



person (“AP”) of a CPO, and Defendants improperly commingled investor funds with Bailey's personal assets.

3. Bailey issued false statements to investors, concealing the facts that: only a small amount of investor funds was actually being traded, that such trading resulted primarily in losses, and that Bailey was diverting investor funds for his personal use and benefit.

4. Bailey concealed his futures trading losses from investors by using funds from current investors to pay earlier investors, in a manner akin to a Ponzi scheme.

5. Thus, Defendants have engaged, are engaging, or are about to engage in acts and practices which violate Sections 4b(a)(i)-(iii), 4k(2), 4m(1) and 4o(1) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 6b(a)(i)-(iii), 6k(2), 6m(1) and 6o(1)(1994), and Regulations 4.20(c) and 4.21 thereunder, 17 C.F.R. §§ 4.20(c) and 4.21 (2000).<sup>1</sup>

6. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (1994), Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) brings this action to enjoin the unlawful acts and practices of Defendants Bailey and JMK Capital, and to compel their compliance with the provisions of the Act and Regulations thereunder. In addition, the Commission seeks civil penalties, an accounting, disgorgement, restitution and such other equitable relief as the Court may deem necessary or appropriate.

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<sup>1</sup> The Act has recently been amended by the Commodity Futures Modernization Act of 2000 (“CFMA”), Appendix E to Pub. L. No. 106-554, 114 Stat. 2763 (2000) (to be codified in scattered sections of 7 U.S.C.). The enactment of the CFMA will result in the renumbering of certain sections of the Act, 7 U.S.C. §§ 1 *et seq.* However, this renumbering has not yet taken place. Therefore, citations which have been affected by the CFMA are cited to 7 U.S.C. as it is presently published with the notation “as amended by the CFMA.” Other than this renumbering, the CFMA did not amend the specific sections of the Act charged herein as having been violated.

## II.

### JURISDICTION AND VENUE

7. The Act prohibits fraud in connection with the commodity futures markets and establishes a comprehensive system for regulating the purchase and sale of such contracts. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (1994), which 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 constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

8. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (1994), in that Defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

## III.

### THE PARTIES

9. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (1994), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2000).

10. Defendant Jeffrey T. Bailey, age 40, currently resides and works at 1332 Kingfisher Ct., Amelia, Ohio 45102. He was registered with the Commission as an associated person ("AP") of JMK Capital from July 23, 1993 until September 1, 1999. Bailey committed the acts alleged in this complaint individually and as an agent of JMK Capital. Bailey has never been registered with the Commission as a commodity pool operator ("CPO") and is not currently

registered in any capacity. JMK Futures Fund is a business name Bailey sometimes used to refer to the commodity pools he purported to operate.

11. Defendant JMK Capital Management, Inc. is an Ohio corporation incorporated on July 20, 1992 and located at Bailey's home at 1332 Kingfisher Ct., Amelia, Ohio 45102. Bailey formed, and at all relevant times was the sole owner, president and the day-to-day decision-maker for defendant JMK Capital. JMK Capital is also a business name Bailey sometimes used to refer to the commodity pools he purported to operate. JMK Capital was registered with the Commission as an introducing broker from August 6, 1993 to October 16, 1998, and as a commodity trading advisor from June 26, 1995 to September 1, 1999. JMK Capital is not currently registered in any capacity

#### **IV.**

#### **FACTS**

##### **Investor solicitation**

12. In or around late 1994 or early 1995, Bailey, individually and as an agent of JMK Capital, began to solicit investment funds from members of the public. Bailey told potential investors that he would pool their funds and trade commodity futures for them. Bailey deposited these funds into his personal bank account and then transferred a portion to personal trading accounts in his own name at registered futures commission merchants ("FCMs"). In so doing, he commingled pool funds with money belonging to him and others.

13. In soliciting investors, Bailey falsely represented that he had a successful track record trading various commodity futures contracts for his pools, including U.S. Treasury Bond futures and the S&P 500 Stock Index futures. Bailey showed potential investors materials that portrayed the purported commodity pool's growth from successful commodity futures contracts

trading when, in fact, Bailey had consistently lost money in what trading he had actually done for his pool.

14. Bailey represented to potential investors that he was using three pools to trade investors' funds, so that he could keep the size of the pools small and be exempt from registration with the Commission. In fact, he was trading all of the investors' funds as one pool, was required to be registered with the Commission as a CPO, and would have been required to register even if he had used three pools to trade.

15. Bailey told all of his investors that he would trade the money for them in the commodity futures markets and that the return of principal and the amount of additional return that they would receive would be based on the success of Bailey's commodity futures trading.

16. In soliciting potential investors, Bailey failed to distribute an accurate Disclosure Document as required by Regulation 4.21. He did not provide accurate information about trading risks or his actual trading experience and the pool's past performance record, as specified by Commission Regulations 4.24 and 4.25.

#### **Use of Investor Funds**

17. From approximately late 1994 or early 1995 to the present, Bailey, individually and as an agent of JMK Capital, collected more than \$624,000 from at least 50 investors for the purported purpose of investing in commodity futures.

18. Bailey used only a relatively small amount of the investor funds to actually trade in commodity futures. Between late 1994 or early 1995 and the present, Bailey deposited only approximately \$238,000 of the approximately \$624,000 he received from investors into trading accounts. Between May 1998 and the present, his trading accounts suffered approximately \$65,000 in trading losses. Meanwhile, Bailey returned significant funds to investors to

perpetuate the scheme, in a manner akin to a Ponzi scheme, and used the remaining funds for other purposes.

19. Bailey improperly diverted substantial investor funds to his personal use.

**Maintenance of the Pool**

20. Bailey, individually and as agent of JMK Capital, induced investors to maintain and add to their investments with him by concealing trading losses, omitting to report trading losses, falsely reporting profits, exaggerating the true extent of his trading activities, and misrepresenting the value of each investors interest in the pool.

21. Such false representations were made orally and also were contained in monthly statements that Bailey created and mailed to certain investors.

22. Bailey knew his monthly trading statements were false and intended that investors would rely on those false statements in determining whether to maintain or add to their investments.

23. In actuality, Bailey did not achieve the degree of profits shown on the statements. Bailey omitted losses from the statements and overstated the value of each investor's share of the pool.

24. Bailey told investors that they could receive a return of their funds upon demand. Many investors have asked for a return of their money but, despite repeated demands, have not been repaid.

IV.

**VIOLATIONS OF THE COMMODITY EXCHANGE ACT  
AND COMMISSION REGULATIONS**

**COUNT I**

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

25. Paragraphs 1 through 24 are re-alleged and incorporated herein.

26. During the relevant time, Defendants violated Sections 4b(a)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(i) and (iii) (1994), in that they cheated or defrauded or attempted to cheat or defraud investors or prospective investors in the pools and willfully deceived or attempted to deceive investors or prospective investors by, among other things: misappropriating funds received from investors and using them for personal expenses and to repay earlier investors; misrepresenting to investors that their funds were being used to trade commodity futures when they were not; misrepresenting Bailey's prior trading success to prospective investors; misrepresenting the structure of his pool and his need for Commission registration; and omitting the report of losses and misrepresenting to investors the profits and value of each investor's interest in the pool.

27. Defendants engaged in this conduct in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made, or to be made, for or on behalf of other persons where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof.

28. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Section 4b(a)(i) and (iii) of the Act, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

29. Each material misrepresentation or omission and each willful deception made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(i) and (iii) of the Act.

## **COUNT II**

### **VIOLATIONS OF SECTION 4b(a)(ii) OF THE ACT: PROVIDING FALSE STATEMENTS TO INVESTORS**

30. Paragraphs 1 through 29 are re-alleged and incorporated herein.

31. Since at least May 1998 through the present, the Defendants violated Section 4b(a)(ii) of the Act, 7 U.S.C. § 6b(a)(ii), in that they, or persons working under their direction, willfully made or caused to be made false reports or statements by preparing and issuing false trading account statements to investors. These statements misrepresented profits, omitted losses and overstated the value of each investor's interest in the pool.

32. The Defendants, or persons working under their direction, engaged in this conduct in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made, or to be made, for or on behalf of other persons where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof.

33. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Section 4b(a)(ii) of the Act, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

34. Each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(ii) of the Act, 7 U.S.C. § 6b(a)(ii) (1994).

### **COUNT III**

#### **VIOLATIONS OF SECTIONS 4k(2) and 4m(1) OF THE ACT: FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR OR AS AN ASSOCIATED PERSON OF A COMMODITY POOL OPERATOR**

35. Paragraphs 1 through 34 are re-alleged and incorporated herein.

36. As defined by Section 1a(5) of the Act, as amended by the CFMA, 7 U.S.C. § 1a(4) (1994), a CPO is any firm or individual engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and that, in connection therewith, solicits, accepts, or receives from others funds, securities, or property, either directly through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market.

37. With certain specified exceptions and exemptions, not applicable here, all CPOs are required to be registered with the Commission, pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (1994); and all APs of CPOs are required to register with the Commission, pursuant to Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (1994).

38. Specifically, since 1998, Bailey, individually and as an agent for JMK Capital, has solicited and accepted in excess of \$624,000 in the aggregate from at least 50 members of the public to invest in the commodity pool he operated.

39. In connection with such conduct, the Defendants used the mails and other means or instrumentalities of interstate commerce, directly or indirectly, to engage in business as CPOs or APs of a CPO.

40. Defendant JMK Capital engaged in these activities without the benefit of registration as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (1994). Defendant Bailey engaged in these activities without the benefit of registration as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (1994), or as an AP of a CPO, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (1994).

41. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Section 4m(1) of the Act, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

42. Each use of the mails or any means or instrumentality of interstate commerce in connection with defendant JMK Capital's business as a CPO without proper registration during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (1994).

43. Each use of the mails or any means or instrumentality of interstate commerce in connection with defendant Bailey's business as a CPO, or as an AP of a CPO, without proper registration during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (1994) or of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (1994).

**COUNT IV**

**VIOLATIONS OF SECTION 4o(1) OF THE ACT:  
FRAUD BY A CPO**

44. Paragraphs 1 through 43 are re-alleged and incorporated herein.

45. JMK Capital has acted as a CPO, and Bailey has acted as an AP of a CPO and/or as a CPO himself, in that they have engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise and in connection therewith, has solicited, accepted or received funds, securities or property from others for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market.

46. During the relevant time, the Defendants violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (1994), in that they, as CPOs, or APs of a CPO, directly or indirectly employed one or more devices, schemes, or artifices to defraud pool participants or prospective pool participants, or engaged in transactions, practices or courses of business which operated as a fraud or deceit upon pool participants or prospective pool participants by: misappropriating funds received from investors and using them for personal expenses and to repay earlier investors; misrepresenting to investors that their funds were being used to trade commodity futures when they were not; misrepresenting Bailey's prior trading success to prospective investors; misrepresenting the structure of the pool and the need for Commission registration; and issuing statements to investors, both orally and in writing, which omitted losses and falsely represented the profits and value of each investor's interest in the pool.

47. Such acts and omissions were effected by use of the mails or other means or instrumentalities of interstate commerce.

48. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Section 4o(1) of the Act, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

49. Each material misrepresentation or omission, each act of misappropriation and each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4o(1) of the Act, 7 U.S.C. § 6o(1) (1994).

## **COUNT V**

### **VIOLATION OF REGULATION 4.20(c): COMMINGLING**

50. Paragraphs 1 through 49 are re-alleged and incorporated herein.

51. Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2000), prohibits CPOs from commingling the property of any pool that they operate or that they intend to operate with the property of any other person.

52. In violation of this provision, during the relevant time, Bailey commingled funds received from investors by depositing such monies into bank and trading accounts held in his own name and containing his personal assets.

53. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2000), pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

54. Each action of Bailey which resulted in the commingling of funds received from investors with the funds of others, during the relevant time period, including but not limited to

those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.20(c)(c), 17 C.F.R. § 4.20(c)(c) (2000).

## **COUNT VI**

### **VIOLATION OF REGULATION 4.21: FAILURE TO PROVIDE DISCLOSURE DOCUMENTS**

55. Paragraphs 1 through 54 are re-alleged and incorporated herein.

56. Defendants were required to register as CPOs with the Commission before soliciting investors to contribute to Defendants' commodity pool.

57. Regulation 4.21(a), 17 C.F.R. § 4.21(a) (2000), prohibits anyone who is registered or should be registered as a CPO from soliciting a prospective participant without first delivering or causing to be delivered to the prospective participant a Disclosure Document containing the information set forth in Regulations 4.24 and 4.25, 17 C.F.R. §§ 4.24 and 4.25 (2000).

58. The Defendants violated Regulation 4.21, 17 C.F.R. § 4.21 (2000), in that, during the relevant time, they, directly or indirectly, solicited potential pool participants without first delivering to each a Disclosure Document accurately containing the information set forth in Regulations 4.24 and 4.25, 17 C.F.R. §§ 4.24 and 4.25 (2000).

59. To the extent that Bailey engaged in such conduct as an agent of JMK Capital, that entity as Bailey's principal is also liable for his violations of Regulation 4.21, 17 C.F.R. § 4.21 (2000), pursuant to Section 2(a)(1)(B) of the Act, as amended by the CFMA, 7 U.S.C. § 4 (1994).

60. Each time the Defendants solicited a prospective pool participant without first providing such prospective participant with a Disclosure Document accurately containing the information set forth in Regulations 4.24 and 4.25, 17 C.F.R. §§ 4.24 and 4.25 (2000), including

but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.21, 17 C.F.R. § 4.21 (2000).

V.

**RELIEF REQUESTED**

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

A. Find Defendants liable for violating Sections 4b(a)(i)-(iii), 4k(2), 4m(1), and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(i)-(iii), 6m(1), and 6o(1), and Regulations 4.20(c) and 4.21, 17 C.F.R. §§ 4.20(c) and 4.21 (2000);

B. Enter orders of preliminary and permanent injunction restraining and enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with him who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Cheating or defrauding or attempting to cheat or defraud and willfully deceiving or attempting to deceive other persons, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, in violation of Section 4b(a)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(i) and (iii);
2. Willfully to make or cause to be made to other persons any false report or statement thereof, or willfully to enter or cause to be entered for such persons any false record thereof, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any

transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, in violation of Section 4b(a)(ii) of the Act, 7 U.S.C. § 6b(a)(ii);

3. Operating as a CPO, or as an AP of a CPO, engaged in the business of soliciting, accepting, or receiving from others, funds, securities, or property, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market without being registered with the Commission as a commodity pool operator, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1), or as an AP of a CPO, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2);
4. While acting as a CPO, or an AP of a CPO, employing any device, scheme, or artifice to defraud any participant or prospective participant, or engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any participant or prospective participant, by use of the mails or any means or instrumentality of interstate commerce, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1);
5. As a CPO, commingling such funds with funds and assets belonging to other persons, in violation of Regulation 4.20(c), 17 C.F.R. § 4.20(c);
6. While acting as a CPO, directly or indirectly, soliciting, accepting or receiving funds, securities or other property from prospective pool participants without delivering or causing to be delivered to the prospective participant, an accurate Disclosure Document containing the information set forth in 17 C.F.R. § 4.24 and 4.25, in violation of Regulation 4.21, 17 C.F.R. § 4.21;
7. Trading on or subject to the rules of any “registered entity,” as defined in Section 1a(29) of the Act, as amended by the CFMA, 7 U.S.C. § 1(a)(29); engaging in, controlling or directing the trading for any commodity interest account, for or on behalf of any person or entity, whether by power of attorney or otherwise; and
8. Applying for registration or seeking exemption from registration with the Commission in any capacity and engaging in any activity requiring such registration or exemption from registration, except as provided for in Section 4.14(a)(9) of the Commission’s Regulations, 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent, officer or employee of any person registered, required to be registered, or exempted from registration, unless such exemption is pursuant to Section 4.14(a)(9) of the Commission’s Regulations, 17 C.F.R. § 4.14(a)(9);

C. Enter orders of preliminary injunction restraining and enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with him who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of defendants, wherever located, including all such records concerning defendants' business operations;
2. Refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of defendants, wherever located, including all such records concerning defendant's business operations; and
3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control, or in the name of Bailey or JMK Capital.

D. Enter an order requiring Defendants to pay civil penalties under the Act in amounts of not more than the higher of \$100,000 for each violation of the Act and Regulations committed prior to November 27, 1996, \$110,000 for violations committed between November 27, 1996 and October 22, 2000, or \$120,000 for each violation on or after October 23, 2000, or triple the monetary gain to Defendants for each violation of the Act and Regulations described herein;

E. Enter an order directing Defendants to provide Plaintiff immediate and continuing access to their books and records, make an accounting to the Court of all of their assets and liabilities, together with all funds they received from and paid to investors and other persons in

connection with commodity futures transactions or purported commodity futures transactions, including the names, addresses and telephone numbers of any such persons from whom they received such funds from May 1998 to the date of such accounting, and all disbursements for any purpose whatsoever of funds received from commodity investors, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from May 1998 to and including the date of such accounting;

F. Enter an order appointing an equity receiver, if necessary, to take into his or her immediate custody, control and possession all cash, cashier's checks, funds, assets, and property of Defendants, including funds or property of investors, wherever found, whether held in the name of any of the Defendants, or otherwise, including, but not limited to, all books and records of account and original entry, electronically stored data, tape records, all funds, securities, contents of safety deposit boxes, metals, currencies, coins, real or personal property, commodity futures trading accounts, bank and trust accounts, mutual fund accounts, credit card line-of-credit accounts and other assets, of whatever kind and nature and wherever situated, and authorizing, empowering and directing such receiver to collect and take charge of and to hold and administer the same subject to further order of the Court, in order to prevent irreparable loss, damage and injury to investors, to conserve and prevent the dissipation of funds, to remove Defendants from control and management of the business operations conducted by the Defendants and to prevent further evasions and violations of the federal commodity laws by the Defendants;

G. Enter an order requiring Defendants to disgorge 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 as described herein, including pre-judgment interest;

H. Enter an order requiring Defendants to make restitution by making whole each and every investor whose funds were received or utilized by Defendants in violation of the provisions of the Act as described herein, including pre-judgment interest;

I. Enter an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (1994); and

J. Order such other and further remedial ancillary relief as this Court may deem necessary and appropriate under the circumstances.

Date: April 12, 2001

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