

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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In the Matter of	:	<b>CFTC DOCKET NO. 02-13</b>
	:	
CARMELO CONTRINO	:	COMPLAINT AND NOTICE OF
3 Spruce Lane	:	HEARING PURSUANT TO
Marlboro, New Jersey 07746	:	SECTIONS 6(c), 6(d), and 8a(4) OF
	:	THE COMMODITY EXCHANGE
ROBERT DISARRO	:	ACT
23 Overhill Drive	:	
North Brunswick, New Jersey 08902	:	
	:	
JOSEPH GUGLIARO	:	
214 Crown Avenue	:	
Staten Island, New York 10312	:	
	:	
JOHN JOYCE	:	
54 Hendel Avenue	:	
North Arlington, New Jersey 07031	:	
	:	
WILLIAM OVERLAND	:	
115 Limecrest Road	:	
Andover, New Jersey 07821	:	
	:	
and	:	
	:	
PERSIO PAULINO	:	
1007 Garden Street	:	
Hoboken, New Jersey 07030.	:	
	:	
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The Commodity Futures Trading Commission (the "Commission") has received information from its staff which tends to show, and the Commission's Division of Enforcement (the "Division") alleges, that:

## **I. SUMMARY**

1. From January 4, 2000 through October 17, 2000, Carmelo Contrino, Robert Disarro, Joseph Gugliaro, and Persio Paulino fraudulently executed customer orders in the coffee futures ring on the Coffee, Sugar & Cocoa Exchange, (“CSCE”), a Division of the New York Board of Trade (“NYBOT”), by trading for their own accounts indirectly opposite their customer orders.

2. From January 4, 2000 through October 17, 2000, Gugliaro fraudulently executed customer orders in the coffee futures ring on the CSCE by trading for his own account directly opposite his customer orders.

3. From January 4, 2000 through October 17, 2000, Contrino fraudulently executed customer orders in the coffee futures ring on the CSCE by trading for his own account indirectly opposite the customer orders of brokers affiliated with him.

4. As a result, Contrino, Disarro, Gugliaro, and Paulino engaged in fraud and deception in violation of Sections 4b(a)(i) and 4b(a)(iii) of the Commodity Exchange Act, as amended (the “Act”), 7 U.S.C. §§6b(a)(i) and (iii) (1994), bucketing in violation of Section 4b(a)(iv) of the Act, 7 U.S.C. §6b(a)(iv) (1994), trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, 7 U.S.C. §6c(a)(1) (1994), and noncompetitive trading in violation of Section 1.38 of the Commission’s Regulations (the “Regulations”), 17 C.F.R. § 1.38 (2001). In addition, in accommodating the indirectly bucketed trades, Contrino, Disarro, Gugliaro, Paulino, John Joyce and William Overland each entered into wash sales and accommodation trades in violation of Section 4c(a)(1) of the Act.

5. From January 4, 2000 through October 17, 2000, Contrino, Gugliaro, and Paulino fraudulently executed trades in the coffee futures ring of the CSCE by trading ahead of

executable customer orders and allocating trades to their personal accounts at better prices than those received by their customers in violation of Section 4b(a)(i) and 4b(a)(iii) of the Act.

6. From January 4, 2000 through October 17, 2000, Contrino fraudulently executed customer orders in the coffee futures ring on the CSCE by changing the price on a previously executed trade to a worse price for his customer and a better price for Joyce, who was trading for his personal account, and by executing a noncompetitive fill of a customer order opposite Gugliaro, who was trading for his personal account.

7. As a result, Contrino engaged in fraud and deception in violation of Section 4b(a)(i) and 4b(a)(iii) of the Act, willfully making a false record in violation of Section 4b(a)(ii) of the Act, 7 U.S.C. §6b(a)(ii) (1994), trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, and noncompetitive trading in violation of Commission Regulation 1.38. In addition, in accommodating these transactions, Gugliaro and Joyce entered into wash sales and accommodation trades in violation of Section 4c(a)(1) of the Act.

8. From January 4, 2000 through October 17, 2000, Gugliaro fraudulently executed customer orders in the coffee futures ring on the CSCE by filling customer orders by offset through the noncompetitive purchase and sale of the same contract opposite Overland trading for his personal account.

9. As a result, Gugliaro engaged in fraud and deception in violation of Section 4b(a)(i) and 4b(a)(iii) of the Act, filling orders by offset in violation of Section 4b(a)(iv) of the Act, trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, and noncompetitive trading in violation of Commission Regulation 1.38. In addition, in accommodating these illegal offsets, Overland entered into wash sales and accommodation trades in violation of Section 4c(a)(1) of the Act.

10. From January 4, 2000 through October 17, 2000, Disarro, Paulino, and Overland noncompetitively executed purchases and sales of the same contract and future for their own accounts in the coffee futures ring on the CSCE, resulting in the transfer of money from Overland to Disarro and Paulino, and from Paulino to Overland.

11. As a result, Disarro, Overland, and Paulino engaged in wash sales and accommodation trades in violation of Section 4c(a)(1) of the Act, trading at non bona fide prices in violation of Section 4c(a)(1) of the Act, and noncompetitive trading in violation of Commission Regulation 1.38.

12. Contrino also failed to record required trading information on trading cards in violation of the record keeping requirements of Section 4g of the Act, 7 U.S.C. § 6g (1994), and Regulation 1.35(d), 17 C.F.R. § 1.35(d) (2001).

## **II. RESPONDENTS**

13. CARMELO CONTRINO, who resides at 3 Spruce Lane, Marlboro, New Jersey 07746, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, 7 U.S.C. §§ 6e and 6f (1994), and a member of the CSCE. At all times relevant to this matter, Contrino was associated with Spectrum Commodities, Inc. (“Spectrum”), a floor brokerage firm on the CSCE. Contrino executed orders for Spectrum customers and traded for his personal account, primarily in coffee futures on the CSCE.

14. ROBERT DISARRO, who resides at 23 Overhill Drive, North Brunswick, New Jersey 08902, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Disarro was the sole principal of B & F Trading, Inc. (“B & F”), a floor brokerage firm on the CSCE.

Disarro executed orders for B & F customers and traded for his personal account, primarily in coffee futures on the CSCE.

15. JOSEPH GUGLIARO, who resides at 214 Crown Avenue, Staten Island, New York 10312, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Gugliaro was employed by Joyco Trading, Inc. (“Joyco”), a floor brokerage firm on the CSCE. Gugliaro executed orders for Joyco customers and traded for his personal account, primarily in coffee futures on the CSCE.

16. JOHN JOYCE who resides at 54 Hendel Avenue, North Arlington, New Jersey 07031, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Joyce was the sole principal of Joyco. Joyce executed orders for Joyco customers and traded for his personal account, primarily in coffee futures on the CSCE.

17. WILLIAM OVERLAND, who resides at 115 Limecrest Road, Andover, New Jersey 07821, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. Overland has been a floor broker on the CSCE since 1994. In 2000, Overland traded both for his personal account and for customers of B & F in coffee futures on the CSCE.

18. PERSIO PAULINO, who resides at 1007 Garden Street, Hoboken, New Jersey 07030, has been registered with the Commission as a floor broker pursuant to Sections 4e and 4f of the Act, and a member of the CSCE. At all times relevant to this matter, Paulino was associated with B & F. Paulino executed orders for B & F customers and traded for his personal account, primarily in coffee futures on the CSCE.

### **III. FACTS**

19. From January 4, 2000 through October 17, 2000, coffee futures contracts were traded on the CSCE, a duly designated contract market for the trading of coffee futures pursuant to Section 5 of the Act, 7 U.S.C. § 7 (1994).

20. All orders to make and the making of contracts of sale of commodities for future delivery referred to in the Complaint are or may have been used for 1) hedging any transaction in interstate commerce in such commodity or the by-products thereof, or 2) determining the price basis of any such transaction in interstate commerce in such commodity, or 3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment of such futures contracts, pursuant to Section 4c(a) of the Act.

#### **Description of Illegal Trading Practices**

##### **Indirect Bucketing**

21. From January 4, 2000 through October 17, 2000, Contrino, Disarro, Gugliaro, and Paulino indirectly bucketed their customer orders by noncompetitively trading for themselves and for their customers, in order to indirectly bucket their customer orders, opposite other members of the CSCE, including Joyce and Overland. “Indirect bucketing” occurs when an executing broker, aided by an accommodating trader, winds up with a position for the broker’s own account opposite a position for his customer.

22. To engage in indirect bucketing, Contrino noncompetitively executed customer orders for coffee futures opposite Disarro, Gugliaro, Joyce, Overland, and Paulino, among other members of the CSCE, in Trade Sequence Nos. 3, 6, 11, 13, 15, 30, 35, 53, 57, 60, 69 through 72, 74, 76, 85, 90, 91, 98, 106, and 109 identified in Appendix A; Disarro noncompetitively executed customer orders for coffee futures opposite Overland, among other members of the

CSCE, in Trade Sequence Nos. 1, 2, 4, 5, 8 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104; Gugliaro noncompetitively executed customer orders for coffee futures opposite Contrino, among other members of the CSCE, for Trade Sequence Nos. 23 through 25, 58, and 110; and Paulino noncompetitively executed customer orders for coffee futures opposite Overland, among other members of the CSCE, in Trade Sequence Nos. 17, 18, 20, 21, 32, 40 through 49, 56, 66, 67, 78, 81, 82, 86 through 88, and 92 through 96. The transactions described in Paragraphs 23 and 24 are typical and illustrative of the indirect bucketing configuration.

23. On May 31, 2000, Disarro sold thirteen July 2000 coffee contracts at \$.9400 to Overland in order to fill a customer stop order. Two lines down on his trading card, Disarro bought four July 2000 contracts, again opposite Overland, for his personal account at \$.9400, the same price as the sale of the thirteen July contracts. In so doing, Disarro established a position for his own account indirectly opposite his customer. Disarro then offset his long position of 4 contracts at \$.9500, for a profit of \$1500. Overland traded for his personal account in the trades with Disarro. Overland first purchased and then sold four contracts at approximately the same time at the exact same price opposite Disarro and achieved a wash result. For the remaining nine contracts, Overland later offset his long position at a profit of \$4687.50.

24. On April 5, 2000, Contrino sold ten May 2000 contracts at \$1.0000 to fill three customer market orders opposite Gugliaro, who traded for his personal account. At approximately the same time, Contrino bought four contracts for his personal account at the same price from Gugliaro, who again traded for his personal account. Contrino purchased four contracts to offset his long position at a profit of \$600. Gugliaro first purchased and then sold

four contracts at approximately the same time and at the exact same price opposite Contrino and achieved a wash result. Gugliaro offset his remaining six contracts at a profit of \$1518.75.

25. As a result of the actions of Contrino, Disarro, Gugliaro, and Paulino, their customers were deprived of competitive executions of their orders.

#### Direct Bucketing

26. From January 4, 2000 through October 17, 2000, Gugliaro traded noncompetitively for himself and for customers in order to directly bucket his customer orders. "Direct bucketing" occurs when an executing broker noncompetitively trades for his personal account opposite his customer by simply taking the opposite side of a customer's buy or sell order.

27. To engage in direct bucketing, Gugliaro noncompetitively traded for himself opposite customer orders in Trade Sequence Nos. 103, 105, and 107, identified in Appendix A.

28. As a result of the actions of Gugliaro, his customers were deprived of competitive executions of their orders.

#### Trading Opposite Customer Orders of Affiliated Brokers

29. From January 4, 2000 through October 17, 2000, on two occasions, Contrino traded for his personal account opposite customer orders of a broker affiliated with him. The trades were accomplished through the noncompetitive execution by a broker affiliated with Contrino of a customer order opposite Disarro or Overland trading for his or her own account, followed by another noncompetitive execution of a trade by Disarro or Overland, trading for his own account, opposite Contrino, also trading for his own account. These transactions are identified in Trade Nos. 55 and 75.

30. On one occasion, Contrino accommodated an affiliated broker in trading opposite a customer order. This transaction is identified in Trade No. 83.

31. As a result of the actions of Contrino, Overland, and Paulino, Contrino's customers were deprived of competitive executions of their orders.

#### Trading Ahead

32. From January 4, 2000 through October 17, 2000, Contrino, Gugliaro, and Paulino knowingly or recklessly traded coffee futures for their personal accounts while holding executable customer orders in the same futures on the same side of the market. These trades for their personal accounts were at better prices than the trades that filled the executable customer orders. Contrino engaged in trading ahead in Trade Sequence Nos. 12, 36, 52, and 108 identified in Appendix A. Gugliaro engaged in trading ahead in Trade Sequence Nos. 26 and 65. Paulino engaged in trading ahead in Trade Sequence No. 19.

33. The transaction described in this paragraph is typical and illustrative of the scheme discussed in paragraph 32, as follows: on March 10, 2000, Contrino received a stop order time stamped at 9:30 a.m. to sell two May 2000 contracts at \$1.0625. At 9:32 a.m., Contrino sold a total of thirteen May 2000 contracts for his personal account at \$1.0600. He then sold two May 2000 contracts to fill the customer order at a less favorable price of \$1.0575. The customer, therefore, was entitled to a fill price of \$1.0600 instead of \$1.0575, a difference of \$187.50. This trade is identified in Appendix A as Trade No. 36.

34. As a result of these actions, customers were deprived of the better price obtained on the transaction by their executing brokers, Contrino, Gugliaro, and Paulino.

#### Allocation

35. In two instances in which Contrino traded ahead, he also allocated trades to his personal account at a better price than that received by the customer. On each occasion, Contrino originally filled a customer order, then crossed out the original indicator that the trade

was a customer trade, and allocated the trade to his personal account. The customer order was then filled on the next line at a price that was worse than the price received by Contrino. Contrino engaged in allocation of trades to his personal account at better prices than those received by his customers in the transaction described in paragraph 36.

36. On January 27, 2000, Contrino sold one March 2000 contract at \$1.1425 and allocated the trade to his personal account. Contrino then received an order to sell one March 2000 contract. He sold one March 2000 contract at \$1.1450 and initially allocated the trade to fill the customer order. The trading card was then altered to show that the first trade was allocated to the customer, and Contrino received the second trade at the better price for his personal account. Thus, the customer was entitled to a fill price of \$1.1450 instead of \$1.1425 for one contract, a difference of \$93.75. On the next line, Contrino sold five March contracts at \$1.1450 to fill a customer's market order. He then altered the trading card, allocating the trade to his personal account, and sold five more March contracts at \$1.1410 and allocated those trades to the customer. Thus, the customer was entitled to a fill price of \$1.1450 instead of \$1.1410 for five contracts, a difference of \$750. In these trades, Contrino allocated trades to his personal account at better prices than those received by the customer. This trade sequence is identified in Appendix A as Trade No. 12.

37. As a result of the actions of Contrino, his customers were deprived of the better prices obtained on the transactions by Contrino.

#### Price Change Transaction

38. From January 4, 2000 through October 17, 2000, on at least one occasion, Contrino changed the price on a trade to a worse price for his customer and a better price for the broker trading for his personal account. Specifically, on April 14, 2000, Contrino received a customer

order to sell two hundred and thirty-nine May 2000 contracts. Contrino sold forty contracts to Joyce at \$.9625 to partially fill the order. Later Contrino altered the quantity of the original trade, changing the number of contracts to twenty. On his next card, he wrote down another sale of twenty contracts to Joyce at a price of \$.9575. Thus, the customer received a lower sale price for the second set of twenty contracts than the original price executed on the sale, and Joyce paid a lower price for his purchase. This trade is identified in Appendix A as Trade No. 64.

39. Joyce willfully aided and abetted Contrino's illegal price change with respect to trade sequence No. 64, and received a better price for his personal account than the original execution price, to the detriment of Contrino's customer.

40. As a result of the conduct of Contrino and Joyce, Contrino's customer was deprived of the better original price obtained on the transaction and did not receive competitive execution of his order.

#### Noncompetitive Fill of Customer Order

41. From January 4, 2000 through October 17, 2000, on at least one occasion, Contrino noncompetitively filled a customer order by altering the quantity on a trade so as to give a favorable price to another broker who was trading for his personal account. Specifically, on March 2, 2000, Contrino received three customer stop orders to sell May 2000 coffee contracts at \$1.0550. Contrino then sold eleven contracts to Gugliaro, trading for his personal account, at \$1.0550 to fill a portion of these customer orders. Gugliaro then sold sixteen May 2000 contracts at \$1.0575. Contrino and Gugliaro then altered the quantity of their earlier trade of eleven contracts to sixteen contracts, thereby guaranteeing Gugliaro a profit with respect to all sixteen contracts he had just sold. This trade is identified in Appendix A as Trade No.31.

42. Gugliaro willfully aided and abetted Contrino's noncompetitive fill with respect to trade sequence No. 31.

43. As a result of the conduct of Contrino and Gugliaro, Contrino's customers were deprived of the competitive execution of the entirety of their orders.

#### Filling Orders by Offset

44. From January 4, 2000 through October 17, 2000, Gugliaro filled customer orders by offset through the noncompetitive purchase and sale of the same contract and future opposite Overland trading for his own account. The customer orders were filled so that the order to purchase was executed at a higher price than the order to sell, thus enabling Overland, trading for his personal account, to profit. Specifically, on April 11, 2000, Gugliaro received within a one-minute period a customer order (1) to sell three May 2000 coffee contracts at the market; and (2) buy two May 2000 coffee contracts at the market. Gugliaro filled both orders in two consecutive trades with Overland. The customer buy order was at a higher price than the customer sell order, thereby enabling Overland to make a profit of \$150 for his personal account.

45. As a result of the actions of Gugliaro, customers were deprived of the competitive execution of their orders.

#### Money Passes

46. In addition to the fraudulent execution of customer orders, Disarro, Paulino, and Overland noncompetitively executed purchases and sales of the same contract and future for their own accounts, resulting in the transfer of \$75 from Overland to Disarro (this trade is identified as Trade No. 7), \$112.50 from Overland to Paulino (this trade is identified as Trade No. 68), and \$150 from Paulino to Overland (this trade is identified as Trade No. 50).

Record Keeping Violations

47. From January 4, 2000 through October 17, 2000, Contrino failed to record required trading information on his trading cards, including the date, hour or minute of the transaction.

**IV. VIOLATIONS OF THE ACT AND REGULATIONS**

**COUNT ONE**

**VIOLATIONS OF SECTION 4b(a)(i) AND 4b(a)(iii) OF THE ACT:  
CHEATING, DEFRAUDING, AND  
DECEIVING IN CONNECTION WITH COMMODITY FUTURES CONTRACTS**

48. Paragraphs 1 through 47 are realleged and incorporated herein by reference.

49. During the relevant period, Contrino, Disarro, Gugliaro, and Paulino each, in or in connection with orders to make, or the making of contracts of sale of commodities for future delivery, made or caused to be made, on or subject to the rules of the CSCE, for or on behalf of other persons, where such contracts for future delivery may have been used for any of the purposes set forth in paragraph 20 above, cheated or defrauded or attempted to cheat or defraud, or willfully deceived, or attempted to deceive, other persons in connection with offers to enter into, the entry into or the confirmation of the execution of coffee futures transactions, in violation of Section 4b(a)(i) and 4b(a)(iii) of the Act.

50. Contrino engaged in such conduct with respect to Trade Sequence Nos. 3, 6, 11 through 13, 15, 30, 31, 35, 36, 52, 53, 55, 57, 60, 64, 69 through 72, 74 through 76, 85, 90, 91, 98, 106, 108, and 109, identified in Appendix A.

51. Disarro engaged in such conduct with respect to Trade Sequence Nos. 1, 2, 4, 5, 8 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104, identified in Appendix A.

52. Gugliaro engaged in such conduct with respect to Trade Sequence Nos. 23 through 26, 58, 63, 65, 103, 105, 107 and 110, identified in Appendix A; Gugliaro aided and abetted such conduct with respect to Trade Sequence No. 31, identified in Appendix A

53. Paulino engaged in such conduct with respect to Trade Sequence Nos. 17 through 21, 32, 40 through 49, 56, 66, 67, 78, 81, 82, 86 through 88, and 92 through 96, identified in Appendix A.

54. Joyce aided and abetted such conduct with respect to Trade Sequence No. 64, identified in Appendix A.

55. Each and every transaction for which Contrino, Disarro, Gugliaro, or Paulino cheated or defrauded or attempted to cheat or defraud, as described in paragraphs 49 through 54 above, is alleged as a separate and distinct violation of Section 4b(a)(i) and 4b(a)(iii) of the Act.

## **COUNT TWO**

### **VIOLATIONS OF SECTION 4b(a)(ii) OF THE ACT: WILLFULLY MAKING A FALSE RECORD IN CONNECTION WITH ORDERS FOR FUTURES CONTRACTS**

56. Paragraphs 1 through 55 are realleged and incorporated herein by reference.

57. During the relevant period, Contrino in or in connection with orders to make, or the making of contracts of sale of commodities for future delivery, made or caused to be made, on or subject to the rules of the CSCE, for or on behalf of other persons, where such contracts for future delivery may have been used for any of the purposes set forth in paragraph 20 above, willfully made or caused to be made to such other persons false reports or statements thereof or willfully entered or caused to be entered for such persons false records, in violation of Section 4b(a)(ii) of the Act.

58. Contrino engaged in such conduct with respect to Trade Sequence Nos. 31 and 64, identified in Appendix A.

59. Gugliaro aided and abetted such conduct with respect to Trade Sequence No. 31, identified in Appendix A.

60. Joyce aided and abetted such conduct with respect to Trade Sequence No. 64, identified in Appendix A.

61. Each and every transaction for which Contrino cheated or defrauded or attempted to cheat or defraud, as described in paragraphs 57 through 63 above, is alleged as a separate and distinct violation of Section 4b(a)(ii) of the Act.

### **COUNT THREE**

#### **VIOLATIONS OF SECTION 4b(a)(iv) OF THE ACT: BUCKETING CUSTOMER ORDERS AND FILLING CUSTOMER ORDERS BY OFFSET**

62. Paragraphs 1 through 61 are realleged and incorporated herein by reference.

63. During the relevant period, Contrino, Disarro, Gugliaro, and Paulino each, in or in connection with orders to make, or the making of contracts of sale of commodities for future delivery, made or caused to be made, on or subject to the rules of the CSCE, for or on behalf of other persons, where such contracts for future delivery may have been used for any of the purposes set forth in paragraph 20 above, bucketed such orders, or filled such orders by offset against the order or orders of other persons, or willfully and knowingly and without the prior consent of such other persons became the buyer in respect to selling orders of such persons or became the seller in respect to the buying orders of such persons, in violation of Section 4b(a)(iv) of the Act.

64. Contrino engaged in bucketing with respect to Trade Sequence Nos. 3, 6, 11, 13, 15, 30, 35, 53, 57, 60, 69 through 72, 74, 76, 85, 90, 91, 98, 106, and 109, identified in Appendix A.

65. Disarro engaged in bucketing with respect to Trade Sequence Nos. 1, 2, 4, 5, 8 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104, identified in Appendix A.

66. Gugliaro engaged in bucketing with respect to Trade Sequence Nos. 23 through 25, 58, 103, 105, 107 and 110, identified in Appendix A. Gugliaro engaged in filling orders by offset against the order or orders of other persons with respect to Trade Sequence No. 63, identified in Appendix A.

67. Paulino engaged in bucketing with respect to Trade Sequence Nos. 17, 18, 20, 21, 32, 40 through 49, 56, 66, 67, 78, 81, 82, 86 through 88, and 92 through 96, identified in Appendix A.

68. Each and every transaction for which Contrino, Disarro, Gugliaro, and Paulino bucketed, as described in paragraphs 63 through 67 above, is alleged as a separate and distinct violation of Section 4b(a)(iv) of the Act.

#### **COUNT FOUR**

##### **VIOLATIONS OF SECTION 4c(a)(1) OF THE ACT: WASH SALES AND ACCOMMODATION TRADES**

69. Paragraphs 1 through 68 are realleged and incorporated herein by reference.

70. During the relevant period, Contrino, Disarro, Gugliaro, Paulino, Joyce and Overland each offered to enter into, entered into, or confirmed the execution of transactions involving a commodity which was or could have been used for any of the purposes set forth in paragraph 20 above, when such transactions were, were of the character of, or were commonly known to the trade as wash sales and accommodation trades, in violation of Section 4c(a)(1) of the Act.

71. Contrino engaged in wash sales and accommodation trading in Trade Sequence Nos. 25, 58, 83 and 110, as identified in Appendix A. Contrino also aided and abetted other CSCE

members' violations of § 4c(a)(1) of the Act for Trade Sequence Nos. 3, 6, 11, 13, 15, 30, 31, 35, 53, 57, 60, 69 through 72, 74, 76, 85, 90, 91, 98, 106, and 109,

72. Disarro engaged in wash sales and accommodation trading in Trade Sequence Nos. 55, 98, and 106, as identified in Appendix A. Disarro engaged in wash sales in Trade Sequence No. 7. Disarro also willfully aided and abetted other CSCE members' violations of § 4c(a)(1) of the Act for Trade Sequence Nos. 1, 2, 4, 5, 8 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104.

73. Gugliaro engaged in wash sales and accommodation trading in Trade Sequence Nos. 3, 15, 30, 31, 57, 60, and 71, as identified in Appendix A. Gugliaro willfully aided and abetted another CSCE member's violations of § 4c(a)(1) of the Act for Trade Sequence Nos. 23 through 25, 58, and 110.

74. Joyce engaged in wash sales and accommodation trading for Trade Sequence Nos. 6, 64, 69, 70, 74, 76, 90, and 91, as identified in Appendix A.

75. Overland engaged in wash sales and accommodation trading in Trade Sequence Nos. 1, 2, 4, 9 through 11, 13, 14, 16 through 18, 20 through 22, 27 through 29, 32 through 35, 37, 38, 40 through 44, 46 through 49, 51, 54, 56, 59, 61 through 63, 66, 67, 73, 75, 77 through 88, 92 through 97, 99 through 102, and 104, as identified in Appendix A. Overland engaged in wash sales in Trade Sequence Nos. 7, 50, and 68.

76. Paulino engaged in wash sales and accommodation trading in Trade Sequence No. 72, as identified in Appendix A. Paulino engaged in wash sales in Trade Sequence Nos. 50 and 68. Paulino willfully aided and abetted another CSCE member's violations of § 4c(a)(1) of the Act for Trade Sequence Nos. 17, 18, 20, 21, 32, 40 through 49, 56, 66, 67, 78, 81, 82, 86 through 88, and 92 through 96.

77. Each and every transaction for which Contrino, Disarro, Gugliaro, Paulino, Joyce or Overland engaged directly or indirectly in wash sales or accommodation trades, as described in paragraphs 70 through 76 above, is alleged as a separate and distinct violation of Section 4c(a)(1) of the Act.

**COUNT FIVE**

**VIOLATIONS OF SECTION 4c(a)(1) OF THE ACT:  
REPORTING, REGISTERING OR RECORDING OF PRICES WHICH  
ARE NOT TRUE OR BONA FIDE**

78. Paragraphs 1 through 77 are realleged and incorporated herein by reference.

79. During the relevant period, Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino each offered to enter into, entered into, or confirmed the execution of transactions involving coffee contracts for future delivery which caused the reporting, registration, or recording of a price which was not a true and bona fide price for the coffee future transaction, in violation of Section 4c(a)(1) of the Act.

80. Contrino engaged in such conduct with respect to Trade Sequence Nos. 3, 6, 11, 13, 15, 30, 31, 35, 53, 57, 60, 64, 69 through 72, 74, 76, 85, 90, 91, 98, 106, and 109, identified in Appendix A.

81. Disarro engaged in such conduct with respect to Trade Sequence Nos. 1, 2, 4, 5, 7 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104, identified in Appendix A.

82. Gugliaro engaged in such conduct with respect to Trade Sequence Nos. 23 through 25, 58, 63, 103, 105, 107 and 110, identified in Appendix A.

83. Joyce engaged in such conduct with respect to Trade Sequence No. 64, identified in Appendix A.

84. Overland engaged in such conduct with respect to Trade Sequence Nos. 7, 50, and 68, identified in Appendix A.

85. Paulino engaged in such conduct with respect to Trade Sequence Nos. 17, 18, 20, 21, 32, 40 through 50, 56, 66 through 68, 78, 81, 82, 86 through 88, and 92 through 96, identified in Appendix A.

86. Each and every transaction in which Contrino, Disarro, Gugliaro, Overland, or Paulino reported, registered, or recorded prices which were not true and bona fide, as described in paragraphs 79 through 85 above, is alleged as a separate and distinct violation of Section 4c(a)(1) of the Act.

### **COUNT SIX**

#### **VIOLATIONS OF COMMISSION REGULATION 1.38: NONCOMPETITIVE TRADING**

87. Paragraphs 1 through 86 are realleged and incorporated herein by reference.

88. During the relevant period, Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino each failed to execute all purchases and sales of a commodity for future delivery openly and competitively by open outcry or by other equally open and competitive methods, in violation of Commission Regulation 1.38.

89. Contrino engaged in such conduct with respect to Trade Sequence Nos. 3, 6, 11, 13, 15, 30, 31, 35, 53, 57, 60, 64, 69 through 72, 74, 76, 85, 90, 91, 98, 106, and 109, identified in Appendix A.

90. Disarro engaged in such conduct with respect to Trade Sequence Nos. 1, 2, 4, 5, 7 through 10, 14, 16, 22, 27, 29, 33, 34, 37 through 39, 51, 54, 59, 61, 62, 73, 77, 79, 84, 97, 99, 100, 102 and 104, identified in Appendix A.

91. Gugliaro engaged in such conduct with respect to Trade Sequence Nos. 23 through 25, 58, 63, 103, 105, 107 and 110, identified in Appendix A.

92. Joyce engaged in such conduct with respect to Trade Sequence No. 64, identified in Appendix A.

93. Overland engaged in such conduct with respect to Trade Sequence Nos. 7, 50, and 68, identified in Appendix A.

94. Paulino engaged in such conduct with respect to Trade Sequence Nos. 17, 18, 20, 21, 32, 40 through 50, 56, 66 through 68, 78, 81, 82, 86 through 88, and 92 through 96, identified in Appendix A.

95. Each and every transaction in which Contrino, Disarro, Gugliaro, Overland or Paulino failed to execute all coffee futures trades openly and competitively by open outcry or by other equally open and competitive methods, as described in paragraphs 88 through 94 above, is alleged as a separate and distinct violation of Commission Regulation 1.38.

### **COUNT SEVEN**

#### **VIOLATIONS OF SECTION 4g OF THE ACT, AND REGULATION 1.35 (d): THE MAKING OF CERTAIN BOOKS AND RECORDS**

96. Paragraphs 1 through 95 are realleged and incorporated herein by reference.

97. During the relevant period, Contrino failed to record required trading information on his trading cards concerning the purchase and sale of coffee futures executed in the CSCE coffee futures ring in the instances identified in Appendix B to this complaint in violation of Section 4g of the Act, and Commission Regulation § 1.35(d).

98. Each and every transaction for which Contrino failed to record required trading information on his trading cards, as described in paragraph 97 above, is alleged as a separate and distinct violation of Section 4g of the Act and Commission Regulation 1.35(d).

V.

By reason of the foregoing allegations, the Commission deems it necessary and appropriate, pursuant to its responsibilities under the Act, to institute public administrative proceedings to determine whether the allegations set forth in Sections I - IV above are true and, if so, whether an appropriate order should be entered in accordance with Sections 6(c), 6(d), and 8a(4) of the Act, 7 U.S.C. §§ 9 and 13(b)(1994):

(A) Directing that Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino cease and desist from violating the provisions of the Act and Regulations found to have been violated;

(B) Suspending for a period of six months or revoking the registrations of Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino as floor brokers;

(C) Prohibiting Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino from trading on or subject to the rules of any registered entity and requiring all registered entities to refuse them all trading privileges thereon or for such period as may be specified in the Order or until further notice of the Commission why the registration of such person should not be suspended or revoked;

(D) Assessing Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino each a civil monetary penalty not more than the higher of \$110,000 or triple the monetary gain to Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino for each violation of the Act or Regulations; and

(E) Requiring restitution to customers of damages proximately caused by the violations of Contrino, Disarro, Gugliaro, Joyce, Overland, and Paulino.

## VI.

WHEREFORE IT IS ORDERED that a public hearing for the purpose of taking evidence on the allegations set forth in Sections I, II, III and IV above be held before an Administrative Law Judge under the Act (“Commission’s Rules”), 17 C.F.R. § 10.1 et seq., in Washington, D.C., at a time and place to be set as provided by Section 10.61 of the Commission’s Rules, 17 C.F.R. § 10.61 (2001), and that all post-hearing procedures shall be conducted pursuant to Sections 10.81-10.107 of the Rules 17 C.F.R. §§ 10.81-10.107 (2001).

IT IS FURTHER ORDERED that the Respondents shall file an Answer to the allegations contained in this Complaint within twenty (20) days after service pursuant to Section 10.23 of the Commission’s Rules, 17 C.F.R. § 10.23 (2001), and shall serve two copies of such Answer and of any documents filed in these proceedings upon John Dunfee, Trial Attorney, Commodity Futures Trading Commission, 1155 21<sup>st</sup> St, NW, Washington, D.C. 20581. If any of the Respondent fail to file the required Answer, or fail to appear at a hearing after being duly notified, the Respondent(s) shall be deemed in default and the proceedings may be determined against him upon consideration of the Complaint, the allegations of which shall be deemed to be true.

IT IS FURTHER ORDERED that this Complaint and Notice of Hearing shall be served on the Respondents personally or by registered or certified mail, pursuant to Section 10.22 of the Commission Rules, 17 C.F.R. § 10.22 (2001).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecutorial functions in this or any factually

related proceedings will be permitted to participate or advise in the decision in this matter except as a witness or counsel in a proceeding held pursuant to notice.

By the Commission

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Jean Webb  
Secretary to the Commission  
Commodity Futures Trading Commission

July 9, 2002