and 17 C.F.R. § 32.4.

120. During the Relevant Period, Wright, by the conduct alleged in the foregoing paragraphs, willfully aided and abetted Montano Defendants' violations of 7 U.S.C. § 6c(b)

and 17 C.F.R. § 32.4. Wright is therefore liable for Montano Defendants' violations pursuant to 7 U.S.C. § 13c(a) (2012).

121. The foregoing acts, misrepresentations and omissions of Montano occurred within the scope of his employment, office or agency with Montano Enterprises. Therefore, Montano Enterprises is liable for his acts pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2 .

122. Each defendant is liable for the acts, omissions, or failures of agents, employees, or persons otherwise acting for that defendant, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

**COUNT TWO**
**Violation of Section 4*o*(1) of the Act, 7 U.S.C. § 6*o*(1) (2012):**
**CTA Fraud**

123. The allegations in the foregoing paragraphs are incorporated by reference as if fully set forth herein.

124. During the Relevant Period, Montano Defendants acted as CTAs by disseminating for compensation numerous and varied marketing materials which advised customers and prospective customers to open binary options accounts and use purportedly successful trading systems to trade those accounts.

125. 7 U.S.C. § 6*o*(1), makes it unlawful for a CTA, using the instrumentalities of interstate commerce, directly or indirectly:

> (A) Employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or
> (B) To engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

126. Montano Defendants fraudulently solicited members of the public and created and/or disseminated fraudulent websites and emails to induce members of the public to go through their funnel to open and fund new binary options trading accounts with a recommended Broker to access the marketed Trading System. For each of Defendants' binary options campaigns, including but not limited to the twenty-one (21) Defendants launched and at least fourteen (14) others they disseminated, Defendants repeatedly misrepresented, among other things: (i) hypothetical and fictitious trading results as real results; (ii) actors as true users of the Trading Systems; (iii) the fictitious experience, background and skill of the "creators" of the Trading Systems; (iv) fabricated testimonials; and/or (v) that the Trading Systems traded automatically.

127. Wright knowingly participated in Montano Defendants' fraudulent conduct described in the preceding paragraph by creating fraudulent marketing materials for at least nine of their campaigns during the Relevant Period.

128. During the Relevant Period, Montano Defendants, by the conduct alleged in the foregoing paragraphs, while acting as CTAs, used the instrumentalities of interstate commerce and: (a) employed numerous devices, schemes, or artifices to defraud clients and prospective clients; and (b) engaged in transactions, practices, and courses of business which operated as a fraud or deceit upon clients and prospective clients, in violation of 7 U.S.C. § 6*o*(1).

129. During the Relevant Period, Wright, by the conduct alleged in the foregoing paragraphs, willfully aided and abetted Montano Defendants' violations of 7 U.S.C. § 6*o*(1). Wright therefore is liable for Montano Defendants' violations pursuant to 7 U.S.C. § 13c(a).

130. The foregoing acts and omissions of Montano occurred within the scope of his employment, office or agency with Montano Enterprises. Therefore, Montano Enterprises is liable for his acts pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2 .

131. Each defendant is liable for the acts, omissions, or failures of agents, employees, or persons otherwise acting for that defendant, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

**COUNT THREE**
**Violation of Regulation 4.41(a)(1)-(3), (b)(1)-(2), 17 C.F.R. § 4.41(a)(1),(2),(3), (b)(1),(2) (2018):**
**Fraudulent Advertising**

132. The allegations in the foregoing paragraphs are incorporated by reference as if fully set forth herein.

133. 17 C.F.R. § 4.41(a)(1), (2) prohibits fraudulent advertising by a CTA.

134. 17 C.F.R. § 4.41(a)(3) makes it unlawful for any CTA to refer to any testimonial, unless the advertisement or sales literature providing the testimonial prominently discloses, in pertinent part: (i) that the testimonial may not be representative of the experience of other clients; (ii) that the testimonial is no guarantee of future performance or success; and (iii) If, more than a nominal sum is paid, the fact that it is a paid testimonial.

135. 17 C.F.R. § 4.41(b) makes it unlawful for any CTA to present simulated or hypothetical performance commodity interest account or transaction or series of transactions unless the statement below is prominently disclosed "in immediate proximity to the simulated or hypothetical performance being presented":

> These results are based on simulated or hypothetical performance results that have certain inherent limitations. Unlike the results shown in an actual performance record, these results do not represent actual

> trading. Also, because these trades have not actually been executed, these results may have under-or-over-compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated or hypothetical trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to these being shown.

136. During the Relevant Period, Montano Defendants acted as CTAs.

137. Each of the binary options advertising campaigns that Defendants launched and/or disseminated, including the thirty-five (35) identified herein were rife with materially false and misleading statements.

138. Montano Defendants' promotional materials, including emails, websites VSLs, and keynote videos refer to testimonials in their binary options campaigns. Montano Defendants did not, however, prominently disclose for each testimonial that it may not represent the experience of other users of the marketed Trading System, that the testimonial was not a guarantee of future performance or that the testimonial was entirely fake and represented by paid actors or misappropriated images from the internet.

139. Montano Defendants' promotional materials, including emails, websites, VSLs, and keynote videos, further depicted fabricated performance results of binary options transactions in, among other instruments, commodity futures, options, swaps and forex, without displaying the required disclosure in immediate proximity to those statements. To the contrary, the VSLs repeatedly referred to trading performance, activity and results as "real" and depicted "live."

140. Wright knowingly participated in Montano Defendants' illegal conduct described in the preceding paragraph by creating marketing materials for at least nine of their campaigns during the Relevant Period.

141. By the conduct alleged above, Montano Defendants advertised in a manner that was fraudulent and failed to include the required disclosures for hypothetical or simulated trading performance and testimonials in violation of 17 C.F.R. § 4.41(a)(1)-(3), and (b)(1)-(2).

142. During the Relevant Period, Wright, by the conduct alleged in the foregoing paragraphs, willfully aided and abetted Montano Defendants' violations of 17 C.F.R. § 4.41(a)(1)-,(3), and (b)(1)-(2). Wright is therefore liable for Montano Defendants' violations pursuant to 7 U.S.C. § 13c(a).

143. The foregoing acts and omissions of Montano occurred within the scope of his employment, office or agency with Montano Enterprises. Therefore, Montano Enterprises is liable for his acts pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2 .

144. Each defendant is liable for the acts, omissions, or failures of agents, employees, or persons otherwise acting for that defendant, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

## COUNT FOUR

### Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012) and Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-(3) (2018): Manipulative & Deceptive Device, Scheme or Artifice

145. The allegations set forth in the paragraphs above are re-alleged and incorporated herein by reference.

146. 7 U.S.C. § 1a(47)(A) (2012), defines "swap" to include, among other things, any agreement, contract, or transaction that: (a) is an option of any kind; (b) provides for payment dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency; or (c) provides on an executory basis for payments based on the value or level of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or properly of any kind, without also conveying an ownership interest in any asset or liability.

147. 7 U.S.C. § 9(1) provides in relevant part, "[i]t shall be unlawful for any person, directly or indirectly, to use or employ or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the as the Commission shall promulgate…."

148. 17 C.F.R. § 180.1(a) provides in relevant part, that it shall be unlawful for any person, in directly or indirectly:

> In connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly: (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud; (2) Make, or attempt to make, any untrue or misleading statement of materials fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person …

149. Montano Defendants' campaigns marketed free access to Trading Systems trading swaps, as defined by the Act.

150. Montano Defendants intentionally or recklessly used fraudulent solicitations in emails, websites, and fictitious VSLs and keynote videos promising free access to their Trading Systems to induce prospective customers to go through their funnel and open and fund a binary options trading account with their recommended Broker to earn commissions. Montano Defendants worked with other Affiliates, Broker intermediaries, and Wright to carry out their fraudulent solicitation scheme.

151. Montano Defendants further disseminated fraudulent solicitations on behalf of other affiliates and earned commissions as a result of their activities. Defendants intentionally or recklessly knew those solicitations were fictitious.

152. Wright assisted Montano Defendants by creating marketing materials for at least nine of their campaigns during the Relevant Period.

153. During the Relevant Period, Montano Defendants, by the conduct alleged in the foregoing paragraphs, intentionally or recklessly, directly and indirectly, in connection with swaps: (a) used or employed, or attempted to use or employ, manipulative devices, schemes, and artifices to defraud; (b) made, or attempted to make, untrue or misleading statement of a material fact; (c) omitted to state material facts necessary in order to make statements made not untrue or misleading; and (d) engaged, or attempted to engage, in acts, practices, and courses of business, which operated or would operate as a fraud or deceit upon customers and prospective customers, in violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3).

154. During the Relevant Period, Wright, by the conduct alleged in the foregoing paragraphs, willfully aided and abetted Montano Defendants' violations of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3). Wright is therefore liable for Montano Defendants' violations pursuant to 7 U.S.C. § 13c(a).

155. The foregoing acts and omissions of Montano occurred within the scope of his employment, office or agency with Montano Enterprises. Therefore, Montano Enterprises is liable for his acts pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2 .

156. Each defendant is liable for the acts, omissions, or failures of agents, employees, or persons otherwise acting for that defendant, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

## VI. RELIEF REQUESTED

157. WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), and pursuant to the Court's own equitable powers:

a. Find that Montano Defendants violated Sections 4c(b), 4*o*(1), and 6(c)(1) of the Act, 7 U.S.C. §§ 6c(b), 6*o*(1), 9(1) (2012), and Regulations 4.41(a)(1)-(3) and (b)(1)-(2), 32.4, and 180.1(a)(1)-(3), 17 C.F.R. §§ 4.41(a)(1)-(3),(b)(1)-(2), 32.4, 180.1(a)(1)-(3) (2018).

b. Find that Wright aided and abetted Montano Defendants' violations of 7 U.S.C. §§ 6c(b), 6*o*(1), 9(1) and 17 C.F.R. §§ 4.41(a)(1)-(3) and (b)(1)-(2), 32.4, 180.1(a)(1)-(3) and are liable for those violations pursuant to 7 U.S.C. § 13c(a).

c. Enter an order of permanent injunction enjoining Defendants, and their affiliates, agents, servants, employees, successors, assigns, attorneys, and all persons in active concert with them, who receive actual notice of such order by personal service or otherwise, from engaging in the conduct described above, in violation of 7 U.S.C. §§ 6c(b), 6*o*(1) and 9(1), and 17 C.F.R. §§ 4.41(a)(1)-(3) and (b)(1)-(2), 32.4, and 180.1(a)(1)-(3).

d. Enter an order of permanent injunction prohibiting Defendants and any of their affiliates, agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, from, directly or indirectly:

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

ii. Entering into any transactions involving "commodity interests" (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2018)), for Defendants' own personal account or for any account in which Defendants have a direct or indirect interest;

iii. Having any commodity interests, traded on Defendants' behalf;

iv. 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 interests;

v. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;

vi. 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) (2018); and

vii. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2018)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, 7 U.S.C. § 1a) registered, exempted from registration or required to be registered with the Commission except as provided for in 17 C.F.R. § 4.14(a)(9).

e. An order directing Defendants, as well as any third-party transferee and/or successors thereof, to disgorge to any officer appointed or directed by the Court all benefits received including, but not limited to, salaries, payments, commissions, loans, fees, revenues, and trading profits derived, directly or indirectly, from acts or practices that constitute violations of the Act and the Regulations, including pre- and post-judgment interest;

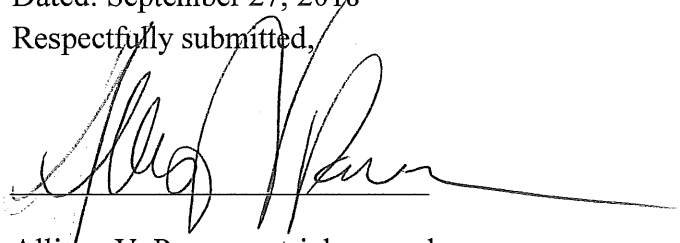
f. An order directing Defendants, as well as any successors thereof, to make full restitution to every person or entity whose funds Defendants received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act and the Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

g. An order directing Defendants to pay civil monetary penalties, to be assessed by the Court, in an amount not more than the penalty prescribed by Section 6c(d)(1) of the Act, 7 U.S.C. § 13a-1(d)(1) (2012), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 129 Stat. 584 (2015), title VII, Section 701, *see* Commission Regulation 143.8, 17 C.F.R. § 143.8 (2018), for each violation of the Act, as described herein;

h. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2012); and

i. Enter an Order providing such other and further relief as this Court may deem necessary and appropriate.

Dated: September 27, 2018
Respectfully submitted,



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