

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

LUCRATIVE PIPS  
CORPORATION and KEVIN  
PERRY,

Defendants.

Civil Action No.

**COMPLAINT FOR INJUNCTIVE  
AND OTHER EQUITABLE  
RELIEF AND FOR CIVIL  
MONETARY PENALTIES  
UNDER THE COMMODITY  
EXCHANGE ACT AND  
COMMISSION REGULATIONS**

Plaintiff Commodity Futures Trading Commission (“Commission”) alleges as follows:

**I. INTRODUCTION**

1. From at least December 2016 to the present (the “Relevant Period”), Kevin Perry (“Perry”), individually and as agent and principal of Lucrative Pips Corporation (“Lucrative Pips”) (collectively “Defendants”), operated a fraudulent scheme in which they solicited and misappropriated funds for a pooled investment

vehicle in off-exchange leveraged or margined foreign currency exchange (“forex”) contracts.

2. Defendants knowingly made fraudulent and material misrepresentations and omissions about their forex trading strategy and returns to persuade at least thirty individuals (“Pool Participants”) to transfer at least \$400,000 to Defendants for the purpose of participating in a pooled forex investment vehicle.

3. To entice prospective Pool Participants, Defendants knowingly and falsely represented that they were profitably trading forex and promised prospective Pool Participants that their accounts would grow in value approximately 200% to 350% in less than sixty days.

4. Further, to lure individuals to initially participate, Defendants knowingly and falsely represented that a Pool Participant’s initial deposit with Defendants was fully “guaranteed” against trading losses. Pool Participants were led to believe that even if Defendants’ trading was unprofitable, upon request, the funds they initially entrusted to Defendants to trade would be returned.

5. Despite Defendants’ claims to Pool Participants and prospective Pool Participants that their forex trading was highly successful and that Pool Participants could withdraw their money at the completion of trading, Defendants did not successfully trade forex—indeed, they lost money trading forex, and

Defendants did not return Pool Participants' money when they attempted to withdraw funds.

6. Defendants misappropriated a portion of the funds that they solicited from Pool Participants. As a result, Pool Participants have lost most, if not all, of their funds due to Defendants' fraud and misappropriation.

7. By virtue of this conduct, and the conduct as more fully set forth below, Defendants have engaged, are engaging, and/or are about to engage in acts and practices in violation of Sections 4b(a)(2)(A)-(C) and 4o(1)(A) and (B) of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6o(1)(A), (B) (2012), and Commission Regulations ("Regulations") 4.41(a), and 5.2(b), 17 C.F.R. §§ 4.41(a), 5.2(b) (2018).

8. In addition to the above-described fraudulent conduct, Defendant Lucrative Pips acted at all times during the Relevant Period as a commodity pool operator ("CPO") by operating or soliciting funds for a pooled investment vehicle that is not an eligible contract participant ("ECP") and that engages in retail forex transactions, without being registered with the Commission as a CPO, as required by the Act and Regulations. Specifically, Defendant Lucrative Pips' failure to register as a CPO violates Sections 2(c)(2)(C)(iii)(I)(cc) and 4m(1) of the Act, 7

U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2018).

9. Similarly, Defendant Perry solicited funds for participation in a pool investment vehicle for the purpose of trading in off-exchange leveraged or margined forex contracts, while associated with Defendant Lucrative Pips as an officer, employee, or agent, without being registered with the Commission as an associated person (“AP”) of Lucrative Pips, as required by the Act and Regulations. Specifically, Defendant Perry’s failure to register as an AP of a CPO violates Sections 2(c)(2)(C)(iii)(I)(cc) and 4k(2) of the Act, 7 U.S.C.

§§ 2(c)(2)(C)(iii)(I)(cc) and 6k(2) (2012), and Regulation 5.3(a)(2)(ii), 17 C.F.R. § 5.3(a)(2)(ii) (2018).

10. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), 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.

11. 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 AND VENUE

12. **Jurisdiction.** This Court possesses jurisdiction over this action pursuant to 28 U.S.C. § 1331 (2012) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (providing that U.S. 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). In addition, Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), provides that the Commission may bring actions for injunctive relief or to enforce compliance with the Act in the proper district court of the United States whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

13. The Commission has jurisdiction over the forex solicitations and transactions at issue in this case pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012).

14. **Venue.** Venue properly lies in this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Defendants are found in, inhabit, or transact business in this District, and because acts and practices in violation of the Act occurred, are occurring, or are about to occur, within this District. As alleged

in this Complaint, Defendants fraudulently solicited numerous customers in the Northern District of Georgia, receiving at least \$400,000 from those customers.

### **III. THE PARTIES**

15. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act and Regulations. The Commission maintains its principal office at 1155 21st Street N.W., Washington, DC 20581.

16. Defendant **Lucrative Pips Corporation** is a corporation based in Acworth, Georgia. It was incorporated on December 6, 2016. Lucrative Pips' last known address is 3330 Cobb Parkway, Suite 324-231, Acworth, Georgia. Lucrative Pips has never been registered in any capacity with the Commission.

17. Defendant **Kevin Perry** is a resident of Cartersville, Georgia. Perry is the founder and chief executive officer of Lucrative Pips Corporation. Perry has never been registered in any capacity with the Commission.

### **IV. STATUTORY AND REGULATORY BACKGROUND**

18. Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012), applies provisions of the Act to agreements, contracts, or transactions in forex. Specifically, 7 U.S.C. § 2(c)(2)(C)(iv) states that Section 4b of the Act, 7 U.S.C. §

6b (2012), applies to forex agreements, contracts, or transactions “as if” they were contracts of sale of a commodity for future delivery.

19. 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc) prohibits any person from operating or soliciting funds, securities, or property for any pooled investment vehicle that is not an ECP in connection with agreements, contracts, or transactions in forex, unless registered with the Commission, with certain exceptions not applicable to Defendants.

20. An ECP is defined by the Act, in relevant part, as “an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of – (I) \$10,000,000; or (II) \$5,000,000 and who enters into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.” 7 U.S.C. § 1a(18)(xi) (2012).

21. Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2018), require any person acting as a CPO, as defined in Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2018), to be registered as such with the Commission.

22. For the purposes of trading forex, a CPO is defined in 17 C.F.R. § 5.1(d)(1) as “any person who operates or solicits funds, securities, or property for

a pooled investment vehicle that is not an [ECP] as defined in section 1a(18) of the Act, and that engages in retail forex transactions[.]”

23. Section 4k of the Act, 7 U.S.C. § 6k(2) (2012), and 17 C.F.R. § 5.3(a)(2)(ii) require any AP of a CPO, as defined in 17 C.F.R. § 5.1(d)(2), to be registered as such with the Commission.

24. For the purposes of trading forex, an AP of a CPO is defined in 17 C.F.R. § 5.1(d)(2) as “any natural person associated with a commodity pool operator . . . as a partner, officer, employee, consultant or agent . . . in any capacity which involves: (i) The solicitation of funds, securities, or property for a participation in a pooled investment vehicle; or (ii) The supervision of any person or persons so engaged.”

## V. FACTS

### A. Operation of Lucrative Pips

25. During the Relevant Period, Defendants fraudulently solicited at least \$400,000 from at least thirty Pool Participants, who were Defendant Perry’s friends, acquaintances, and members of the public, for a pooled investment vehicle that is not an ECP in connection with the trading of retail forex contracts.

26. On or about November 2, 2016, Defendants registered the Internet domain name [www.lucrativepips.com](http://www.lucrativepips.com), which they used to host the Lucrative Pips public website.

27. On or about December 6, 2016, Lucrative Pips was registered with the Georgia Corporations Division. Perry is listed as chief executive officer and registered agent for Lucrative Pips. Perry's father is listed as Lucrative Pips' chief financial officer. Perry's girlfriend is listed as Lucrative Pips' corporate secretary.

28. Between August 2016 and January 2017, Defendants established social media accounts for Lucrative Pips, including accounts on Instagram ([lucrative\\_pips](#)), Twitter ([@lucrative\\_pips](#)), and Facebook ([Lucrative-Pips](#)). Defendant Perry also used his personal Instagram account ([freshkap](#)) and Twitter account ([@freshkap](#)), to tout the trading performance of Defendants.

29. During the Relevant Period, Defendants posted on the Lucrative Pips social media accounts screenshots of purported profit-generating forex trades to entice prospective Pool Participants to open accounts with Lucrative Pips. For example on Instagram, along with the trading screenshots, Defendants posted:

- a. "You want to win, you have to be on the right team! #lucrativepips #takeprofits #entrepreneur #fx #motivation #success #profit #stocks #investment #finance #invest #daytrader #wealth #stockmarket #broker #lifestyle #eurusd #daytrading #forexsignals #gold #currency #luxury #millionaire;" and

- b. “Average \$100 profits a day equals \$500 a week equals \$26,000 a year. Numbers too small, average \$1,000 profits in a day equals \$5,000 a week equals \$260,000 a year. We didn't invent forex, but we've made it user-friendly for everyday people like you! Invest in yourself today! #lucrativepips #forextrader LucrativePips.Com #forextrader LucrativePips.Com #entrepreneur LucrativePips.Com #motivation LucrativePips.Com #takeprofits #stocks #investment #finance #lifestyle #daytrading #forexsignals #currency #luxury #millionaire “We shooting for a record week! #lucrativepips #takeprofits #believe #wewinning #jointheteam #forex #forexsignals #forextrading #cashout.”

30. During the Relevant Period, from his personal Twitter account, Perry retweeted posts from Lucrative Pips including:

- a. “When one wins, we all will win! #tagafriend #lucrativepips #takeprofits #riseiprise #forex #forexsignals;” and
- b. “You can do this! #lucrativepips #trading #money #trader #forextrader #business #pips #forextrading #wallstreet.”

31. Beginning on or about February 24, 2017, Defendants announced on the Lucrative Pips Instagram account and Perry’s personal Instagram account that a Lucrative Pips smartphone application (“App”) was available to prospective Pool Participants at the Apple App Store and Google Play Store. The description contained alongside the Lucrative Pips App image in Perry’s posting stated that:

“Lucrative Pips started with a single individual who earned wealth in the foreign currency exchange market and became passionate about helping other do the same. Continuing that journey today, we spend long hours watching the market and testing new strategies so that we can bring the benefits of forex to our customers.”

32. On March 2, 2017, in describing the Lucrative Pips App, the Defendants posted on Instagram:

“The App that makes you \$\$\$\$ , download now why [sic] it's free!  
#lucrativepips LucrativePips.Com #takeprofits #stocks #investment #finance  
#lifestyle #daytrading #forexsignals #currency #luxury #millionaire #rich  
#futures.”

33. The Lucrative Pips App is no longer available at either the Apple App or Google Play store.

34. During the Relevant Period, Defendants opened bank accounts for Lucrative Pips at multiple banks. By March 2018, all the Lucrative Pips banking accounts were closed.

35. During the Relevant Period, Defendant Perry opened personal banking accounts at multiple banks.

36. Perry deposited pool participant funds into both the Lucrative Pips banking accounts and his personal banking accounts.

37. During the Relevant Period, Perry told Pool Participants that the Defendants conducted their forex trading at a foreign-based trading company (“Trading Company A”). This company has never been registered with the Commission in any capacity.

38. At the direction of Defendants, Pool Participants entered into a “Financial Investment Agreement” with “Lucrative Pips Corp. Foreign Currency

Investment Trading Group.” The Financial Investment Agreement falsely stated that Lucrative Pips shall receive and invest monies given to it by Pool Participants and then “conduct all necessary and related financial business from trading the investment in a Forex Trading account under Lucrative Pips.”

39. The duration of the Financial Investment Agreement was typically set between thirty-five and fifty-five days and sometimes referred to as a “cycle.” A pool participant’s trading cycle started after they gave their funds to Defendants.

40. At the direction of Defendants, to participate in the pool, Pool Participants transferred funds via wire or check to bank accounts controlled by Defendants. Defendants also accepted cash from Pool Participants at in-person meetings. Defendants then purportedly transferred the funds to the Lucrative Pips forex trading account.

41. Defendants told at least one pool participant that providing cash directly to Defendants was the best way to avoid delays in the withdrawal process caused by a Federal Reserve Bank review.

42. At least one pool participant was not an ECP as described in Part IV above.

**B. Defendants Made False and Misleading Representations and Omitted Material Facts To Solicit Pool Participants**

43. Throughout the Relevant Period, Defendants falsely and fraudulently represented to Pool Participants that Defendants used Pool Participant funds to profitably trade forex, and that the money deposited with Defendants was guaranteed against trading losses.

44. Defendants failed to disclose to Pool Participants or prospective Pool Participants that Defendants' forex trading was generally unprofitable or that Defendants would not return Pool Participant funds once trading was complete.

45. In personal meetings, Defendant Perry fraudulently and repeatedly told prospective Pool Participants that the initial funds they gave to Lucrative Pips were fully "guaranteed" against trading losses.

46. With regard to the risk involved in trading with Defendants, a version of the Financial Investment Agreement fraudulently stated that "Forex Trading is Risky, because of this Lucrative Pips does a 100% money back guarantee for initial investment incase [sic] the money is lost while trading." The agreement further provides that if a Pool Participant's funds are lost trading, Lucrative Pips would contact the Pool Participant and make them aware of the situation. After contacting the Pool Participant, Lucrative Pips would return their funds within seven to ten days.

47. In personal meetings and in text messages, Defendant Perry fraudulently and repeatedly told prospective Pool Participants that their accounts would grow in value approximately 200% to 350% percent in less than sixty days.

48. As stated in the Financial Investment Agreement, Defendants' goal for Lucrative Pips' forex trading was an increase on Pool Participants' funds of up to 350%.

49. During the relevant period, Perry falsely and fraudulently texted a prospective Pool Participant, "\$35,000-\$50,000 will be earned from \$20,000 investment in 2 months timeframe!"

50. Periodically during the trading cycle, Defendants sent updates to certain Pool Participants regarding the Defendants' trading activity. According to these false and misleading updates, Defendants' trading activity was overwhelmingly profitable.

51. During the Relevant Period, Perry knowingly made the following false and fraudulent statements via text to conceal Defendants' fraudulent scheme from detection:

- a. "Up \$47910 in the last 48 hours! Been a great week trading! Can't wait to show you these gains."
- b. "Your money is always growing understand that."
- c. "Gains!"

- d. “Up \$4763! Gains looking great.”
- e. “Achieved another goal! 5 figures in profits now. Gains looking great [a]ll trades that were placed have been profitable!”
- f. “Account official[ly] doubled!”

52. Contrary to Perry’s fraudulent texts to Pool Participants that Defendants were consistently making profitable forex trades, Defendants’ trading was actually unprofitable.

53. For example, in August and September 2017, Perry fraudulently misrepresented to Pool Participants that Defendants were profitably trading. Several months later, he admitted to Commission staff that Defendants’ trading was unprofitable. By letter dated April 20, 2018, in response to a subpoena issued by the Commission, Perry wrote, “In August I lost over \$75,000 and in September I lost over \$75,000.”

54. Pursuant to the Financial Investment Agreement and in text messages, after a trading cycle concluded, Defendants falsely misrepresented that they would withdraw all the profits from the forex trading account, deduct a commission for Lucrative Pips, and return the remaining profits to the Pool Participants.

55. When Pool Participants attempted to withdraw their funds at the end of their trading cycle, Defendants knowingly made false statements to Pool Participants for the purpose of concealing from them that their funds had been

misappropriated or lost in trading to explain why Defendants had not returned Pool Participants' funds.

56. Defendant Perry told Pool Participants that their funds were being reviewed or held by Defendants' bank or the Federal Reserve Bank. For example, in text messages sent to one pool participant, ("Pool Participant A"), between December 7, 2017, and December 17, 2017, Perry wrote:

- a. "[Pool Participant A] you can expect your money anytime, I know I've said this but yes it could be another few days to next week but I highly doubt this, bank has let me know your funding cleared the extensive review and all we are waiting for is this to process through and check printed."
- b. "Banks haven't gotten back to me, because of the amount it's the reason it's taking extra time and the fact all my investors are having to put the funds through there [sic] name next cycles are making it be so extensive."
- c. "I really apologize for this stupid delay but it's out of my hands the money is going through banks and must be cleared but it's happening as we speak just waiting for them to process your check out."
- d. "Banks keep taking longer across the board with all investors withdrawing profits."
- e. "Funds can be put on hold from banks like this. It's about to be over I really assure you."
- f. "We are doing withdrawals of international transactions with gains that take 15 years in months. The federal reserve can put extensive holds."

- g. "I know this has taking [sic] longer than contract states but it's out of my control when the banks don't clear the funds in usual times sometime."
- h. "If we were using US brokers withdrawals would be 2-4 days no holds ever but you only see 40% gains a year with them, we are using international brokers, some based out of Hong Kong and Europe. That's when the [F]ederal [R]eserve steps in and reviews all funds transferred and sometimes they place these hard holds."

57. Perry sent a group of Pool Participants, ("Pool Participants B through E") similar texts between October 2017 and December 2017 for the purpose of concealing from them that their money had been misappropriated or lost in trading.

For example Perry wrote:

- a. "Wasn't able to get checks, Wells Fargo let me know a extensive review on the funds were placed. I expect all funding to clear very soon."
- b. "Morning everyone the funding was placed under an extensive review. I expected to have funding in the next 2 weeks."
- c. "Every time you close a business account my banker has told me they mail you a check with the remaining balance. Problem was it's a international transfer with not only my funds but others."
- d. "All my wires get delays because of the dollar amount and where it's coming. The profits from this last cycle were above 6 figures which is why this delayed happened. I assure you the funds will be in at anytime."

58. During the relevant period, Perry sent another group of Pool Participants, ("Pool Participants F and G") similar texts for the purpose of

concealing from them that their money had been misappropriated or lost in trading.

For example Perry wrote:

- a. “If we were using etrade or US companies this wouldn’t never happen but it’s the fact it’s a international broker that we just have to wait until it process out.”
- b. “Contracts gets breached when federal reserve decides to hold funds. That’s nor [sic] my control or yours it’s the governments, But trust me you are very high on list as far as priority list, we will get it cleared.”
- c. “Markets are booming everyday hence why I believe feds are taking Longer to clear withdrawals I believe.”

59. For the purpose of concealing from Pool Participants that their money had been misappropriated or lost in trading, Perry also sent Pool Participants fraudulent account withdrawal statements to purportedly prove Defendants had sufficient funds to return money to Pool Participants.

60. Approximately November 2017, Pool Participant F contacted online support staff at Trading Company A where Defendants purportedly had their trading account to check the validity of Perry’s claim that Trading Company A had transferred the funds from the Lucrative Pips trading account to a bank account controlled by Defendants. Pool Participant F and Trading Company A online support staff conducted their communications via an online chat room available on Trading Company A’s website.

61. Pool Participant F provided Trading Company A online support staff a communication Perry had provided her which Perry claimed was a confirmation from Trading Company A documenting his withdrawal request and verifying that Defendants' funds were in the process of being wired to a bank account controlled by Perry.

62. In response to this "confirmation," Trading Company A online support staff responded, "We have no pending withdraw [sic] funds with this account."

63. In a separate conversation with Trading Company A online support staff, after providing a screenshot of Perry's withdrawal request and additional account information, the online support staff told Pool Participant F that "This Account have no Money[.] Client is already lose all funds in trading[.]"

64. Regarding the purported withdrawal request that Perry had provided Pool Participant F, Trading Company A online support staff stated, "This Receipt is fake."

65. As late as April 2018, Defendants continued to solicit Pool Participants for additional funds, claiming that if the Defendants are able to raise a sufficient amount of money to open a new account at a different broker, all the money to which Pool Participants are entitled would be released.

66. Specifically, Perry texted Pool Participant F and explained that Defendants had transferred \$475,000 from the Trading Company A to an intermediary broker because that broker could then transfer the \$475,000 to a regulated broker. Perry further explained that once Defendants transferred the money to a regulated broker, Defendants could withdraw the money in one to five business days and pay all the Pool Participants.

67. According to Perry, however, to transfer that much money to the regulated broker required a “VIP account” with an initial deposit of \$100,000. In a text message to Pool Participant F, Perry claimed to already have \$73,000, but needed an additional \$27,000 to open a VIP account. Perry asked Pool Participant F to give him \$27,000 so he could open a VIP account and pay all the Pool Participants in less than two weeks. Pool Participant F did not give Perry any additional funds.

**C. Defendants Misappropriated Pool Participants’ Funds**

68. During the Relevant Period, Defendants received at least \$400,000 from at least thirty Pool Participants.

69. During the Relevant Period, Perry misappropriated Pool Participant funds by depositing these funds into his personal banking account that was used to pay personal expenses.

70. Starting in at least September 2017, Defendants misappropriated Pool Participant funds by failing to return funds to Pool Participants upon their request pursuant to the terms of their Financial Investment Agreement with Lucrative Pips.

71. For example, during the Relevant Period different Pool Participants texted Perry the following:

- a. “Kevin, I need my check. You have had more than enough time to get past any issues you’ve continued to come up with as to why you do not have my money. You have broken the terms written in the contract numerous times. You don’t play games with other peoples’ money man. What you’re doing is extremely illegal.”
- b. “Today is the 15<sup>th</sup> business day after the cycle ended. On the contract it says 7-10 business days after the money is transfer [sic] out of the account we will receive a check. Maybe I just didn’t check the mail today, but I haven’t received a check nor had anybody else.”

72. To the extent Pool Participants received any funds, those funds were misappropriated by Defendants from other Pool Participants, in the nature of a Ponzi scheme, or came from Defendants’ personal assets in order to entice Pool Participants to give Defendants additional funds.

73. To date, despite repeated requests, most Pool Participants have not received any of their funds back from Defendants.

**D. Lucrative Pips Acted as an Unregistered CPO, and Perry Acted as an Unregistered AP of a CPO**

74. During the Relevant Period, Lucrative Pips, through Perry, acted by operating or soliciting funds for a pooled investment vehicle that is not an ECP and that engages in retail forex transactions.

75. During the Relevant Period, Perry acted in a capacity requiring registration as an AP of a CPO by soliciting customers and prospective customers for participation in a pooled investment vehicle, while associated with Lucrative Pips as a partner, officer, employee, consultant, or similar agent.

76. During the Relevant Period, Lucrative Pips was not registered with the Commission as a CPO, and Perry was not registered with the Commission as an AP of a CPO as required by the Act and Regulations.

**E. Perry Was a Controlling Person of Lucrative Pips**

77. Defendant Perry was a controlling person of Lucrative Pips. Perry was the founder of Lucrative Pips and its chief executive officer. Perry told Pool Participants that he was responsible for the trading at Lucrative Pips and was generally the sole source of information for Pool Participants regarding Lucrative Pips. Perry either directly or indirectly controlled the operation of the bank accounts to which Lucrative Pips' Pool Participants transferred funds under the belief that they were trading forex.

**F. Perry Acted as an Agent for Lucrative Pips**

78. Through his solicitation of prospective and existing Pool Participants and his continued communication with Pool Participants regarding their purported trading success on behalf of Lucrative Pips, Perry acted as an agent of Lucrative Pips.

## **VI. STATUTORY AND REGULATORY VIOLATIONS**

### **COUNT ONE**

#### **FRAUD IN CONNECTION WITH FOREX CONTRACTS Violations of 7 U.S.C. § 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b) (Defendants Lucrative Pips and Perry)**

79. Paragraphs 1 through 78 set forth above are re-alleged and incorporated herein by reference.

80. Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012), makes it unlawful:

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or swap, that is made, or to be made, for or on behalf of, or with, any other person other than on or subject to the rules of a designated contract market – (A) to cheat or defraud or attempt to cheat or defraud the other person; (B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record; [or] (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to

any order or contract for or, in the case of paragraph (2), with the other person.

81. Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C. § 2(c)(2)(C)(iv) (2012), states that 7 U.S.C. § 6b applies to the forex transactions, agreements, or contracts offered by Defendants as if they were contracts of sale of a commodity for future delivery.

82. Regulation 5.2(b), 17 C.F.R. § 5.2(b) (2018), makes it unlawful:

for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any retail forex transaction: (1) To cheat or defraud or attempt to cheat or defraud any person; (2) Willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or (3) Willfully to deceive or attempt to deceive any person by any means whatsoever.

83. During the Relevant Period, Defendants cheated or defrauded or attempted to cheat or defraud other persons; issued or caused to be issued false statements and records; and willfully deceived or attempted to deceive other persons in connection with offering of, or entering into the off-exchange leveraged or margined forex transactions alleged herein, by, among other things:

(i) fraudulently soliciting Pool Participants and prospective Pool Participants by making material misrepresentations and omissions about Defendants' forex trading and investing abilities, strategies, risk and profits; (ii) misappropriating Pool

Participants' funds; and (iii) fabricating false records all in violation of 7 U.S.C. § 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b).

84. Defendants engaged in the acts and practices described above using instrumentalities of interstate commerce, including but not limited to: interstate wires for transfer of funds, text messages, a website, and various social media sites.

85. Perry, acting both individually and as agent and officer of Lucrative Pips, engaged in the acts and practices described above knowingly, willfully, or with reckless disregard for the truth.

86. The foregoing acts of fraudulent solicitation, misappropriation, and false statements by Defendant Perry occurred within the scope of his employment, office, or agency with Defendant Lucrative Pips. Therefore, Lucrative Pips is liable for Perry's violations of the Act and Regulations, as alleged in this count, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2018).

87. Perry, directly or indirectly, controlled Lucrative Pips, and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Lucrative Pips' violations of the Act and Regulations alleged in this count. Perry is thereby liable for Lucrative Pips' violations of the Act and Regulations, as

alleged in this count, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).

88. Each act of fraudulent solicitation, misappropriation, and false statement or report, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b).

## **COUNT TWO**

### **FRAUD BY A COMMODITY POOL OPERATOR Violations of 7 U.S.C. § 6o(1) and 17 C.F.R. § 4.41(a) (Defendants Lucrative Pips and Perry)**

89. Paragraphs 1 through 88 set forth above are re-alleged and incorporated herein by reference.

90. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), makes it unlawful for CPOs and APs of CPOs

by use of the mails or any other means or instrumentality of interstate commerce, directly or indirectly – (A) to 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.

91. Regulation 5.4, 17 C.F.R. § 5.4 (2018), states that Part 4 of the Regulations, 17 C.F.R. pt. 4 (2018), applies to any person required to register as a

CPO pursuant to Part 5 of the Regulations related to off-exchange forex transactions, 17 C.F.R. pt. 5 (2018).

92. Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2018), makes it unlawful for any CPO, or any principal thereof, to publish, distribute, or broadcast, whether by electronic media or otherwise, any report, letter, circular, memorandum, publication, writing, advertisement, or other literature or advice that (1) employs any device, scheme, or artifice to defraud any participant or client or prospective participant or client; or (2) involves any transaction, practice, or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client.

93. As alleged herein, Defendant Lucrative Pips was required to register as a CPO during the Relevant Period.

94. As set forth above, during the Relevant Period, Lucrative Pips, through Defendant Perry, acted as a CPO by operating or soliciting funds for a pooled investment vehicle that is not an ECP and that engages in retail forex transactions.

95. Perry acted as an AP of a CPO because he was associated with a CPO as a partner, officer, employee, consultant, or agents in a capacity that involved the

solicitation of funds, securities, or property for participation in a pooled investment vehicle.

96. Lucrative Pips, through Perry, and Perry in his individual capacity, violated 7 U.S.C. § 6o(1)(A) and (B) and 17 C.F.R. § 4.41(a) in that by use of the mails or any other means or instrumentality of interstate commerce they employed or are employing a device, scheme, or artifice to defraud actual and prospective Pool Participants or engaged or are engaging in transactions, practices, or a course of business which operated or operates as a fraud or deceit upon Pool Participants or prospective Pool Participants.

97. Perry, directly or indirectly, controlled Lucrative Pips, and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Lucrative Pips' violations of the Act and Regulations alleged in this count. Perry is thereby liable for Lucrative Pips' violations of the Act, as alleged in this count, pursuant to 7 U.S.C. § 13c(b).

98. The foregoing acts of fraudulent solicitation, misappropriation, and false statements by Perry occurred within the scope of his employment, office, or agency with Lucrative Pips. Therefore, Lucrative Pips is liable for Perry's violations of the Act, as alleged in this count, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

99. Each act of fraudulent solicitation, misappropriation, and false statement or report, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation 7 U.S.C. § 6o(1) and 17 C.F.R. § 4.41(a).

**COUNT THREE**

**FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR  
Violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R.  
§ 5.3(a)(2)(i)  
(Defendant Lucrative Pips)**

100. The paragraphs 1 through 99 set forth above are re-alleged and incorporated herein by reference.

101. As alleged herein, during the Relevant Period, Defendant Lucrative Pips, which was not exempt from registration as a CPO, acted as a CPO and made use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO by operating or soliciting funds for a pooled investment vehicle that is not an ECP and that engages in retail forex transactions. Lucrative Pips engaged in this conduct without being registered with the Commission as a CPO in violation of Sections 2(c)(2)(C)(iii)(I)(cc) and 4m(1) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2018).

102. Perry, directly or indirectly, controlled Lucrative Pips, and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Lucrative Pips' violations of the Act alleged in this count. Perry is thereby liable for Lucrative Pips' violations of the Act, as alleged in this count, pursuant to 7 U.S.C. § 13c(b).

**COUNT FOUR**

**FAILURE TO REGISTER  
AS AN ASSOCIATED PERSON OF A COMMODITY POOL OPERATOR  
Violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6k(2) and 17 C.F.R.  
§ 5.3(a)(2)(ii)  
(Defendant Perry)**

103. Paragraphs 1 through 102 set forth above are re-alleged and incorporated herein by reference.

104. During the Relevant Period, Defendant Perry acted as an associated person of a CPO by: (i) soliciting funds, securities, or property for participation in a commodity pool operated by Lucrative Pips and/or supervising persons so engaged, and (ii) operating or soliciting funds, securities, or property for the Lucrative Pips pooled investment vehicle, which was not ECP, in connection with off-exchange leveraged or margined forex transactions. Perry engaged in this conduct without being registered with the Commission as an AP of CPO Lucrative

Pips in violation of Sections 2(c)(2)(C)(iii)(I)(cc) and 4k(2) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6k(2) (2012), and 17 C.F.R. § 5.3(a)(2)(ii).

105. The foregoing acts by Perry occurred within the scope of his employment, office, or agency with Lucrative Pips. Therefore, Lucrative Pips is liable for Perry's violations of the Act and Regulation, as alleged in this count, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

### **RELIEF REQUESTED**

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

A. Find that Defendants Lucrative Pips and Perry violated Sections 2(c)(2)(C)(iii)(I)(cc), 4b(a)(2)(A)-(C), and 4o(1)(A) and (B) of the Act, 7 U.S.C. 6b(a)(2)(A)-(C), 6o(1)(A), (B) (2012), and Regulations 4.41(a), and 5.2(b), 17 C.F.R. §§ 4.41(a), 5.2(b) (2018);

B. Find that Lucrative Pips violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2018);

C. Find that Perry violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2)(2012), and Regulation 5.3(a)(2)(ii), 17 C.F.R. § 5.3(a)(2)(ii) (2018);

D. Enter an order of permanent injunction enjoining Defendants Lucrative Pips and Perry, 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. §§ 2(c)(2)(C)(iii)(I)(cc), 6b(a)(2)(A)-(C), and 6o(1)(A) and (B), and 17 C.F.R. §§ 4.41(a) and 5.2(b);

E. Enter an order of permanent injunction enjoining Defendant Lucrative Pips, and its 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. § 6m(1) and 17 C.F.R. § 5.3(a)(2)(i);

F. Enter an order of permanent injunction enjoining Defendant Perry, and his 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. § 6k(2) and 17 C.F.R. § 5.3(a)(2)(ii);

G. Enter an order of permanent injunction enjoining Lucrative Pips and Perry, and their affiliates, agents, servants, employees, successors, assigns,

attorneys, and all 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) (2012));
- 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 accounts held in the name of any Defendant or for accounts in which any Defendant has a direct or indirect interest;
- iii. Having any commodity interests traded on any Defendant’s 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 of any commodity interests;
- vi. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring 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);

- 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 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) ; and/or
- viii. Engaging in any business activities related to commodity  
interests;

H. Enter an order directing Lucrative Pips and Perry, as well as any third-party transferee and/or successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues, and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act and Regulations as described herein, including pre-judgment and post-judgment interest;

I. Enter an order directing Lucrative Pips and Perry, as well as any successors thereof, to make full restitution to every person who has sustained losses proximately caused by the violations described herein, including pre-

judgment and post-judgment interest;

J. Enter an order directing Lucrative Pips and Perry, as well as any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between, with or among Lucrative Pips and Perry and any of the Pool Participants whose funds were received by Lucrative Pips and Perry as a result of the acts and practices that constituted violations of the Act and Regulations as described herein;

K. Enter an order directing Lucrative Pips and Perry to pay a civil monetary penalty assessed by the Court, in an amount not to exceed 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, tit. VII, § 701, 129 Stat. 584, 599-600, *see* Regulation 143.8, 17 C.F.R. § 143.8 (2018), for each violation of the Act and Regulations, as described herein;

L. Enter an order requiring Lucrative Pips and Perry to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2012); and

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

Dated: September 28, 2018

Respectfully submitted,

BYUNG J. PAK  
United States Attorney

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**CERTIFICATION OF COMPLIANCE**

Pursuant to N.D. Ga. LR 7.1(D), Plaintiff's Complaint was prepared using Times New Roman (14) point, as required by N.D. Ga. LR 5.1(C).

/s/ Jason Gizzarelli  
Jason Gizzarelli  
Attorney for Plaintiff  
Commodity Futures Trading Commission