

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

U.S. COMMODITY FUTURES TRADING	:	
COMMISSION,	:	
	:	
Plaintiff,	:	COMPLAINT
	:	
v.	:	CIVIL ACTION NO.: 1:12-cv-106
CHRISTOPHER B. CORNETT,	:	
	:	
Defendant.	:	
	:	
	:	
	:	
	:	
	:	

**COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL
MONETARY PENALTIES AND OTHER EQUITABLE RELIEF**

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

I. SUMMARY

1. From at least June 2008 through at least October 2011, Christopher B. Cornett (“Cornett”), solicited individuals for a pooled investment (“pool”) in retail foreign currency contracts (“forex”). Cornett acted as the manager and operator of the forex pool.

2. In soliciting prospective pool participants to provide funds for the forex pool, Cornett made false representations regarding Cornett’s prior historical performance trading forex and provided prospective pool participants with access to a then-current pool participant’s account, which Cornett knew reported false profits and account balances for that pool participant.

3. Cornett falsely reported profits from trading forex and misrepresented pool participants' account balances in weekly reports / account statements provided to pool participants.

4. Cornett misappropriated a substantial amount of pool participants' funds.

5. Cornett operated a forex pool without being properly registered.

6. As a result of the conduct described above and the further conduct described herein, Cornett has engaged, is engaging, or is about to engage in acts and practices in violation of the Commodity Exchange Act (the "Act"), to be codified at 7 U.S.C. §§ 1 *et seq.*, and Commission Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2011).

7. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), the Commission brings this action to enjoin Cornett's unlawful acts and practices and to compel his compliance with the Act and Regulations. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

8. Unless restrained and enjoined by this Court, Cornett is likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as more fully described below.

II. JURISDICTION AND VENUE

9. Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2006), authorizes the Commission to seek injunctive relief in district court against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a

violation of the Act or any rule, regulation, or order thereunder.

10. The Commission has jurisdiction over the conduct and transactions at issue in this case pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006).

11. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. §13a-1(e) (2006), because Cornett transacts business in this District and certain transactions, acts, practices, and courses of business alleged in this Complaint occurred, are occurring, and/or are about to occur within this District.

III. THE PARTIES

12. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with the administration and enforcement of the Act, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011). The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

13. Defendant **Christopher B. Cornett** resides in Buda, Texas. On January 8, 2003, the National Association of Securities Dealers (“NASD”) “barred [Cornett] with association with any NASD member in any capacity” and ordered Cornett to pay restitution in the amount of \$28,423.73 for signing a customer’s name on the back of a check and using the funds for Cornett’s personal benefit without the authorization, knowledge or consent of the customer. In addition, on April 30, 2003, the United States District Court for the Western District of Texas sentenced Cornett to a term of imprisonment of 37 months after Cornett pleaded guilty to five counts of bank fraud, in violation of 18 U.S.C. § 1344. Cornett has not been registered with the Commission since March 2001.

IV. STATEMENT OF FACTS

A. Cornett's Historical Performance Trading Forex Prior to Operation of Pool

14. Shortly after Cornett's release from prison for bank fraud, Cornett began trading forex. Beginning in at least August 2006 and continuing until at least May 2007, Cornett solicited individuals to open up accounts at Global Forex Trading ("GFT"), and provide Cornett with a Power of Attorney ("POA") to trade forex in these accounts. During this time period, Cornett obtained a POA to trade five accounts at GFT on behalf of seven individuals (three individual accounts and two joint accounts). From August 2006 through January 2008, these individuals deposited a total of \$62,000 into these individual trading accounts, and Cornett lost over \$60,600 trading forex. These individuals withdrew the remaining approximately \$1,400 from the trading accounts. In October 2007, Cornett opened up a trading account in his own name at GFT. Cornett deposited \$13,500 into this account, and from October 2007 through December 2007, he lost almost \$13,000 trading forex.

B. The Forex Pool Operated by Cornett

15. Beginning in at least June 2008 and continuing through at least October 2011, Cornett solicited individuals for a pooled investment in forex. Cornett was the manager and operator of this pool. The pool, at various times, was referred to as ITLDU, ICM, International Forex Management, LLC ("International Forex") and/or IFM, LLC ("IFM").

16. ITLDU is a partnership formed on May 15, 2007. According to the Partnership Agreement, Cornett and Kevin Nix ("Nix") are the general partners and the principal office is located in Austin, Texas. ITLDU has never been registered with the Commission in any capacity.

17. ICM is a partnership formed in January 2008. According to the Partnership Agreement, Cornett and Nix are the general partners, the partnership was formed “to invest in foreign exchange currency,” and the principal office address is 1630 Wells Branch Parkway, Austin, Texas 78728. ICM has never been registered with the Commission in any capacity.

18. International Forex is a limited liability company formed in Texas on October 15, 2009. In the initial filing with the Texas Secretary of State, Cornett was listed as the Manager, Registered Agent and Organizer of the company. On April 16, 2010, a Certificate of Amendment was filed with the Texas Secretary of State, which substituted Lori McClure (“McClure”) as the new Registered Agent, added Michael Pavlovsky as a Manager, and removed Cornett as a Manager. At all times relevant to this Complaint, Cornett was the de facto Manager of International Forex. International Forex has never been registered with the Commission in any capacity.

19. IFM is a limited liability company formed in Texas on January 8, 2010. Nix is listed as the Registered Agent and Organizer of the company and Nix and McClure are listed as the Managers of the company. At all times relevant to this Complaint, Cornett was the de facto Manager of IFM. IFM has never been registered with the Commission in any capacity.

20. In order to solicit individuals to provide funds for the pool operated by Cornett, Cornett falsely represented to prospective pool participants that, while there were weeks when Cornett either lost money or broke even trading forex, Cornett had never experienced a losing month or a losing year trading forex. Cornett also provided prospective pool participants with a username and password to view online what Cornett told prospective pool participants was a “real” account of a then-current pool participant. The profits and account balances reported in

this “real” account were false.

21. Participants who invested funds in the pool operated by Cornett generally executed subscription agreements. The subscription agreements generally noted that Cornett was the “Manager” of the pool which, as noted above, was referred to at various times as ITLDU, ICM, International Forex Management, LLC or IFM, LLC. The subscription agreements also generally stated that the purpose and character of the business was to make investments in foreign exchange currency and to engage in any other business or activities related or incidental thereto. The subscription agreements generally stated that the profits generated from trading forex would be split, with the pool participant receiving 75%, and Cornett, the pool operator, receiving 25%.

22. Cornett provided pool participants with a username and password so that participants could view the status of their pooled investment online. Cornett updated each pool participant’s account on a weekly basis and reported each pool participant’s share of the profits or losses from the pool’s forex trading, any deposits into or withdrawals from the pool participant’s account and the pool participant’s account balance.

23. Beginning in approximately September 2009 and continuing through at least October 2011, Cornett solicited prospective pool participants to invest retirement funds in the pool operated by Cornett. Heidi Beyer (“Beyer”) and Global Wealth Management Group, LLC (“Global Wealth”), a Nevada limited liability company formed in August 2009, with the knowledge, consent and authorization of Cornett, also solicited individuals to invest retirement funds in the pool operated by Cornett. Beyer and Global Wealth made claims similar to Cornett’s claims about Cornett’s prior historical performance trading forex, and Beyer and

Global Wealth also provided prospective pool participants with a username and password to view the “real” account that contained false profits and account balances for a then-current participant in the pool.

24. Pool participants who invested retirement funds in the pool operated by Cornett generally provided funds to Global Wealth directly, or through a third party trust company. These funds were then provided to Cornett to trade in the forex pool.

25. During the period from June 18, 2008 through September 2010, Cornett solicited from pool participants, personally and through Beyer and Global Wealth, approximately \$7.07 million, pool participants redeemed approximately \$1.64 million and Cornett lost approximately \$4.17 million of the pool’s funds trading forex at Forex Capital Markets (“FXCM”) and Forex Capital Markets Ltd., U.K. (“FXCM UK”).

26. During this period, Cornett traded the pool’s funds at FXCM in accounts in the names of ITLDU and ICM, and at FXCM UK in accounts in the name of ICM. Cornett also traded the pool’s funds at both FXCM and FXCM UK in accounts in the name of McClure (who, as noted above, was listed as the Registered Agent of International Forex and a Manager of IFM in documents filed with the Texas Secretary of State).

27. During this period, Cornett had only one profitable month trading forex with pool funds and, as a result, Cornett earned little, if any, fees for acting as the operator of the pool. As a result, Cornett misappropriated approximately \$1.26 million of the pool’s funds during this time period.

28. From June 18, 2008 through at least September 2010, most, if not all, of the weekly reports / account statements that were provided to participants by Cornett through the

posting of information to the pool participants' online accounts were false, because the profits, losses and account balances in these reports / statements were false.

29. From October 2010 through October 2011, Cornett solicited, personally and through Beyer and Global Wealth, an additional approximately \$6.95 million from pool participants and pool participants redeemed an additional approximately \$2.22 million from the pool. During this period, Cornett transferred \$300,000 of pool participant funds to FXCM UK and he lost all but approximately \$1,000 of these funds trading forex. During this period, Cornett also transferred approximately \$3.07 million of pool participant funds to accounts at Deutsche Bank AG ("dbFX") (in the name of International Forex Management, LLC and McClure), FinFX Trading Oy ("FinFX"), Forex Place Ltd. ("4xp"), Smart Trade FX ("Smart Trade"), and Dukascopy Bank SA ("Dukascopy") (in the name of Chris Cornett) (collectively "the foreign entities"). Of the approximately \$3.07 million transferred to the foreign entities, \$1.26 million was transferred to dbFX between October 2010 and April 2011. Cornett did not experience a single profitable month trading the pool's funds in forex at dbFX between October 2010 and May 2011, and he lost all but approximately \$300 of the funds at dbFX. In June 2011, Cornett transferred \$250,000 of the pool's funds to Dukascopy and he lost all but approximately \$300 of these funds trading forex in a single month. Cornett redeemed \$162,500 from the remaining foreign entities between October 2010 and October 2011. As of October 2011, less than \$520,000 of the pool's funds remained in bank accounts in the names of ITLDU, ICM, International Forex, IFM and Cornett. The remaining approximately \$1 million of pool participants' funds has been spent. On information and belief, at least some, and possibly all, of this \$1 million has been misappropriated.

30. Because Cornett was acting as a commodity pool operator (“CPO”) from October 18, 2010 through at least October 13, 2011, he was required to be registered as a CPO. As of October 13, 2011, Cornett had failed to register as a CPO as required.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE

FRAUD IN CONNECTION WITH FOREX

Violations of Sections 4b(a)(2)(A)-(C) of the Act

31. The allegations set forth in paragraphs 1 through 30 are re-alleged and incorporated herein by reference.

32. Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C) (Supp. III 2009), provide, in relevant part, that it is unlawful for any person, in or in connection with any order to make or the making of any forex contract, for or on behalf of any other person, (A) to cheat or defraud or attempt to cheat or defraud another person, (B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the 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 such order or contract or the disposition or execution of any such order or contract.

33. As set forth above, from at least June 18, 2008 through at least September 2010, Cornett violated Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C) (Supp. III 2009), by, among other things, (i) misappropriating pool participant funds, (ii) fraudulently soliciting pool participants or prospective pool participants, and (iii) making, causing to be made, and distributing reports and statements to pool participants or prospective pool participants that

contained false information.

34. Each act of misappropriation, misrepresentation or omission of material fact, and issuance of a false report, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C) (Supp. III 2009).

COUNT TWO

FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR

Violations of Regulation 5.3(a)(2)(i)

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

36. For the purposes of trading forex, a “commodity pool operator” (“CPO”) is defined in Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2011), as any person who operates or solicits funds, securities, or property for a pooled investment vehicle that is not an eligible contract participant, and that engages in retail forex transactions.

37. As set forth above, from October 18, 2010 through at least October 13, 2011, Cornett acted as a CPO, as defined in Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2011), and failed to register as a CPO, in violation of Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2011).

38. Each day that Cornett failed to register as a CPO from October 18, 2010 through at least October 13, 2011 is alleged as a separate and distinct violation of Regulation 5.3(a)(2)(i).

VI. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to its own equitable powers, enter:

a) An order finding that Cornett violated Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C) (Supp. III 2009), and that Cornett violated Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2011);

b) An order of permanent injunction prohibiting Cornett and any of his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Cornett, including any successor thereof, from, directly or indirectly:

(i) engaging in conduct in violation of Sections 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2011);

(ii) trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a);

(iii) entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2011)), security futures products and/or foreign currency (“forex contracts”) (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (Supp. III 2009)), for their own personal or proprietary account or for any account in which they have a direct or indirect interest;

(iv) having any commodity futures, options on commodity futures, commodity options, security futures products and/or forex contracts traded on any of their behalf;

(v) 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 futures, options on commodity futures, commodity options, security futures products and/or forex contracts;

(vi) soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, security futures products and/or forex contracts;

(vii) 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) (2011);

(viii) acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), 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) (2011); and

c) An order directing Cornett, as well as any successors to Cornett, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act and the Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

d) An order directing Cornett to make full restitution to every person or entity whose funds Cornett received or caused another person or entity to receive as a result of acts and

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

e) An order directing Cornett to pay a civil monetary penalty for each violation of the Act and the Regulations described herein, plus post-judgment interest, in the amount of the higher of: 1) \$140,000 for each violation of the Act and Regulations committed on or after October 23, 2008; 2) \$130,000 for each violation of the Act and Regulations committed between June 18, 2008 and October 22, 2008; or 3) triple the monetary gain to Cornett for each violation of the Act and the Regulations, plus post-judgment interest;

f) An order directing Cornett and any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between him and any of the pool participants whose funds were received by him as a result of the acts and practices which constituted violations of the Act and the Regulations, as described herein;

g) An order requiring Cornett to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and

h) Such other and further relief as the Court deems proper.

February 2, 2012

Respectfully Submitted,

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