

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

U.S. COMMODITY FUTURES TRADING COMMISSION, Plaintiff, v. RICO OMAR COX A/K/A OMAR NEGRON, Defendant.	Case No: Judge:
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**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND
PENALTIES UNDER THE COMMODITY EXCHANGE ACT**

The United States Commodity Futures Trading Commission (the “Commission” or the “CFTC”), by and through its attorneys, alleges as follows:

I. INTRODUCTION

1. Beginning in at least August 2010 through March 2015 (the “Relevant Period”), Rico Omar Cox, a.k.a. Omar Negron (“Cox”), fraudulently solicited his trading services for managed commodity futures accounts, and lost most of the at least \$499,000 he traded for or on behalf of at least nine clients.

2. When soliciting clients for his Commodity Trading Advisor (“CTA”) business, Cox created and distributed through means and instrumentalities of interstate commerce promotional materials to prospective clients that intentionally or recklessly contained materially false and misleading statements and/or failed to disclose material facts, including: (a) claiming that he has been a successful futures day-trader full time for years; (b) claiming to make thousands of dollars and/or returns of 10-40% daily trading futures; (c) providing trading account

statements purporting to represent his historical futures trading activity that materially overstated Cox's rates of return; and (d) failing to disclose his felony fraud and theft convictions in Florida in April 2013.

3. Additionally, Cox created and distributed to clients fraudulent daily account statements and/or screen shots that materially overstated trading profits and account cash balances, when in reality Cox's trading of such customer accounts resulted in losses of virtually all their principal. Finally, during the Relevant Period, Cox also failed to register with the Commission as a CTA as required.

4. By this conduct and the conduct further described herein, Defendant has engaged, is engaging, or is about to engage in acts and practices in violation of Sections 4b(a)(1)(A), (B) and (C), 4o(1)(A) and (B), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A), (B) and (C), 6o(1)(A) and (B), and 6m(1) (2012).

5. Unless restrained and enjoined by this Court, Defendant is likely to continue to engage in the acts and practices alleged in this Complaint, or in similar acts and practices.

6. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), to enjoin Defendant's unlawful acts and practices and to compel his compliance with the Act and the Regulations. In addition, the Commission seeks disgorgement, civil monetary penalties, permanent trading and registration bans, and such other statutory, injunctive, or equitable relief as this Court may deem necessary and appropriate.

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action and the Defendant pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear 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 thereunder.

8. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), in that Defendant is found in, inhabits, and transacted business in this District, and Defendant's acts and practices in violation of this Act have occurred, are occurring, and/or are about to occur within this District, among other places.

III. PARTIES

9. The 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., and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 et seq.

10. Defendant Rico Cox resides in Dania Beach, Florida. Cox has never been registered with the Commission in any capacity. At all relevant times, Cox has acted as a CTA by holding himself out to the general public as a CTA by offering commodity futures trading services in managed accounts. In April 2013, Cox was convicted of third degree felony fraud and acting as an unlicensed mortgage broker in Broward County, Florida and was sentenced to 5 years' probation (*See State of Florida v. Cox*, Case No. 12016762CF10A, Fla. Broward County Ct., April 18, 2013). Later the same month, Cox was separately convicted of: (a) a felony scheme to defraud and operating as a broker/sales associate without a license, and (b) felony grand theft and operating as a broker/sales associate without a license, in Palm Beach County, Florida, and was sentenced to 30 days' imprisonment and 5 years' probation (*See State of Florida v. Cox*, Case Nos. 2012CF005665AXXX, and 2013CF001453AXXX, Fla. Palm Beach County Ct., April 30, 2013). Cox is 29 years old.

IV. STATUTORY BACKGROUND

11. A “commodity trading advisor” or “CTA” is defined in Section 1a(12) of the Act, 7 U.S.C. § 1a(12) (2012), and in Regulation 1.3(bb)(1), 17 C.F.R. § 1.3(bb)(1) (2014), in relevant part, as any person who, for compensation or profit, engages in the business of advising others as to the value or the advisability of trading” in any foreign currency (“forex”), commodity futures and/or options contract. Subject to certain exemptions and exclusions not applicable in this case, all CTAs must be registered with the CFTC pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

V. FACTS

A. Solicitation of Participants and Misrepresentations About Trading Experience and Profit

12. Cox promoted himself to the public over the internet in Craigslist advertisements or other similar websites offering either managed account services trading futures, or trading education and training through a live trade room. Cox claimed that he was an experienced, successful full-time futures trader for years mainly in crude oil futures. Cox touted achieving superior trading returns in such advertisements as: (a) “I trade futures, mainly crude oil, and make thousands of dollars daily,” or (b) “we average 10-40% return daily,” or (c) “we average a return of what most people make investing i[n] months or years in [sic] day.”

13. None of the foregoing representations were true, and Cox knew that the representations were false or recklessly disregarded the truth while making these representations. Among other things, Cox did not achieve the purported actual profits he represented to customers and potential customers that had been made, Cox was never a successful futures trader, and he is unable to substantiate any of these touted returns. Additionally, when soliciting potential customers, Cox failed to disclose his 2013 felony fraud and theft convictions in Florida.

B. Account Opening Process

14. Cox instructed prospective clients to open futures trading accounts at one of two futures commission merchants (“FCMs”). For the accounts that Cox did not obtain discretionary trading authority over, he instructed certain clients to answer “no” on account opening documents to a question of whether anyone other than the account owner would have authority to trade the futures account. Cox then obtained trading access to the client’s account by using the client’s login ID and password in lieu of getting a power of attorney to exercise discretionary trading authority.

15. Cox’s trading the customer accounts in this fashion concealed his identity and involvement from the FCMs. In addition, it allowed him to assuage client concerns by telling clients he was only able to trade and could not take any money directly from their account. However, Cox had clients execute a trading agreement whereby the client agreed that Cox would be compensated by splitting any trading profits. At least one client sent Cox funds related to Cox’s handling of his account.

16. Cox created and sent certain clients false account statements showing large account balances and monthly profits in accounts he purportedly traded. For example, in one instance, he sent three monthly account statements for a non-existent account in the name of his alias, Omar Negron, to a prospective client. The statements showed monthly profits of approximately \$33,500, \$41,300, and \$31,500 with corresponding ending monthly cash balances of approximately \$658,700, \$677,100, and \$706,500. In this instance, the prospective client specifically relied on the false statements in deciding to open an account.

C. Unprofitable Trading and False Customer Account Statements

17. Cox’s trading was in fact unsuccessful. In the aggregate, during the relevant time, at least nine clients deposited at least \$499,000 into commodity futures trading accounts that Cox

managed. Excluding client withdrawals of approximately \$117,000 from their accounts, Cox lost no less than \$381,000 – *i.e.*, virtually all of the remaining funds – trading those accounts using his clients' login credentials.

18. Once he started trading a client's account, Cox generally lost most of the available funds in a very short period of time. For example, in trading on behalf of one client's account funded with total deposits of \$32,000, Cox lost money trading and traded the account down to a cash balance of less than \$200.00 in under fourteen (14) days. In order to conceal his trading losses, Cox created false account statements and/or account screen shots (collectively, "screen shots") that he distributed to such client via email that falsely reported their accounts were profitable. These screen shots also reflected inflated cash values and excess equity amounts. None of the screen shots accurately depicted an actual trading account traded by Cox, and Cox knew that his representations were false or recklessly disregarded the truth while making these representations.

19. Cox managed trading accounts for or on behalf of at least six clients who granted Cox discretionary trading authority commencing in 2010. Through his trading, Cox lost approximately \$181,000 of the \$191,000 that those clients had deposited to fund their accounts.

20. In 2011, in response to questions from CFTC staff concerning his activities, Cox contended that he had ceased advertising and trading on behalf of clients. In fact, Cox continued or resumed soliciting managed trading accounts via Craigslist or other means, including at least three accounts in 2013 and 2014, and lost most of the funds trading for or on behalf of those accounts as well.

VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS

Count I

**Violation of Sections 4b(a)(1)(A) and (C) of the Act
Fraud by Making False Misrepresentations and Omissions**

21. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

22. Sections 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C) (2012), make 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 on behalf of, or with, any other person: (A) to cheat or defraud or attempt to cheat or defraud another person;...or (C) willfully to deceive or attempt to deceive the 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 the other person.

23. As set forth above, during the Relevant Period, Cox cheated, defrauded or deceived, and/or attempted to cheat, defraud or willfully deceive current and prospective Cox clients by, among other things, knowingly or recklessly omitting and/or making false representations of material fact to clients and prospective clients, such as the following:

(a) falsely claiming that he has been a successful futures day-trader full time for years;

(b) falsely stating in promotional materials that Cox was an experienced, successful futures traders making thousands of dollars daily, and/or earning daily returns as high as 10 – 40% daily, when Cox was largely unsuccessful at futures trading;

(c) failing to disclose to clients and prospective clients his own felony fraud and theft criminal convictions in Florida in 2013.

24. By this conduct, Cox has violated Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C) (2012).

25. Each misrepresentation or omission of a material fact made during all relevant times, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C)(2012).

Count II

Violation of Sections 4b(a)(1)(B) of the Act Fraud by Making False Reports/Statements

26. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

27. Section 4b(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B) (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 on behalf of, or with, any other person...“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.”

28. As set forth above, during the Relevant Period, Cox willfully made or caused to be made false reports or statements, and knowingly issued them to clients and prospective clients, such as the following:

- (a) providing some prospective clients with fraudulent trading account statements showing profitable trading activity of Cox, when in reality, such statements either:

(1) were false account statements created in their entirety by Cox, or (2) contained results of simulated or hypothetical trading without being disclosed as such; and
(b) leading at least some clients to believe that Cox was making profitable trades in their accounts by issuing false daily account statements and/or screenshots of profitable trading activity and overstated account balances that Cox created himself, when in reality Cox's trading in such client accounts caused losses of most of the principal.

29. By this conduct, Cox has violated Section 4b(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B) (2012).

30. Each making of a false account statement and/or report made during all relevant times, and the issuance of such statements and/or reports to clients, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B) (2012).

Count III

Violations of Section 4o(1)(A), (B) of the Act: Fraud by a CTA

31. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

32. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), in relevant part, makes it unlawful for CTAs, Commodity Pool Operators ("CPOs"), and their associated persons, 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. Section 4o(1) of the Act applies to all CTAs, CPOs, and their associated persons, whether registered, required to be registered, or exempted from registration.

33. During the Relevant Period, Cox acted as a CTA by engaging in the business of advising others as to the value or the advisability of trading in any forex, commodity futures and/or options contract for compensation and profit, and by trading commodity futures on his customers' behalf.

34. As set forth above, Cox, while acting as a CTA, used the mails or any means or instrumentality of interstate commerce to employ a device, scheme or artifice to defraud its participants, and engaged in a transaction, practice or course of business which operated as a fraud upon its participants, by, among other things:

- (a) falsely stating in promotional materials that Cox was an experienced, successful futures traders making thousands of dollars daily, and/or earning daily returns as high as 10 – 40% daily, when Cox was largely unsuccessful at futures trading;
- (b) providing some prospective clients with fraudulent trading account statements showing profitable trading activity of Cox, when in reality, such statements either:
 - (1) were false account statements created in their entirety by Cox, or (2) contained results of simulated or hypothetical trading without being disclosed as such;
- (c) leading at least some clients to believe that Cox was making profitable trades in their accounts by issuing false daily account statements and/or screenshots of profitable trading activity and overstated account balances that Cox created himself, when in reality Cox's trading in such client accounts experienced massive, catastrophic losses;
- (d) failing to disclose to clients and prospective clients his own felony fraud and theft criminal convictions in Florida in 2013.

35. By this conduct, Cox has violated Section 4o(1)(A), (B) of the Act, 7 U.S.C. § 6o(1)(A), (B) (2012).

36. Each fraudulent or deceptive act, each misrepresentation or omission of a material fact, and each making of a false account statement and/or report made during all relevant times, including without limitation those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1)(A), (B) of the Act, 7 U.S.C. § 6o(1)(A), (B) (2012).

Count IV

Violation of Section 4m(1) of the Act: Failure to Register as a CTA

37. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

38. During the Relevant Period, Cox acted as a CTA within the meaning of Section 1a(12) of the Act, 7 U.S.C. § 1a(12) (2012), and Regulation 1.3(bb)(1), 17 C.F.R. §§ 1.3(bb)(1) (2014), in that for compensation or profit he engaged in the business of advising others as to the value or the advisability of trading in forex, commodity futures and options contracts without the benefit of registration with the CFTC.

39. Subject to certain exceptions and exemptions not applicable in this case, all CTAs must be registered with the CFTC pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

40. Cox violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), in that he acted as a CTA without the benefit of registration with the Commission as a CTA.

41. Each day that Cox engaged in this conduct, and each day that Cox failed to register as a CTA, including but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

VII. RELIEF REQUESTED

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

- A. An order finding that Cox violated Sections 4b(a)(1)(A), (B) and (C), 4o(1)(A) and (B), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A), (B) and (C), 6o(1)(A) and (B), and 6m(1) (2012);
- B. An order of permanent injunction prohibiting Cox, and any other person or entity associated with him, from engaging in conduct in violation of Sections 4b(a)(1)(A), (B) and (C), 4o(1)(A) and (B), and 4m(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A), (B) and (C), 6o(1)(A) and (B), and 6m(1) (2012);
- C. An order of permanent injunction permanently restraining, enjoining and prohibiting Defendant from, directly or indirectly:
 - (1) 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));
 - (2) 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 Defendant’s own personal accounts or for any accounts in which Defendant has a direct or indirect interest;
 - (3) Having any commodity interests traded on Defendant’s behalf;
 - (4) 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;
 - (5) Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;

(6) 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/or

(7) 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 (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38) (2012)) registered, required to be registered, or exempted from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2014).

D. Enter an order requiring that Defendant, as well as any of his successors, disgorge to any officer appointed or directed by the Court all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices that constitute violations of the Act and the Regulations, including pre and post-judgment interest;

E. Enter an order requiring Defendant to pay civil monetary penalties under the Act, to be assessed by the Court, in amounts of not more than the greater of: (1) triple his monetary gain for each violation of the Act and the Regulations, or (2) \$140,000 for each violation;

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

- I. Enter an order providing such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Date: February 4, 2016

Respectfully submitted,

U.S. COMMODITY FUTURES TRADING
COMMISSION

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