

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

U.S. Commodity Futures Trading Commission,)	Case No.: -cv-
)	
Plaintiff,)	
)	
v.)	
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)	
GlobeFX Club, Inc. and Jeremy Munson Globe,)	
)	
)	
Defendants.)	
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)	

**COMPLAINT FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTIES
AND OTHER EQUITABLE RELIEF**

I. SUMMARY

1. Beginning in February 2009 through March 2009 (“relevant period”), Jeremy Munson Globe (“Globe”), and GlobeFX Club, Inc. (“GFC”), (collectively “Defendants”) engaged in acts and practices that violate 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), through false, fictitious or fraudulent statements made to the National Futures Association (“NFA”) during an NFA investigation and audit of GFC conducted pursuant to NFA’s official duties under the Act.

2. During NFA’s investigation and the audit of GFC, Globe consistently made false statements to NFA as part of a scheme to conceal the Defendants’ activities and prevent NFA

from discovering that GFC was soliciting and accepting pool participant funds as well as pooling funds in violation of NFA Compliance Rules.

3. In response to numerous NFA staff requests for information, Globe had the opportunity to advise NFA of GFC's solicitation and pooling activity but chose instead to make false, fictitious and fraudulent statements to NFA in an attempt to impede the investigation.

4. Only after NFA confronted Globe with documentation demonstrating that GFC was soliciting and accepting funds as well as depositing those funds in a pooled account, did Globe admit that GFC was doing so. Even after such admission, Globe continued to attempt to conceal the full extent of GFC's operations.

5. By dint of this conduct and the conduct further described herein, Defendant Globe has violated Section 9(a)(4) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13(a)(4).

6. Globe committed the acts described herein within the course and scope of his employment at or agency with GFC; therefore, GFC is liable under Section 2(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(a)(1)(B), and Commission Regulation ("Regulation") 1.2, 17 C.F.R. § 1.2 (2010), for violations of the Act committed by him.

7. During the relevant period, Globe was in control of GFC and failed to act in good faith or knowingly induced, directly or indirectly, the acts constituting GFC's violations. Therefore, Globe is liable for GFC's violations of the Act pursuant to Section 13(b) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13c(b).

8. Accordingly, the U. S. Commodity Futures Trading Commission (the "Commission") brings this action pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, to enjoin Defendants' unlawful acts and practices and to compel

their compliance with the Act. In addition, the Commission seeks disgorgement, civil monetary penalties and such other equitable relief as this Court may deem necessary or appropriate.

9. Unless restrained and enjoined by this Court, Defendants are 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

10. The Act establishes a comprehensive system for regulating registrants pursuant to the Act. This Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, which authorizes the Commission to seek injunctive relief against any person or entity whenever it shall appear to the Commission that such person or entity 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 Commission rule, regulation or order.

11. Venue properly lies with the Court pursuant to Section 6c of the Act, in that the Defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act occurred, are occurring, or are about to occur within this district.

III. THE PARTIES

A. Plaintiff

12. 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, as amended by the CRA, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated under it, 17 C.F.R. §§ 1.1 *et seq.* (2010). The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

B. Defendants

13. **GlobeFX Club, Inc.** is a Florida corporation, incorporated in August of 2008, whose principal place of business is located at 1005 N. Krome Avenue, #124, Homestead, Florida. GFC was registered with the Commission as a Commodity Pool Operator (“CPO”) from November 2008 until September 2009. In March of 2009, during the NFA investigation and audit, GFC attempted to withdraw its registration and NFA membership after which NFA placed a withdrawal hold pending completion of its investigation. In January of 2009, GFC filed an application for registration as a commodity trading advisor (“CTA”) and that application remained pending until withdrawn in September 2009. According to its website, GFC operated the commodity pool, GlobeFX St. Fund. NFA suspended GFC’s membership and registration from March 2009 until the completion of its investigation in September 2009. On October 1, 2009, NFA permanently barred GFC from NFA membership.

14. **Jeremy Munson Globe** is a Florida resident and a principal of GFC. He was listed with the Commission as a principal of GFC until March 2009. In March of 2009, during the NFA investigation and audit, Globe withdrew as a principal of GFC.

IV. OTHER RELEVANT ENTITY

15. **The National Futures Association** is a futures association registered with the Commission pursuant to Section 17 of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 21. NFA is a private corporation that serves as an industry self-regulatory organization. Its membership is composed of futures commission merchants, commodity pool operators, commodity trading advisors, introducing brokers and other futures professionals registered with the CFTC. NFA is responsible, under CFTC oversight, for certain aspects of the regulation of these futures entities and their associated persons. *See* Regulation 3.75, 17 C.F.R. § 3.75 (2010).

NFA focuses primarily on the qualifications and proficiency, financial condition, retail sales practices, and business conduct of its members.

V. FACTS

16. GFC registered with the Commission, through NFA, as a CPO on November 20, 2008.

17. After registration was granted, GFC failed to file a disclosure document or an exemption notice with NFA. Without an NFA approved disclosure statement or exemption, GFC was prohibited from soliciting clients and managing client funds pursuant to NFA Compliance Rules.

18. In early 2009, NFA discovered that GFC was listed as a solicitor for a futures commission merchant (“FCM”) and a forex dealer member (“FDM”) and initiated an official investigation into whether GFC was operating as a CPO, pursuant to the authority delegated to NFA by the Commission.

19. During the course of the investigation and subsequent audit, NFA discovered that: (1) as early as July of 2008, GFC was already soliciting and accepting funds for a pool, five months prior to GFC’s November 2008 CPO registration; (2) GFC maintained a website, *www.globefxclub.com*, which indicated that GFC operated GlobeFX St. Fund that as noted, was a commodity pool; and (3) the website included a non-NFA approved solicitation disclosure document for GFC.

20. Also during the investigation, NFA received a complaint from a person who had invested \$7,000 in a pool run by GFC. She stated she was promised monthly interest payments by GFC but had only received two monthly payments. She made repeated attempts to contact GFC but her calls were not returned.

21. NFA's investigation also revealed that in September of 2008, GFC had opened an omnibus account at I-Trade FX LLC ("I-Trade"), an FCM and FDM, and deposited \$29,250 in the account. Over the next several weeks, approximately half of these funds were lost through trading foreign exchange ("forex"). The account remained open until October of 2008, when the remaining funds, approximately \$15,000, were transferred to a Bank of America account in the name of Globe FX Club.

22. On February 26, 2009, an NFA auditor contacted GFC and spoke with Globe regarding the current operating status of GFC. Globe informed the auditor that GFC had some managed client accounts and also solicited client accounts for Interbank FX LLC, an NFA registered FCM and FDM.

23. The NFA auditor informed Globe that GFC was prohibited from soliciting or managing accounts without an NFA approved solicitation disclosure.

24. Subsequent to this conversation, the auditor attempted to contact GFC again but there was no answer.

25. On March 6, 2009, a senior compliance manager of NFA called GFC and also spoke to Globe regarding GFC's operating status. During the conversation, Globe told the senior compliance manager that GFC had never operated a pool or managed client accounts. This statement by Globe was false.

26. Globe's statement to the senior NFA compliance manager was contrary to what Globe had told the NFA auditor weeks earlier.

27. Globe subsequently admitted to the senior NFA compliance manager that GFC had a trading account that belonged to his "friends and family."

28. The senior NFA compliance manager advised Globe that she was aware of the disclosure document on the GFC website and she warned Globe that GFC could not use the disclosure document unless it was approved by NFA.

29. Globe claimed that the disclosure document had been approved by NFA.

30. This statement by Globe was also false.

31. On March 11, 2009, an NFA audit team met with all of GFC's principals, including Globe, to further discuss GFC's operations and its current status as a CPO.

32. In written correspondence to NFA and orally, Globe continually denied that GFC had ever operated a pool, received client funds, managed client accounts or had a trading account in the name of the firm. Globe also denied that GFC was working with any FCMs or FDMs.

33. All of the above statements by Globe were false because Globe was aware of GFC's day-to-day business activities including that GFC was accepting client funds for a pool and trading these funds in a forex trading account.

34. The NFA audit team confronted Globe with the client complaint.

35. At first, Globe denied the client's allegations and then later stated that the client was GFC's only client.

36. NFA also confronted Globe with the I-Trade account records.

37. Globe claimed that the I-Trade account was a pooled account that held his personal funds and the personal funds of another GFC principal, Christopher Bourne ("Bourne"). Globe also said that he and Bourne opened the account as a pooled account because they planned to solicit commodity pool participants sometime in the future.

38. However, later that day, Bourne admitted to the audit team that the I-Trade account did hold pool participant funds.

39. NFA asked both Bourne and Globe to produce personal trading records and bank statements; both refused and asked to speak with their lawyer.

40. Eventually, Globe and Bourne produced some of the records NFA requested, including certain personal bank statements.

41. Additionally, Globe told NFA that contrary to his earlier statements, GFC had indeed opened accounts for three other pool participants, in addition to the pool participant who contacted NFA. Globe provided the account opening documents for these accounts.

42. The documents produced by Globe show two large deposits into a Bank of America account in the name of "Globe Forex" in the amounts of \$174,965 and \$299,965, made in September and October of 2008, respectively.

43. When questioned about the large deposits, Bourne claimed that they were non-interest bearing personal loans from two friends in Trinidad. Bourne also told NFA that there were no promissory notes or other documentation regarding the loans.

44. NFA sent a letter to Globe and Bourne on March 13, 2009, requesting additional information in order to proceed with its audit, including contact information for the two alleged lenders in Trinidad. NFA requested the information be produced by noon on March 16, 2009.

45. Globe and Bourne failed to respond to the deadline.

46. NFA then contacted Globe's and Bourne's attorney and demanded the responses by March 19, 2009; NFA also advised Globe and Bourne that NFA would seek the issuance of a Member Responsibility Action ("MRA") against GFC and suspend its membership until GFC fully responded to the NFA's inquiries and NFA was satisfied that GFC was in full compliance with all NFA requirements.

47. The attorney for Globe and Bourne responded that his clients would provide responses by March 20, 2009.

48. On March 20, 2009, the attorney representing Globe and Bourne e-mailed several documents to NFA, which included expense account and general account information for GFC.

49. One of the documents emailed to NFA was entitled "GlobeFX Checking Accounts/Analysis of All Deposits and Withdrawals." This document includes entries for "Client Funds" and "Cash Advances to Globe and Bourne."

50. Under the entry "Client Funds," it was represented that GFC had \$521,930 in client funds.

51. Under the entry "Cash Advances to Globe and Bourne," it was represented that Globe and Bourne had received \$100,000 in cash advances.

52. However, these documents conflict with Globe's prior statements to NFA wherein he had previously only identified four pool participants to NFA, whose total investments equaled \$47,000--which was dramatically less than the \$521,930 shown as "Client Funds."

53. The NFA's investigation team noted that when the amount of the supposed loans from the individuals in Trinidad was added to the \$47,000 invested by the four known pool participants, the sum equals \$521,930--the exact amount shown under "Client Funds."

54. Based upon GFC's own documentation, the individuals in Trinidad appear to be clients of GFC and not lenders. Therefore, the \$100,000 cash advance to Globe and Bourne perforce came from client funds.

55. On March 23, 2009, NFA contacted the attorney for Globe and Bourne and again asked for the contact information of the individuals in Trinidad who purportedly loaned Globe and Bourne \$474,930 to start GFC.

56. Neither Globe nor Bourne, nor their counsel, responded to NFA's request.

57. As a result, on March 24, 2009, NFA filed a MRA which suspended GlobeFX's NFA membership.

VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE:

VIOLATIONS OF SECTION 9(a)(4) OF THE ACT: CONCEALING MATERIAL FACTS AND MAKING FALSE STATEMENTS OR REPRESENTATIONS TO NFA

58. The allegations set forth in Paragraphs 1 through 57 are realleged and incorporated herein by reference.

59. Section 9(a)(4) of the Act, as amended by the CRA, makes it unlawful for any person:

Willfully to falsify, conceal or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a registered entity, board of trade, or futures association designated or registered under this Act acting in furtherance of its official duties under the Act.

CEA § 9(a)(4), as amended by the CRA, to be codified at 7 U.S.C. § 13(a)(4).

60. As discussed *supra*, NFA is a futures association registered with the Commission. In furtherance of its official duties under the Act, NFA requested information from the Defendants to determine whether GFC was operating within the scope of its registration.

61. In response to the NFA investigation and audit, Defendant Globe willfully engaged in a scheme to conceal material facts and made false statements or misrepresentations to NFA, including, but not limited to: (1) GFC's business operating status; (2) the management of pool participants' accounts; (3) the amount of money managed in the pool on behalf of participants; (4) the number of pool participants; and (5) the classification of the \$474,930 from

Trinidad as a purported “loan” rather than pool participants’ funds, in violation of Section 9(a)(4) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13(a)(4).

62. Defendant Globe engaged in a scheme to impede the NFA’s investigation by refusing to fully and promptly respond to the NFA’s questions, and failing to produce the requested documents in a full and timely manner.

63. The acts, omissions and misrepresentations by Defendant Globe were willful and material.

64. The foregoing acts, omissions and misrepresentations and willful concealment to NFA by Globe occurred within the scope of his employment with GFC; therefore, GFC is liable for these acts in violation of the Act, as set forth herein, pursuant to Section 2(a)(1)(B) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(a)(1)(B) and Regulation 1.2, 17 C.F.R. § 1.2 (2010).

65. During the relevant period, Globe was in control of GFC and failed to act in good faith or knowingly induced, directly or indirectly, the acts constituting GFC’s violations. Therefore, Globe is liable for GFC’s violations of the Act pursuant to Section 13(b) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13c(b).

66. Each false, fictitious, or fraudulent statement, representation or omission made to NFA during the investigation and audit of GFC, and each act of concealment, including, but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 9(a)(4) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13(a)(4).

VII. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the 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 Defendants violated Section 9(a)(4) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13(a)(4).

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

(i) in conduct in violation of Section 9(a)(4) of the Act, as amended by the CRA, and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. § 13(a)(4);

(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 by the CRA and the Dodd-Frank Act, 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 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2010)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended by the CRA and the Dodd-Frank Act, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for their own personal 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, and/or forex contracts traded on 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, 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, 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) (2010); and

(viii) acting as a principal (as that term is defined in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), 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) (2010).

c) An order requiring Defendants, as well as any successors and/or agents of Defendants, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices that constitute violations of the Act, as described herein, including pre- and post-judgment interest thereon from the date of such violations;

d) An order requiring Defendants to pay a civil monetary penalty under the Act, to be assessed by the Court, in amounts of not more than the higher of \$130,000 or triple the monetary gain to each proposed Defendant for each violation of the Act occurring before October 23, 2008, or \$140,000 or triple the monetary gain to each proposed Defendant for each violation of the Act occurring on or after October 23, 2008, plus post-judgment interest;

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

f) Such other and further relief as the Court deems just and appropriate.

Dated this 17th day of March 2011

Respectfully Submitted,

by:

/s/ Tracey Wingate

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