

**UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF FLORIDA**

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**UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,**

**Plaintiff,**

**v.**

**FIRST BRISTOL GROUP, INC.,  
ALLIANCE EQUITY GROUP, INC.,  
GREAT MINSTER GROUP, INC.,  
CENTURION FINANCIAL GROUP, LC,  
STACI LEE PETOK,  
BERNARD JUSTIN SEVILLA,  
JACK MARTIN POMEROY, and  
MICHAEL DESMOND BIGGS,**

**Defendants.**

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**CIVIL ACTION NO. 02-61160**

**FILED UNDER SEAL**

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF  
AND FOR CIVIL MONETARY PENALTIES UNDER THE  
COMMODITY EXCHANGE ACT, AS AMENDED, 7 U.S.C. § 1 *ET SEQ.***

**I**

**SUMMARY**

1. Since at least December 2000 to at least the present, defendants have engaged in a fraudulent scheme to solicit unsophisticated retail investors to purchase illegal off-exchange futures and option contracts on foreign currency, futures contracts on precious metals, and futures contracts on petroleum products. Defendants have operated their scheme by employing salespersons under their supervision and control and acting in combination or concert with them (“salespersons”) to entice retail investors to send them funds through the use of false claims of quick and enormous investment profits.

2. Defendants have fraudulently obtained approximately \$500,000 from individuals located throughout the United States by falsely representing to those individuals that they would receive extraordinary profits with minimal risk of loss by purchasing futures and option contracts on foreign currency, futures contracts on precious metals, and futures contracts on petroleum products. Those funds were not used to purchase futures or options contracts. Instead, defendants deposited those funds in bank accounts in their names and used virtually all the funds in those accounts for personal use or transferred them to firms and entities unrelated to commodity futures or options trading.

3. In order to hide their illegal activities, defendants have provided customers with false written reports showing fictitious trading activity, have used fake identities, and have made oral misrepresentations regarding non-existent commodity futures and option transactions.

4. Defendants have solicited retail members of the public to purchase futures and options contracts on foreign currencies, futures contracts on precious metals, and futures contracts on petroleum products that were not being traded on or subject to the rules, or through a member, of a designated contract market or a derivatives transaction execution facility.

5. Defendants have engaged, are engaged, or are about to engage in acts and practices that violate the antifraud and contract market or derivatives transaction execution facility provisions of the Commodity Exchange Act (“Act”), 7 U.S.C. § 1 *et seq.*, as amended by the Commodity Futures Modernization Act of 2000 (“CFMA”), Pub. L. No. 106-554, 114 Stat. 2763 (2000), and the Commission’s Regulations (“Regulations”), 17 C.F.R. § 1.1 *et seq.*, relating to commodity futures and options transactions. Defendants have violated, are violating, or are about to violate:

- a. Sections 4b(a) and 4c(b) of the Act, 7 U.S.C. §§ 6b(a), 6c(b), and Regulations 1.1(b) and 32.9, 17 C.F.R. §§ 1.1(b), 32.9, by engaging in fraudulent activity in connection with trading futures and option contracts on foreign currency, futures contracts on precious metals, and futures contracts on petroleum products including making false representations, disseminating false trading reports, and misappropriating customer funds; and
- b. Sections 4(a) and 4c(b) of the Act, 7 U.S.C. §§ 6(a), 6c(b), and Regulations 32.11 and 33.3, 17 C.F.R. §§ 32.11, 33.3, by offering and selling commodity futures and option contracts that are not traded on or subject to, or by or through a member of, a designated contract market or consummated on a market registered as a derivatives transaction execution facility.

6. Accordingly, pursuant to Section 6c of the Act, the U.S. Commodity Futures Trading Commission (“CFTC”) brings this action to enjoin defendants’ unlawful acts and practices, to bar them from engaging in any commodity-related activity, and to compel their compliance with the Act and the Regulations. In addition, the CFTC seeks civil monetary penalties, remedial ancillary relief including, but not limited to, an accounting, restitution, disgorgement, pre-judgment and post-judgment interest, the appointment of a temporary and permanent receiver, and such other relief as this Court may deem necessary or appropriate.

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

## II

### JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which provides that “[w]henver it shall appear to the [CFTC] that any . . . person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of th[e] Act or any rule, regulation, or order thereunder . . . , the [CFTC] may bring an action . . . [against such person] to enjoin such practice or to enforce compliance with th[e] Act . . . .”

9. Pursuant to Section 2(a)(1)(A) of the Act, 7 U.S.C. § 2(a)(1)(A), the CFTC has jurisdiction over the transactions involving contracts of sale of a commodity for future delivery such as the precious metals and petroleum products transactions alleged herein. Section 4(a) of the Act, 7 U.S.C. § 6(a), requires that those transactions be conducted on, by, or through a designated contract market or a derivatives transaction execution facility.

10. The CFTC has jurisdiction over the transactions in foreign currency alleged herein. Section 2(c)(2)(B) of the Act, 7 U.S.C. § 2(c)(2)(B), expressly clarifies the jurisdiction of the CFTC over certain retail foreign currency transactions, including futures and options on foreign currencies. Congress has made clear that the Act is applicable to, and the CFTC “[has] jurisdiction over an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery [so long as the contract] is offered to, or entered into with, a person that is not an eligible contract participant unless the counterparty” is one of a set of particular types of regulated entities. Defendants are not proper counterparties for foreign currency transactions and most, if not all, of the foreign currency transactions that they offered or

entered into were with persons who were members of the retail investing public and were not eligible contract participants.

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

### III

#### THE PARTIES

##### A. Plaintiff

12. **U.S. Commodity Futures Trading Commission** is the independent federal regulatory agency charged with the administration and enforcement of the Act, 7 U.S.C. § 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.*

##### B. Defendants

13. **First Bristol Group, Inc.** (“FBG”) is a corporation registered in Florida since August 12, 2001. FBG lists its principal place of business as 1640 S.W. 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33312 and promotional material for the firm gives an office address of 4485 Stirling Road, Suite 206, Dania Beach, FL 33314. During the period April 2002 to May 2002, FBG maintained an Internet website. FBG has never been registered with the CFTC in any capacity.

14. **Alliance Equity Group, Inc.** (“AEG”) is a corporation that was registered in Florida on March 12, 1999, and was dissolved by the State of Florida on September 22, 2000, for failure to file its annual report. AEG listed its principal place of business, on corporate documents filed with the State, as 190 N.E. 199<sup>th</sup> Street, #207, North Miami Beach, Florida

33179. During the period March 12, 1999 to September 2000, AEG maintained an office at 1816 Taft Street, Suite 5A, Hollywood, Florida 33020. On or about November 9, 2000, AEG moved its offices to, or opened an additional office at 3432 Forrest Drive, Hollywood, Florida 33021. AEG has never been registered with the CFTC in any capacity.

15. **The Great Minister Group, Inc.** (“GMG”) is a corporation registered in Florida since April 4, 2001. GMG lists its principal place of business as 3220 Stirling Road, Suite 104, Hollywood, Florida 33201. GMG has never been registered with the CFTC in any capacity.

16. **Centurion Financial Group, LC** (“CFG”) is a corporation registered in Florida since September 5, 2000. CFG lists its principal place of business as 1920 E. Hallendale Boulevard, Hollywood, FL 33009. CFG has never been registered with the CFTC in any capacity.

17. **Staci L. Petok** (“Petok”) is the president of FBG. She is listed as the sole principal, sole incorporator, and registered agent for FBG. Petok resides at 22162 Ensenada Way, Boca Raton, Florida 33433. Petok has never been registered with the CFTC in any capacity.

18. **Jack Martin Pomeroy** (“Pomeroy”) is the president of AEG. He is also listed as the sole incorporator and registered agent for AEG. Pomeroy had signatory authority on an account in AEG’s name at Bank of America, NA in Hollywood, Florida. Pomeroy resides at 1777 Polk Street, Hollywood, Florida. Pomeroy was registered with the CFTC as an associated person (“AP”) of Global Capital Management, Inc. (“Global”) from August 1999 to September 1999. Since that time, he has not been registered with the CFTC in any capacity.

19. **Bernard Justin Sevilla** (“Sevilla”) is the sole principal and registered agent of GMG. He is also listed as the vice-president of AEG. Sevilla is listed as the FBG contact person

on account documents for FBG's Internet web site. Sevilla resides at 3432 Forrest Drive, Hollywood, Florida. Sevilla was registered with the CFTC as an AP of several south Florida introducing brokers, including Global, between September 1993 and January 2001. Since that time, Sevilla has not been registered with the CFTC in any capacity.

20. **Michael Desmond Biggs** ("Biggs") is the sole principal of CFG. He resides at 3700 Polk Street, Hollywood, FL 33021. Biggs was registered with the CFTC as an AP of Global from July 1999 and April 2000. Since that time, Biggs has not been registered with the Commission in any capacity.

#### IV

#### FACTS

21. Since at least December 2000 to at least the present, defendants and other persons or entities under their supervision or control, or acting in combination or concert with them, have fraudulently solicited persons to send funds to at least four sham investment firms they have operated, FBG, AEG, GMG, and CFG, for the purpose of investing in illegal off-exchange futures and options contracts on foreign currencies purportedly traded on the foreign exchange markets ("Forex"), futures contracts on precious metals, and futures contracts on petroleum products.

22. As part of these solicitations, defendants, and other persons or entities under their supervision and control, or acting in combination or concert with them, fraudulently misrepresented to persons that they would receive enormous profits in a short period of time with a minimal risk of loss if they sent funds to defendants to purchase foreign currency futures and/or option contracts, futures contracts on precious metals, or futures contracts on petroleum products.

23. After obtaining funds from persons by falsely assuring them that they would receive large profits, defendants did not purchase any futures or options contracts for those persons and misappropriated virtually all of those funds.

24. In order to conceal their illegal activities, defendants sent persons false trading statements showing fictitious trades and did not conduct any futures or options transactions on a designated contract market or derivatives transaction execution facility.

**A. Fraudulent Misrepresentations and Misappropriation of Funds**

25. From at least December 2000 to at least the present, defendants, and other persons or entities either under their employ, supervision and control or acting in combination or concert with them, have made numerous misrepresentations to customers regarding the profits and risk inherent in commodity futures and options trading. During this time, they have also falsely represented the trading status and activity of customer accounts, issued false written trading statements to customers, and misappropriated customer funds.

26. From at least December 2000 to at least the present, each of the individual defendants has received, either directly or indirectly, misappropriated customer funds from bank accounts in the name of one or more of the corporate defendants.

**Fraud in Connection with the Operations of FBG**

27. From at least December 2000 to the present, defendant FBG, its sole officer Petok, and other persons either under their employ, supervision and control or acting in combination or concert with them (“FBG salespersons”), fraudulently solicited persons to send them funds to purchase futures on foreign currencies and precious metals.

28. FBG, Petok, and FBG salespersons falsely and misleadingly represented to customers that they would realize extraordinary profits immediately by investing in foreign

currency and precious metals futures contracts through FBG. They also significantly downplayed the risk of loss in trading foreign currency futures and options by stating to customers that the placement of stop/loss orders would provide an assurance of minimal losses in the event of a downturn in market conditions.

29. FBG salespersons solicited persons through telephone cold calls. During their initial calls, they fraudulently represented to persons that FBG invests customer funds in futures on foreign currencies, and that profits were virtually guaranteed with little or no risk. FBG salespersons told persons that a return of up to double or triple the investment was highly likely in a short period of time, that they were “going to make tons of money,” and that “there is a minimal risk of loss.”

30. FBG salespersons continued to solicit additional funds from persons by using fraudulent representations after the persons agreed to open accounts and to make an initial purchase of futures contracts on foreign currency. FBG salespersons told persons that they would receive extraordinary profits if they deposited more funds with FBG to purchase additional futures contracts on foreign currency. FBG salespersons also told them that their accounts were making profits and that they should invest additional funds immediately to receive even greater profits. FBG salespersons also told at least one person that he would receive large profits in just a few days if he sent FBG funds to purchase futures contracts on gold.

31. FBG and its salespersons did not use customer funds to purchase any futures contracts. Instead, FBG and its salespersons purposely misled persons into believing that their funds were being used to purchase foreign currency and gold futures contracts by falsely telling them that the contracts had been purchased and sold at a profit. As part of their scheme to mask their illegal activities, FBG and its salespersons sent false written statements to investors

showing fictitious futures transactions. These statements falsely represented that “trading activity” in customer accounts had resulted in substantial profits.

32. As part of their solicitation, FBG and its salespersons sent potential customers copies of a forex customer agreement, a new account information statement, and a statement of terms and conditions. FBG salespersons instructed customers to sign and to return the documents to FBG for the purpose of opening an account. Pursuant to the FBG salespersons’ instructions, individuals signed these documents and sent them to the FBG office in Fort Lauderdale, Florida.

33. FBG and its salespersons instructed persons who returned opening account documents to FBG to wire funds to an account in the name of FBG at Washington Mutual Bank in Hollywood, Florida, purportedly to invest in futures on foreign currencies and precious metals.

34. As the result of the fraudulent solicitations by FBG and its salespersons, individuals in various parts of the United States have sent funds to FBG in amounts ranging from approximately \$1,200 to \$100,000.

35. FBG salespersons solicited at least two persons in May 2002 to send funds totaling approximately \$110,000 to the account at Washington Mutual Bank in the name of FBG. Petok had sole signatory authority over the account. \$26,000 was returned to one of the customers and the rest of the funds were used for purposes unrelated to commodity futures trading. The records reveal that Petok withdrew approximately \$10,000 in cash, transferred over \$15,000 to her personal account at Washington Mutual Bank, paid \$26,000 to Biggs, and paid almost \$10,000 to Sevilla.

36. Since at least December 2000, and continuing through the present, FGB and its salespersons have accepted funds for the purpose of trading futures contracts on foreign

currencies and precious metals and have misappropriated those funds for their personal use. Contrary to representations to customers that their funds were being used to purchase futures contracts, FBG transferred those funds to various individuals, including other defendants, and used funds from those accounts to pay expenses unrelated to trading futures contracts

### **Fraud in Connection with the Operations of AEG**

37. From at least December 2000 to at least the present, AEG, its officers Pomeroy and Sevilla, and other persons either under their employ, supervision and control or acting in combination or concert with them (“AEG salespersons”), fraudulently solicited persons to send them funds to purchase options on foreign currencies.

38. AEG salespersons falsely and misleadingly represented to customers that they would realize extraordinary profits immediately by investing in foreign currency options through AEG. AEG salespersons also significantly downplayed the risk of loss in trading foreign currency options.

39. AEG and its salespersons continued to make fraudulent representations after initial funds were received from customers. AEG and its salespersons falsely stated to customers that trades were being executed and provided them with false account statements detailing fictitious option transactions. AEG and its salespersons continued their deception by falsely stating that unexpected market events caused a total loss in the customer’s account when, in fact, no option trades had ever taken place.

40. As part of their solicitation, AEG and its salespersons sent potential customers copies of a Forex Customer Agreement, a new account information statement, and a statement of terms and conditions. AEG salespersons instructed customers to sign and to return the documents to AEG for the purpose of opening an account. Pursuant to the AEG salespersons’

instructions, individuals signed these documents and sent them to one of two AEG offices in Hollywood, Florida.

41. AEG and its salespersons instructed persons who returned opening account documents to AEG to wire funds to invest in options on foreign currencies to an account in the name of AEG at Bank of America in Hollywood, Florida on which Pomeroy and Sevilla had signatory authority.

42. As the result of the AEG defendants' fraudulent solicitations, individuals in various parts of the United States have sent funds to AEG in amounts ranging from approximately \$3,000 to \$110,000.

43. At least 12 individuals sent funds to the account totaling almost \$200,000. None of the customer funds were used for the purchase of foreign currency options contracts. Instead, Pomeroy and Sevilla withdrew approximately \$140,000 in cash and wrote checks to Petok amounting to almost \$45,000.

44. Since at least December 2000, and continuing through the present, AEG and its salespersons have accepted funds for the purpose of trading options on foreign currencies and have misappropriated those funds for their personal use. Contrary to representations by AEG and its salespersons that customer funds were being used to purchase options contracts, AEG transferred those funds to various individuals, including other defendants, and used funds from those accounts to pay expenses unrelated to trading options contracts.

#### **Fraud in Connection with the Operations of GMG**

45. From at least December 2000 to at least the present, GMG, its sole principal Sevilla, Biggs, and other persons either under their employ, supervision and control or acting in

combination or concert with them (“GMG salespersons”), fraudulently solicited persons to send them funds to purchase options on foreign currencies.

46. During the course of their solicitations, Biggs and GMG salespersons falsely represented to investors that they were account executives with a company called Fidelityeuro, Co. (“FE”) and provided investors with fictitious business cards and written trading materials showing that FE was located at the same address as GMG. Biggs and GMG salespersons represented to investors that FE had been in business many years trading options on foreign currencies and that FE had many customers who had made lots of money trading foreign currency options when, in fact, they knew that these representations were false.

47. Biggs and GMG salespersons falsely and misleadingly represented to customers that they would realize extraordinary profits in a short time by investing in foreign currency options through FE. Biggs and GMG salespersons also significantly downplayed the risk of loss in trading foreign currency options.

48. GMG, Biggs, and GMG salespersons continued to make fraudulent representations after initial funds were received from customers. GMG, Biggs, and GMG salespersons falsely stated to customers that trades were being executed and provided them with false account statements detailing fictitious option transactions. GMG and its salespersons continued their deception by falsely stating that unexpected market events caused a total loss in the customer’s account when, in fact, no option trades had ever taken place. As part of this deception, GMG and its salespersons, including Biggs, falsely represented to customers that their investments were declining in value and that they would lose their entire investment if they did not send additional funds to “maintain margin.”

49. In or about May 2001, Biggs fraudulently represented to a customer that he would “be able to retire” on the profits he would make by purchasing options on foreign currency and directed the customer to send a check for over \$95,000 made payable to AEG to GMG’s address in Hollywood, Florida. Biggs falsely told the customer that AEG was an account where customer funds were deposited for the purpose of trading options on foreign currency. Sevilla, Pomeroy, and Petok misappropriated those funds.

50. From at least June 2001 to at least February 2002, Biggs and other GMG salespersons fraudulently told an investor that additional funds were needed for deposit into his account to prevent the loss of his investment in options on foreign currency. After falsely telling the investor that additional funds were required for this purpose, Biggs and other GMG salespersons directed the investor to make various wire transfers totaling almost \$50,000 to several bank accounts controlled by defendants. They told the investor that each of these accounts was used for the purpose of trading options on foreign currency. Biggs and other GMG salespersons directed the investor to wire funds to a bank account in the name of GMG at First Union National Bank in Hollywood, Florida on which Sevilla had sole signatory authority, to the AEG account at Bank of America on which Pomeroy and Sevilla had signatory authority, and to two accounts in the name of FBG at Suntrust Bank located in Hallandale Beach and Deerfield Beach, Florida on which Petok had sole signatory authority.

51. Contrary to the representations of Biggs and other GMG salespersons, most, if not all, of customer funds deposited in the GMG account at First Union National Bank, the AEG account at Bank of America, and the FBG accounts at Suntrust Bank were not used for any purpose related to foreign currency options trading. Instead, funds were withdrawn from those accounts by Petok, Pomeroy, and Sevilla and misappropriated for their personal use.

52. Since at least December 2000, and continuing through the present, CMG, Biggs, and other CMG salespersons have accepted funds for the purpose of trading options on foreign currencies and have misappropriated those funds for their personal use. Contrary to representations by CMG and its salespersons that customer funds were being used to purchase options contracts, CMG directed investors to send their funds to CMG, FBG, and AEG and those funds were used to pay expenses unrelated to trading options contracts on foreign currency

### **Fraud in Connection with the Operations of CFG**

53. From at least December 2000 to at least the present, CFG, its sole officer Biggs, and other persons either under their employ, supervision and control or acting in combination or concert with them (“CFG salespersons”), fraudulently solicited persons to send them funds to purchase options on foreign currencies and futures on petroleum products.

54. CFG salespersons falsely and misleadingly represented to customers that they would realize extraordinary profits immediately by investing in foreign currency options through CFG. CFG salespersons also significantly downplayed the risk of loss in trading foreign currency options.

55. CFG salespersons falsely and misleadingly represented to customers that they would realize large profits in a short period of time by investing in futures contracts on natural gas and on gasoline by sending funds to CFG.

### **B. Offer and Sale of Illegal Off-Exchange Futures and Options Contracts**

56. From at least December 2000 to at least the present, defendants and their salespersons have solicited retail individuals to invest in illegal off-exchange futures and options contracts on foreign currency, futures contracts on precious metals, and futures contracts on petroleum products.

57. From at least December 2000 to at least the present, defendants have solicited members of the retail public to trade futures and options contracts on foreign currency. These transactions did not involve entities or persons exempted from the CFTC's jurisdiction and were not conducted on a properly designated contract market or derivatives transaction execution facility.

58. FBG, AEG, GMG, and their salespersons specifically told customers that their funds were being used to invest in futures and options on foreign currency.

59. FBG, AEG, and GMG did not conduct foreign currency futures and option transactions on or subject to the rules of a board of trade that has been designated by the CFTC as a contract market, nor did they execute or consummate those transactions by or through a member of such a contract market. They also did not conduct such transactions on a facility registered as a derivatives transaction execution facility.

60. No funds sent by persons to the FBG account at Washington Mutual Bank, the FBG accounts at Suntrust Bank, the AEG account at Bank of America, or the GMG account at First Union National Bank were transferred to any futures or options trading firm, or to any entity acting as a counterparty that is a regulated entity defined under the Act.

61. From at least December 2000 to at least the present, FBG and its salespersons solicited at least one person to send FBG funds to purchase futures contracts on gold. FBG did not use these funds to trade gold futures contracts on a designated contract market or on a derivatives transaction execution facility as it was required to do. Instead, FBG misappropriated the funds.

62. From at least December 2000 to at least the present, CFG and its salespersons solicited at least one person to send CFG funds to purchase futures contracts on natural gas and

on gasoline. During the course of this solicitation, CFG represented that the contracts would be traded through a FCM, when, in fact, CFG had no relationship with the FCM and was not registered as an introducing broker or AP of an FCM. CFG, therefore, offered to enter into futures transactions that were not being traded on a designated contract market.

63. Section 2(c)(2)(B)(i)-(ii) of the Act, 7 U.S.C. § 2(c)(2)(B)(i)-(ii), provides that the CFTC shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a futures or option contract so long as the contract is “offered to, entered into with, a person that is not an eligible contract participant” unless the counterparty, or the person offering to be the counterparty, is a regulated person or entity as defined under the Act

64. Most, if not all, of the foreign currency transactions offered by defendants were offered to persons who were not eligible contract participants.

65. Defendants are not proper counterparties for retail foreign currency transactions. No customer funds received by defendants have been transferred from defendants’ bank accounts to any proper counterparty under the Act for the foreign currency transactions alleged herein.

## V

### **VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND THE COMMISSION’S REGULATIONS**

#### **COUNT I**

#### **FRAUD IN CONNECTION WITH FUTURES TRANSACTIONS**

#### **VIOLATIONS OF SECTION 4b(a) OF THE ACT, 7 U.S.C. § 6b(a), AND SECTION 1.1(b) OF THE REGULATIONS, 17 C.F.R. § 1.1(b)**

66. Paragraphs 1 through 65 are re-alleged and incorporated herein.

67. From at least December 2000 to at least the present, defendants FBG, CFG, Petok, Biggs, Sevilla, and other persons or entities under their supervision or control, or acting in combination or concert with them, in or in connection with the orders to make, or the making of,

contracts of sale of commodities for futures delivery, made or to be made, for or on behalf of any other persons, where such contracts for futures delivery were or could be used for the purposes set forth in Section 4b(a) of the Act, 7 U.S.C. § 6b(a), have cheated or defrauded or attempted to cheat or defraud investors or prospective investors and willfully deceived or attempted to deceive investors or prospective investors by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts including, but not limited to:

- (a) false representations that customers who purchase futures contracts on foreign currency will make substantial profits in a short period of time;
- (b) false representations that the investment scheme involves little or no risk;
- (c) false representations that customer funds are being used to purchase and sell futures on foreign currency;
- (d) false representations that transactions are generating significant profits; and
- (e) failure to disclose the substantial risks associated with the purchase of futures contracts.

68. From at least December 2000 to at least the present, defendants FBG, Petok, Biggs, Sevilla, and other persons or entities under their supervision or control, or acting in combination or concert with them, have misappropriated customer funds in violation of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and Commission Regulation 1.1(b), 17 C.F.R. § 1.1(b). Defendants FBG, Petok, Biggs, and Sevilla have failed to apply customer funds for the purchase of commodity futures contracts on foreign currency in the manner represented and have misappropriated customer funds for personal expenses and services.

69. Defendants FBG, CFG, Petok, Biggs, and Sevilla willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of the Act and Regulations described in this Count, or acted in combination or in concert with each other, or willfully caused acts to be done or omitted which when directly performed or omitted constituted

the violations described in this Count. Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), defendants FBG, CFG, Petok, Biggs, and Sevilla, therefore violated Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and Section 1.1(b) of the Regulations, 17 C.F.R. § 1.1(b), as described in this Count.

70. Defendant Petok, as the principal and manager of FBG, directly or indirectly controlled FBG and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Petok is liable for the violations of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and Regulation 1.1(b), 17 C.F.R. § 1.1(b), as described in this Count, to the same extent as FBG.

71. Defendant Biggs, as the principal and manager of CFG, directly or indirectly controlled CFG and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Biggs is liable for the violations of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and Regulation 1.1(b), 17 C.F.R. § 1.1(b), as described in this Count, to the same extent as CFG.

72. Defendant Petok and FBG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant FBG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant FBG is liable as a principal for the illegal conduct of its agents Petok and FBG salespersons.

73. Defendant Biggs and CFG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant CFG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant CFG is liable as a principal for the illegal conduct of its agents Biggs and CFG salespersons

74. Each false, deceptive, or misleading representation of material facts, each failure to disclose material facts, and each misappropriation of customer funds including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and Section 1.1(b) of the Regulations, 17 C.F.R. § 1.1(b).

## **COUNT II**

### **FRAUD IN CONNECTION WITH OPTION TRANSACTIONS**

#### **VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b), AND SECTION 32.9 OF THE REGULATIONS, 17 C.F.R. § 32.9**

75. Paragraphs 1 through 74 are re-alleged and incorporated herein.

76. From at least December 2000 to at least the present, defendants, and other persons or entities under their supervision or control, or acting in combination or concert with them, violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.9 of the Regulations, 17 C.F.R. § 32.9, in that they have cheated, defrauded or deceived, or attempted to cheat, defraud, or deceive other persons by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts, in soliciting customers or potential customers, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of commodity option transactions including, but not limited to:

- (a) false representations that customers who purchase options on foreign currency will make substantial profits in a short period of time;
- (b) false representations that the investment scheme involves little or no risk;
- (c) false representations that customer funds are being used to purchase and sell options on foreign currency;
- (d) false representations that purported option transactions are generating significant profits; and
- (e) failure to disclose the substantial risk associated transactions involving foreign currency options.

77. From at least December 2000 to at least the present, defendants AEG, GMG, Pomeroy, Sevilla, and Petok have misappropriated customer funds in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 32.9, 17 C.F.R. § 32.9. Defendants AEG, GMG, Pomeroy, Sevilla, and Petok have failed to apply customer funds for the purchase of foreign currency options in the manner represented and have misappropriated customer funds for personal expenses and services.

78. Defendants willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of the Act and Regulations described in this Count, or acted in combination or in concert with each other, or willfully caused acts to be done or omitted which when directly performed or omitted constituted the violations described in this Count. Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), defendants therefore violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.9 of the Regulations, 17 C.F.R. § 32.9, as described in this Count.

79. Defendants Pomeroy and Sevilla, as principals and managers of AEG, directly or indirectly controlled AEG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendants Pomeroy and Sevilla are liable for the violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as AEG.

80. Defendant Sevilla, as the principal and manager of GMG, directly or indirectly controlled GMG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendant Sevilla is liable for the violations of Section 4c(b) of the Act, 7

U.S.C. § 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as GMG.

81. Defendant Biggs, as the principal and manager of CFG, directly or indirectly controlled CFG; and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendant Biggs is liable for the violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as CFG.

82. Defendants Pomeroy, Sevilla, and AEG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant AEG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant AEG is liable as a principal for the illegal conduct of its agents Pomeroy, Sevilla, and AEG salespersons.

83. Defendant Sevilla and GMG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant GMG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant GMG is liable as a principal for the illegal conduct of its agents Sevilla and GMG salespersons.

84. Defendant Biggs and CFG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant CFG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant CFG is liable as a principal for the illegal conduct of its agents Biggs and CFG salespersons.

85. Each false, deceptive, or misleading representation of material facts, each failure to disclose material facts, and each misappropriation of customer funds including, but not limited

to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.9 of the Regulations, 17 C.F.R. § 32.9.

### **COUNT III**

#### **OFFER AND SALE OF ILLEGAL OFF-EXCHANGE FUTURES CONTRACTS**

##### **VIOLATIONS OF SECTION 4(a) OF THE ACT, 7 U.S.C. § 6(a)**

86. Paragraphs 1 through 85 are re-alleged and incorporated herein.

87. From at least December 2000 to at least the present, defendants FBG, CFG, Petok, Biggs, Sevilla, and other persons or entities under their supervision or control, or acting in combination or concert with them, have offered to enter into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered with the CFTC as a contract market or derivatives transaction execution facility for such commodity, and (b) such contracts have not been executed or consummated by or through a member of such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a).

88. Defendants FBG, CFG, Petok, Biggs, and Sevilla willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of the Act and Regulations described in this Count, or acted in combination or in concert with each other, or willfully caused acts to be done or omitted which when directly performed or omitted constituted the violations described in this Count. Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), defendants FBG, CFG, Petok, Biggs, and Sevilla therefore violated Section 4(a) of the Act, 7 U.S.C. § 6(a), as described in this Count.

89. Defendant Petok, as the principal and manager of FBG, directly or indirectly controlled FBG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Petok is liable for the violations of Section 4(a) of the Act, 7 U.S.C. § 6(a), as described in this Count, to the same extent as FBG.

90. Defendant Biggs, as the principal and manager of CFG, directly or indirectly controlled CFG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Biggs is liable for the violations of Section 4(a) of the Act, 7 U.S.C. § 6(a), as described in this Count, to the same extent as CFG.

91. Defendant Petok and FBG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant FBG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant FBG is liable as a principal for the illegal conduct of its agents pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

92. Defendant Biggs and CFG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant CFG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant CFG is liable as a principal for the illegal conduct of its agents pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

93. Each commodity futures transaction not conducted on a designated contract market 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 4(a) of the Act, 7 U.S.C. § 6(a).

#### **COUNT IV**

#### **OFFER AND SALE OF ILLEGAL OFF EXCHANGE OPTION CONTRACTS**

#### **VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b), AND REGULATIONS 32.11 AND 33.3, 17 C.F.R. §§ 32.11, 33.3**

94. Paragraphs 1 through 93 are re-alleged and incorporated herein.

95. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 32.11 and 33.3 of the Regulations, 17 C.F.R. §§ 32.11, 33.3, together provide that it shall be unlawful for any person to solicit or accept orders for, or accept funds in connection with, the purchase or sale of any commodity option, or supervise any person or persons so engaged, unless the commodity option is conducted (1) on or subject to the rules of a contract market which has been designated by the Commission to trade options and (2) by or through a member thereof in accordance with the Act and Regulations.

96. From at least December 2000 to at least the present, defendants, and other persons or entities under their supervision or control, or acting in combination or concert with them, have offered to enter into, entered into, executed, confirmed the execution of, or conducted business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated by the Commission as a contract market for such commodity, and (b) such contracts have not been executed or consummated by or through a member of such contract market, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 32.11 and 33.3 of the Regulations, 17 C.F.R. §§ 32.11, 33.3.

97. Defendants willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of the Act and Regulations described in this Count, or acted in combination or in concert with each other, or willfully caused acts to be done or omitted which when directly performed or omitted constituted the violations described in this Count. Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), defendants AEG, CFG, GMG, Pomeroy, Sevilla, Biggs, and Petok violated of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 32.11 and 33.3 of the Regulations, 17 C.F.R. §§ 32.11, 33.3, as described in this Count.

98. Defendants Pomeroy and Sevilla, as principals and managers of AEG, directly or indirectly controlled AEG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendants Pomeroy and Sevilla are liable for the violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as AEG.

99. Defendant Sevilla, as the principal and manager of GMG, directly or indirectly controlled GMG, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendant Sevilla is liable for the violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as GMG.

100. Defendant Biggs, as the principal and manager of CFG, directly or indirectly controlled CFG and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), defendant Biggs is liable for the violations of Section 4c(b) of the Act, 7 U.S.C.

§ 6c(b), and Regulation 32.9, 17 C.F.R. § 32.9, as described in this Count, to the same extent as CFG.

101. Defendants Pomeroy, Sevilla, and AEG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant AEG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant AEG is liable as a principal for the illegal conduct of its agents Pomeroy, Sevilla, and AEG salespersons.

102. Defendant Sevilla and GMG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant GMG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant GMG is liable as a principal for the illegal conduct of its agents Sevilla and GMG salespersons.

103. Defendant Biggs and CFG salespersons engaged in the illegal conduct alleged in this Count within the scope of their offices or employment as agents of defendant CFG. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendant CFG is liable as a principal for the illegal conduct of its agents Biggs and CFG salespersons.

104. Each commodity option transaction not conducted on a designated contract market 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 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 32.11 and 33.3 of the Regulations, 17 C.F.R. §§ 32.11, 33.3.

## VI.

### RELIEF

Wherefore, the CFTC respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1:

- A. Enter orders of preliminary and permanent injunction enjoining defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendants, and all persons insofar as they are acting in active concert or participation with defendants, who receive actual notice of the order, by personal service or otherwise, from directly or indirectly engaging in conduct violative of the provisions of the Act and the Regulations as they are alleged to have violated;
- B. Enter an order directing defendants to make an accounting to the Court of all their assets and liabilities, together with all funds they received from and paid to investors and other persons in connection with commodity interest transactions, and all disbursements for any purpose whatsoever of funds received from customers of defendants, any entity under their ownership, control, employ, or supervision, and other commodity interest investors, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from March 1999 to and including the date of such accounting.
- C. Enter an order prohibiting defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendants, and all persons insofar as they are acting in active concert or participation with defendants who receive actual notice of the Order by personal service or

- otherwise, from directly or indirectly: (1) soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity interest contract; (2) placing orders or giving advice or price quotations, or other information in connection with the purchase or sale of commodity interest contracts for themselves and others; (3) introducing customers to any other person engaged in the business of commodity interest trading; (4) issuing statements or reports to others concerning commodity interest trading; and (5) otherwise engaging in any business activities related to commodity interest trading;
- D. Enter an order requiring defendants to disgorge to any officer appointed and directed by the Court or directly to their investors 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 the Commission's Regulations as described herein, including pre-judgment and post-judgment interest;
- E. Enter an order requiring defendants to make restitution for harm caused by their violations of the provisions of the Act and the Regulations as described herein, including prejudgment and post-judgment interest;
- F. Enter an order requiring defendants to pay civil penalties under Section 6c of the Act, 7 U.S.C. § 13a-1, to be assessed by the Court separately against each of them, in amounts not more than the higher of \$120,000 or triple the monetary gain to defendants for each violation of the Act, and

G. Enter an order providing such other equitable relief, including the appointment of a temporary or permanent receiver, as the Court may deem necessary or appropriate under the circumstances.

Respectfully submitted,

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