

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

<p>U.S. COMMODITY FUTURES TRADING COMMISSION,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>DAVID BRYANT,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No: 1:15-cv-10816</p> <p>Hon. _____</p>
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**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. INTRODUCTION

1. Between at least June 2014 and the present, Defendant David Bryant (“Bryant”) fraudulently solicited and accepted at least \$3,031,874 from multiple individuals, pooled their funds and deposited them into his own personal bank and commodity futures trading accounts, and lost at least \$2,661,081 trading commodity futures in his personal trading accounts. In recent days, Bryant has failed to return funds to pool participants, despite their requests. Equally as troubling, Bryant has provided pool participants with fake account statements that omit his trading losses and instead purport to show a balance of several million dollars and trading profits in a “Bryant Family Investment Fund LLC” commodity futures trading account that does not exist.

2. Furthermore, Bryant has escaped regulatory scrutiny into his misconduct by failing to register with the Commission as a commodity pool operator (“CPO”).

3. By engaging in this conduct and the conduct further described herein, Bryant has engaged, is engaging, or is about to engage in acts and practices that violate Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1), and 6m(1) (2012).

4. Unless immediately restrained and enjoined by this Court, Bryant is likely to continue engaging in the acts and practices alleged in this Complaint, and funds he fraudulently obtained may be misappropriated or otherwise dissipated. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), to enjoin Bryant’s unlawful acts and practices and to compel his compliance with the Act. The CFTC also seeks civil monetary penalties and remedial ancillary relief, including restitution, disgorgement, pre- and post-judgment interest, and such other equitable relief as this Court may deem necessary and appropriate.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), which authorizes the CFTC to seek injunctive relief against any person whenever it appears that such person has engaged, is engaging, or is about to engage in any act or practice that violates any provision of the Act or any rule, regulation, or order promulgated thereunder.

6. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Bryant transacted business in this District, and certain of the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District, among other places. Specifically, Bryant maintains commodity futures trading accounts with at least four futures commission merchants (“FCMs”) located in Chicago,

Illinois and has traded commodity futures contracts at the Chicago Mercantile Exchange Inc. (“CME”) and the Chicago Board of Trade (“CBOT”).

III. PARTIES

7. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2012), and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2014).

8. Defendant **David Bryant** resides in Los Angeles County, California. Bryant has never been registered with the Commission as a CPO or in any other capacity.

IV. BRYANT’S FRAUD

9. Between at least June 2014 and the present, Bryant solicited and accepted funds from multiple individuals, many of them family and friends, by representing that their funds would be traded as a pool in commodity futures.

10. For example, when soliciting one pool participant, “Participant A,” Bryant represented that the pool already contained more than \$5 million from 50 individuals. Participant A subsequently invested \$50,000 with Bryant in February 2015 by wire transfer to Bryant’s personal bank account. Participant A also introduced other family members to Bryant, and at least one of those individuals invested funds with Bryant.

11. Participant A received regular statements from Bryant showing that the value of Participant A’s investment in the pool was increasing. By October 2015, the statements reflected that Participant A’s initial \$50,000 investment had grown to \$254,000.

12. Participant A also obtained four documents, all titled “Daily Statement” and appearing on the letterhead of AMP Global Clearing (“AMP”), a registered FCM, from Bryant through an intermediary. The statements, dated November 25, 2014, January 16, 2015,

January 30, 2015, and May 18, 2015, all purport to reflect details of a trading account held in the name of “Bryant Family Investment Fund LLC” at AMP that ends in 9976 and lists Bryant as the sole contact person. According to these statements, the purported cash balance of the 9976 account ranges between \$4.8 million on the low end and \$6.1 million on the high end, and several of them show trading profits.

13. In October 2015, Participant A met with Bryant to request a withdrawal of enough funds to pay taxes on the investment gain Bryant had led him to believe he had incurred. Bryant agreed to return sufficient funds to Participant A for this purpose. However, Bryant has not returned any of Participant A’s funds to him.

14. Bryant’s failure to return funds prompted Participant A to contact AMP in November 2015 to confirm the balance of the 9976 account as reflected on the four daily statements he had obtained. No account in the name of “Bryant Family Investment Fund LLC” exists at AMP. The four statements are fake.

15. AMP records show that Bryant did, however, maintain a personal commodity futures trading account in his own name at AMP that ended in 1410. Between June 2014 and February 2015, Bryant deposited into his personal trading account ending in 1410 approximately \$1,793,500 from his personal bank accounts. On information and belief, the funds Bryant deposited into his personal trading account ending in 1410 between June 2014 and February 2015 were fraudulently solicited and accepted from Participant A and other pool participants for the purpose of trading commodity interests, despite Bryant’s certification in his AMP account opening documents that all funds deposited with AMP were proprietary funds and not those of any other persons, companies, or pools.

16. In early February 2015, Bryant attempted to deposit a \$75,000 wire into his personal trading account ending in 1410 at AMP. Due to the frequency and amounts of the recent deposits into Bryant's account, AMP requested Bryant's 2013 tax return as confirmation of his current financial status. Bryant refused to provide AMP with his tax return. As a result, AMP declined to accept the incoming wire and returned the \$75,000 to Bryant's bank account.

17. Bryant ceased trading his personal trading account ending in 1410 at AMP on February 13, 2015. The current account balance of that account is under \$100.

18. Between June 2014 and February 2015, Bryant lost approximately \$1,765,200 trading commodity futures contracts, including in products listed on CME and CBOT, in his personal trading account ending in 1410 at AMP. He failed to disclose his trading losses to Participant A, just as he failed to disclose to Participant A that he was trading pool participant funds in his own personal trading account. On information and belief, Bryant failed to disclose his trading losses to his other pool participants as well.

19. Bryant deposited additional funds and suffered significant trading losses in other futures trading accounts held in his own name during the 2014-2015 time period. For example, Bryant maintained a commodity futures trading account ending in 4984 in his own name at another registered FCM located in Chicago, Illinois. Between December 2014 and October 2015, Bryant made several deposits totaling at least \$432,300 into his personal trading account ending in 4984. On information and belief, these funds were fraudulently solicited and accepted from pool participants for the purpose of trading commodity interests.

20. Between December 2014 and October 2015, Bryant suffered approximately \$171,056 in losses trading commodity futures contracts, including in products listed on CME, in his personal trading account ending in 4984.

21. Bryant maintained another commodity futures trading account, this one ending in 1088, in his own name at a third registered FCM located in Chicago, Illinois. In September and October 2014, Bryant deposited four wires totaling approximately \$295,000 into his personal trading account ending in 1088. On information and belief, these funds were fraudulently solicited and accepted from pool participants for the purpose of trading commodity interests.

22. During September and October 2014, Bryant suffered approximately \$273,264 in losses trading commodity futures contracts, including in products listed on CME, in his personal trading account ending in 1088. On information and belief, Bryant failed to disclose these trading losses to Participant A and his other pool participants.

23. Bryant maintained yet another commodity futures trading account, this one ending in 4368, at a fourth registered FCM located in Chicago, Illinois. Between March and September 2015, Bryant made deposits totaling approximately \$511,075 into his personal trading account ending in 4368. On information and belief, these funds were fraudulently solicited and accepted from pool participants for the purpose of trading commodity interests.

24. Between March and September 2015, Bryant suffered approximately \$451,560 in losses trading commodity futures contracts, including in products listed on CME, in his personal trading account ending in 4368. On information and belief, Bryant failed to disclose these trading losses to Participant A and his other pool participants.

25. On information and belief, other of Bryant's pool participants have requested the return of their funds, but Bryant has failed to return their funds to them.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

**Violations of Section 4b(a)(1)(A)-(C) of the Act:
Fraud by Misrepresentations, Material Omission, and False Statements**

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C) (2012), makes it unlawful for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person: (A) to cheat or defraud or attempt to cheat or defraud such other person; (B) willfully to make or cause to be made to such other person any false report or statement, or willfully to enter or cause to be entered for such other person any false record; or (C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for such other person.

28. Bryant violated Section 4b(a)(1)(A)-(C) of the Act by cheating or defrauding or attempting to cheat or defraud, willfully making or causing to be made false statements, and willfully deceiving or attempting to deceive prospective and actual pool participants by, *inter alia*, misrepresenting that he was profitably trading pooled funds in commodity futures, failing to disclose his trading losses, and providing pool participants with fake account statements for a nonexistent account.

29. Each act of misrepresenting or omitting material information and making false statements to others, including, but not limited to, those specifically alleged herein, constitutes a separate and distinct violation of Section 4b(a)(1)(A)-(C) of the Act.

COUNT II

Violations of Section 4o(1) of the Act: Commodity Pool Fraud

30. Paragraphs 1 through 29 are realleged and incorporated herein by reference.

31. A CPO is defined by Section 1a(11)(A) of the Act, 7 U.S.C. § 1a(11)(A) (2012), in relevant part, as any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise and who, in connection therewith, solicits, accepts, or receives from others stocks, funds, securities, or other property, directly or otherwise, for the purpose of trading in commodity interests, including any commodity for future delivery.

32. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), in relevant part, makes it unlawful for a CPO, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly: (A) to employ any device, scheme, or artifice to defraud any participant; or (B) to engage in any transaction, practice, or course of business that operates as a fraud or deceit upon any participant.

33. Bryant acted as a CPO in that he engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise and, in connection therewith, solicited, accepted or received stocks, funds, securities, or other property from others for the purpose of trading commodity interests, including commodities for future delivery.

34. Bryant violated Section 4o(1) of the Act in that, while acting as a CPO, he directly or indirectly employed a device, scheme, or artifice to defraud pool participants and engaged in transactions, practices, or a course of business which operated as a fraud or deceit upon pool participants by, *inter alia*, making material misrepresentations and omissions and false statements to pool participants.

35. Bryant engaged in such acts by use of the mails or other means or instrumentalities of interstate commerce.

36. Each act of misrepresenting or omitting material information and making false statements to others, including, but not limited to, those specifically alleged herein, constitutes a separate and distinct violation of Section 4o(1) of the Act.

COUNT III

Violations of Section 4m(1) of the Act: Failure to Register as a CPO

37. Paragraphs 1 through 36 are realleged and incorporated herein by reference.

38. It is unlawful for any CPO to make use of the mails or other means or instrumentalities of interstate commerce in connection with its CPO business unless registered with the Commission pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

39. Bryant violated Section 4m(1) of the Act in that he acted as a CPO without the benefit of registration with the Commission as a CPO, and in connection with his CPO business, made use of the mails or other means or instrumentalities of interstate commerce.

40. Each use of the mails or other means or instrumentalities of interstate commerce in connection with Bryant's operation as a CPO without proper registration, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act.

VI. RELIEF REQUESTED

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

A. Enter an order finding Bryant liable for violating Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1), and 6m(1);

B. Enter a Statutory Restraining Order without notice and an order of preliminary injunction pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), restraining Bryant, all persons insofar as they are acting in the capacity of Bryant's agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Bryant who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. destroying, mutilating, concealing, altering, or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records, or other property of Bryant, including all such records concerning Bryant's solicitation and trading activities, wherever located;

2. refusing to permit authorized representatives of the CFTC to inspect, when and as reasonably requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records, or other property of Bryant, including all such records concerning Bryant's solicitation and trading activities, wherever located; and

3. withdrawing, transferring, removing, dissipating, concealing, assigning, pledging, encumbering, disbursing, converting, selling, or otherwise disposing of, in any manner, any funds, assets, or other property of Bryant, wherever situated;

C. Enter an order of preliminary injunction requiring Bryant to make an accounting to the Court of all of his assets and liabilities, together with all funds he received from and paid to customers and other persons in connection with commodity futures transactions, or purported commodity futures transactions, including the names, mailing addresses, email addresses, and telephone numbers of any such persons from whom he received such funds, and all

disbursements for any purpose whatsoever of funds received from pool participants, including salaries, commissions, fees, loans, and other disbursements of money or property of any kind;

D. Enter an order of preliminary injunction requiring Bryant immediately to identify and provide an accounting for all assets and property that he currently maintains outside the United States, including, but not limited to, all funds on deposit in any financial institution, FCM, bank, or savings and loan account held by, under the actual or constructive control of, or in the name of Bryant, whether jointly or otherwise, and requiring him to repatriate all funds held in such accounts by paying them to the Registry of the Court, or as otherwise ordered by the Court, for further disposition in this case;

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

1. engaging in conduct in violation of Sections 4b(a)(1)(A)-(C), 4o(1), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1), and 6m(1) (2012);
2. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a (40) (2012));
3. entering into any transactions involving "commodity interests" (as that term is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2014)) for any personal or proprietary account or for any account in which he has a direct or indirect interest;
4. having any commodity interests traded on his behalf;

5. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;

6. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;

7. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2014); and

8. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2014)), agent, or any other officer or employee of any person registered, exempted from registration, or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2014);

F. Enter an order requiring Bryant to disgorge to any officer appointed or directed by the Court, or directly to persons or entities whose funds Bryant received or caused another person or entity to receive, all benefits received, including, but not limited to, salaries, commissions, loans, fees, revenues, and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act as described herein, including pre-judgment and post-judgment interest;

G. Enter an order directing Bryant to make full restitution, pursuant to such procedures as the Court may order, to every person or entity whose funds Bryant received or caused another person or entity to receive as a result of acts and practices that constituted

violations of the Act as described herein, and pre- and post-judgment interest thereon from the date of such violations;

H. Enter an order directing Bryant to pay a civil monetary penalty in the amount of not more than the greater of: (1) triple the monetary gain to Bryant for each violation of the Act; or (2) \$140,000 for each violation of the Act, plus post-judgment interest;

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

J. Enter an order providing such other remedial ancillary relief as the Court may deem necessary and appropriate under the circumstances.

Date: December 2, 2015

Respectfully submitted,

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