

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

**U. S. COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

vs.

**AMERICAN PRECIOUS METALS, LLC,
HARRY ROBERT TANNER, JR., and
SAMMY J. GOLDMAN,**

Defendants.

Civil Action No:

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

The U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”), by and through its attorneys, hereby alleges as follows:

I. SUMMARY

1. American Precious Metals, LLC (“APM”) is a boiler room telemarketing firm that, since at least July 1, 2007, has offered “leveraged” investments in physical precious metals, including gold, silver, platinum, and palladium, to retail customers throughout the United States.

2. Through its principals, Harry Robert Tanner, Jr. (“Tanner”) and Sammy J. Goldman (“Goldman”), and its officers, agents, and other persons acting for it, APM has made false and misleading representations and failed to disclose material facts in the course of soliciting customers and prospective customers to purchase physical precious metals on a leveraged basis through what APM describes as its “Leveraged Precious Metals Investment Program” (“leverage program”). Among APM’s fraudulent misrepresentations are the following: (1) APM sells physical precious metals to customers on a leveraged basis; (2) APM

arranges for a loan to the customer through a second company named Global Asset Management, Inc. (“GAM”) which purportedly lends up to 80% of the funds for the purchase of physical precious metals; (3) customers’ physical precious metals are stored in an independent depository; and (4) interest accrues on funds lent to the customer by GAM.

3. In fact, APM does not purchase or sell physical precious metals on behalf of its leverage program customers. Further, APM does not arrange for or provide loans for the purchase of physical precious metals by its customers. APM customers have no physical precious metals stored in any independent depository, and since no loan has been disbursed, no interest accrues on any loan.

4. Instead, after charging commissions of approximately 40% of customers’ funds, APM sends customer funds to GAM, which also does not purchase or sell physical precious metals on behalf of APM leverage program customers. Instead, GAM pools the funds received from APM with funds received from similar boiler room telemarketing firms, takes a portion of the funds as its own profit, and deposits the rest in margin accounts held in GAM’s name with various United Kingdom-based firms where GAM trades over-the-counter (“OTC”) precious metals derivatives. APM discloses none of GAM’s actual activity to its customers.

5. APM’s customer investments are not only impacted by the enormous commissions APM takes off the top, but also by a 3-5% mark-up on the price of the physical precious metals purportedly sold to the customer, account opening fees, and the monthly “interest” GAM charges on the financing purportedly provided to the customers.

6. The scope of APM’s fraud is significant: as of January 7, 2010, APM’s approximately 396 then-existing leverage program customers purportedly owned gold, silver,

platinum, and palladium with a total value of \$23,834,108. In fact, neither APM, GAM nor any secure depository held any physical precious metals for those customers.

7. Not only have APM and its principals, Tanner and Goldman (collectively “Defendants”) engaged in a massive fraudulent scheme, but APM’s offer and sale of palladium to customers on a leveraged basis is unlawful.

8. By virtue of this conduct and the conduct further described herein, Defendants have engaged, are engaging, or are about to engage in conduct in violation of the Commodity Exchange Act (the “Act”), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010 (“Dodd-Frank Act”)), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2010). Specifically, Defendants have violated Section 19 of the Act, 7 U.S.C. § 23, and Regulation 31.3, 17 C.F.R. § 31.3 (2010).

9. Unless restrained and enjoined by this Court, Defendants are likely to continue engaging in the acts and practices alleged in this complaint or in similar acts and practices.

10. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin Defendants’ unlawful acts and practices and to compel their compliance with the Act and the Regulations promulgated thereunder. In addition, the CFTC seeks disgorgement, rescission, civil monetary penalties, and such other equitable relief as this Court may deem necessary or appropriate.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), which authorizes the CFTC to seek injunctive relief in the proper district court of the United States against any person whenever it shall appear to the CFTC 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 promulgated thereunder.

12. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because APM, Tanner, and Goldman reside in this District, Defendants transacted 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.

III. THE PARTIES

13. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2010).

14. Defendant **American Precious Metals, LLC** is a Florida limited liability corporation incorporated in June 2007 with its principal business address in Deerfield Beach, Florida. Since its incorporation, APM has been in the business of offering, entering into and confirming the execution of transactions for the purchase, sale, or delivery of gold, silver, platinum, and palladium on a leveraged basis. APM has never been registered with the Commission in any capacity.

15. Defendant **Harry Robert Tanner, Jr.** is the Managing Member and Registered Agent of APM according to APM corporate filings and resides in Lake Worth, Florida. Tanner manages the day to day operations of APM, including supervising APM employees and directing

APM's financial transactions. Tanner and his wife, Andrea Tanner, control the APM corporate bank accounts, and regularly transfer substantial funds from APM to Tanner Enterprise Group Inc. ("Tanner Enterprise"), a Florida corporation of which Tanner is the sole director.

16. From 1997 to 2006, Tanner was registered with the Commission as an Associated Person ("AP") or listed as a Principal of various entities registered with the Commission, most of which were the subject of regulatory proceedings brought by the National Futures Association ("NFA") or the Commission.

17. Tanner personally has been the subject of two NFA actions, the second of which in 2006 resulted in his permanent bar from future association with any NFA member.

18. Defendant **Sammy J. Goldman** resides in Delray Beach, Florida. Along with Tanner, Goldman manages the day to day operations of APM, including supervising APM employees and directing APM's financial transactions. On information and belief, Goldman receives indirect compensation from APM through transfers of funds to RJG Group Inc. ("RJG Group"), a Florida corporation of which Goldman's wife, Rosalind J. Goldman, is the sole officer and director.

19. From 1982 to 2006, Goldman was registered with the Commission as an AP or listed as a Principal of various entities registered with the Commission, most of which were the subject of regulatory proceedings brought by the NFA or the Commission.

IV. STATUTORY BACKGROUND

20. Section 19(a) of the Act, 7 U.S.C. § 23(a), strictly prohibits the offering, entering into, or execution of transactions for the delivery of any commodity pursuant to standardized contracts commonly known to the trade and/or marketed or managed in substantially the same

manner as margin accounts, margin contracts, leverage accounts, or leverage contracts, except as authorized under subsection (b) of that Section.

21. Section 19(b) of the Act, 7 U.S.C. § 23(b), authorizes the offering, entering into, or execution of transactions only for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum pursuant to the standardized contracts described in subsection (a), and then only if done so in compliance with the rules, regulations and orders prescribed by the Commission. Subsection (b) does not authorize transactions for any other commodity in this manner, including transactions for palladium.

22. Pursuant to subsection (b) of Section 19, in 1975, the Commission promulgated Commission Regulation 31.3 (now codified at 17 C.F.R. § 31.3), which makes it unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly to: (a) employ any device, scheme, or artifice to defraud; (b) make any untrue statement of a material fact or omit a material fact necessary in order to make statements made not misleading; or (c) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person “in, or in connection with (1) an offer to make or the making of, any transaction for the purchase, sale or delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or any other commodity pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or pursuant to any contract, account, arrangement, scheme, or device that serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or (2) the maintenance or carrying of any such contract.”

V. APM'S FRAUDULENT SCHEME

A. APM's "Leverage Program"

23. Goldman and Tanner established APM in June 2007 as a business that offered, entered into, and confirmed transactions for the purchase, sale, or delivery of gold, silver, platinum, and palladium on a leveraged basis. Tanner serves as Managing Member of APM for purposes of corporate filings and controls the APM corporate bank accounts, while Goldman and Tanner control APM's day to day operations, supervise employees, and direct APM financial transactions. Goldman and Tanner directly or indirectly receive compensation from APM.

24. Shortly after it was established, APM, through its agents and employees acting at the direction of Tanner and Goldman, began soliciting customers and prospective customers, including through APM's websites (www.americanpreciousmetalsllc.com and www.americanpreciousmetals.net), by telephone, and by U.S. mail and private courier, to purchase physical precious metals on a leveraged basis through APM's leverage program. Tanner registered the APM websites, and APM regularly updates its websites. Customers and potential customers of APM are contacted in numerous states, including but not limited to California, Texas, Illinois, New York, and New Jersey.

25. According to APM's websites, APM "is a brokerage firm specializing in the leveraging of precious metals" and has "specialized brokers on staff to assist you in making your investment decisions." Both of APM's websites describe the leverage program as allowing customers to purchase precious metals with as little as \$5,000 down and finance up to 80% of their purchases.

B. Material Misrepresentations and Omissions Made To APM Customers

26. APM, through its agents and employees acting at the direction of Tanner and Goldman, has made misrepresentations of material fact in solicitations to actual and prospective

