

commodity trading advisor (“CTA”) by soliciting clients through the use of the website www.showmemyfuture.com (“website”), among other things, and has managed more than 15 client accounts during the last 12 months.

2. At no time during the relevant period has Hall registered with the U.S. Commodity Futures Trading Commission (the “CFTC” or “Commission”) as a CTA.

3. As a result, Hall is operating as an unregistered CTA in violation of Section 4m(1) of the Commodity Exchange Act (“CEA” or “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 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 (“WSTAA”)), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. § 6m(1).

4. Hall’s website prominently features customer testimonials and a spreadsheet with hypothetical and/or simulated trading results, among other things. Because Hall’s website lacks the specified disclaimers and cautionary statements that must accompany the use of customer testimonials and/or the presentation of the performance of a simulated or hypothetical futures trading

account, Hall is also violating Commission Regulations (“Regulations”) 4.41(a)(3) and (b)(1). 17 C.F.R. §§ 4.41(a)(3) and (b)(1) (2010).

5. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin Defendant’s unlawful acts and practices and to compel his compliance with the Act. In addition, the Commission seeks civil monetary penalties and such other equitable relief as this Court may deem necessary or appropriate.

6. Unless restrained and enjoined by this Court, Defendant will 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

7. The Act establishes a comprehensive system for regulating registrants. Section 6c of the Act, 7 U.S.C. § 13a-1, 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.

8. This Court has jurisdiction over this matter as alleged herein pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1.

9. Venue properly lies with the Court pursuant to Section 6c of the Act, in that the Defendant is found in, inhabits, or transacts 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

10. 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.*, as amended, and the Regulations promulgated under it, 17 C.F.R. §§ 1 *et seq.* (2010). The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

B. Defendant

11. **Neal E. Hall** is a resident of Reidsville, North Carolina, from where he operates his trading program and its website. Hall has never been registered with the Commission in any capacity.

IV. FACTS

Hall's Solicitation of Clients for his Trading System and Management of Client Accounts

12. Starting no later than June 2010 and continuing to the present, Hall, via his website, has solicited clients to subscribe to his e-mini S&P 500 futures trading program and/or to have Hall manage their trading accounts.

13. According to the representations Hall makes through his website, his trading system works as follows: Clients who subscribe to Hall's system for \$39 per month (after a free trial period) receive emails from Hall approximately 3 to 8 times per month. Hall's emails to subscribers allegedly contain specific instructions as to what prices clients should execute trades in the e-mini S&P 500 futures contract in their commodity accounts at futures commission merchants ("FCMs").

14. Hall also offers to manage clients' accounts at FCMs and place the trades specified by his system in their accounts.

15. In at least one twelve month period, Hall has managed the accounts of at least 16 different clients, with funds totaling approximately \$170,000.

16. Throughout the relevant period, Hall has held himself out generally to the public as a CTA via his website.

17. Clients whose accounts are managed by Hall pay him \$39 per month plus a percentage of the profits, if any, realized from any trades Hall effects in their accounts.

18. The percentage of the profits that Hall receives to manage client accounts is based on the number of contracts that the client trades, with Hall receiving a smaller percentage of the profits the greater the volume of futures contracts that a client trades.

Hypothetical Trading Results and Client Testimonials

19. Many statements that Hall makes on his website claim that subscribers to his trading system are guaranteed success and profits without much risk of suffering losses. For example, Hall claims through his website that his trading system enables clients to double their money in as little as four to seven months and has an accuracy rate of 96.7 to 97.3 percent.

20. Hall's website further guarantees that his trading system has "the highest percentage accuracy rate of any existing S&P futures trading program on the Internet."

21. To purportedly prove that his trading system is highly accurate, Hall directs prospective and existing clients to a "Spreadsheet History Chart" that is linked to his website.

22. Prospective and actual clients who visit Hall's website can click on a link to the "Spreadsheet History Chart" to review what Hall claims (per statements on his website) are actual trades that were placed over the course of the past four years using Hall's trading system.

23. In reality, many of the trades listed in the "Spreadsheet History Chart" are simulated or hypothetical trades. Nowhere in the website does Hall disclose that the trades listed in the "Spreadsheet History Chart" are simulated or hypothetical trades.

24. Hall's website does not contain any cautionary language about the limitations of making investment decisions in reliance on the presentation of simulated or hypothetical trading account performance results.

25. The top of the first page of Hall's website contains testimonials from unnamed clients. The quoted testimonials are labeled as "Real Emails from Real Members."

26. One such testimonial states: "Having been a member for over a year, I think the service is fantastic! I have leveraged my way up to 19 contracts, am making more money than I have with any other system I have ever tried, and will be remaining a subscriber a long time!"

27. Another testimonial states: “Today I mailed both the IRS and New York State Tax Deptment [sic] Big checks to cover my gains for 2010. Thanks to you!”

28. Hall’s website does not contain any disclaimer or cautionary language concerning the limitations of making trading decisions based on client testimonials.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS**

COUNT ONE:

**VIOLATIONS OF SECTION 4m(1) OF THE ACT, 7 U.S.C. § 6m(1):
FAILURE TO REGISTER AS A COMMODITY TRADING ADVISOR**

29. The allegations set forth in Paragraphs 1 through 28 are realleged and incorporated herein by reference.

30. Section 4m(1) of the Act provides in pertinent part: “It shall be unlawful for any commodity trading advisor . . . unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor . . .” (emphasis added).

31. Hall used the mails or instrumentalities of interstate commerce including the Internet in connection with his business as a CTA while failing to register as a CTA, in violation of Section 4m(1) of the Act.

32. Hall does not qualify for any exemption from the requirement to register as a CTA, as set forth in Section 4m(1) of the Act.

33. Each use of the mails or any means or instrumentality of interstate commerce in connection with Hall's business as a CTA without proper registration during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act.

**COUNT TWO:
VIOLATIONS OF COMMISSION REGULATION 4.41(a)(3), 17 C.F.R. §
4.41(a)(3):
FAILURE TO PROVIDE REQUIRED CAUTIONARY STATEMENTS
CONCERNING CLIENT TESTIMONIALS**

34. The allegations set forth in Paragraphs 1 through 28 are realleged and incorporated herein by reference.

35. Regulation 4.41(a)(3), 17 C.F.R. § 4.41(a)(3) (2010), provides that a CTA may not advertise in a manner that refers to any testimonial, unless the advertisement prominently discloses that the testimonial may not be representative of the experience of other clients and is no guarantee of future performance or success.

36. Hall advertises managed account services via his website, which prominently features testimonials from unnamed clients.

37. Hall's website does not contain the disclaimer required by Regulation 4.41(a)(3), 17 C.F.R. § 4.41(a)(3) (2010), stating the limitations of making investment decisions based on client testimonials, in violation of Regulation 4.41(a)(3), 17 C.F.R. § 4.41(a)(3) (2010).

38. Each instance in which Hall advertises his trading system with the testimonials on his website constitutes a separate violation of Regulation 4.41(a)(3), 17 C.F.R. § 4.41(a)(3) (2010).

**COUNT THREE:
VIOLATIONS OF COMMISSION REGULATION 4.41(b)(1), 17 C.F.R. §
4.41(b)(1):
FAILURE TO PROVIDE CAUTIONARY STATEMENT REGARDING
LIMITATIONS OF SIMULATED OR HYPOTHETICAL TRADING
RESULTS**

39. The allegations set forth in Paragraphs 1 through 28 are realleged and incorporated herein by reference.

40. Pursuant to Regulation 4.41(b)(1), 17 C.F.R. § 4.41(b)(1) (2010), no person may present the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a commodity pool operator, commodity trading advisor, or any principal thereof, unless such performance is accompanied by a prescribed cautionary statement.

41. Hall's websites features a "Spreadsheet History Chart" that contains simulated or hypothetical trading results, but his website does not contain the prescribed cautionary statement, in violation of Regulation 4.41(b)(1), 17 C.F.R. § 4.41(b)(1) (2010).

42. Each presentation by Hall of the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest that is not accompanied by the prescribed cautionary statement, including those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.41(b)(1), 17 C.F.R. § 4.41(b)(1) (2010).

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, and pursuant to its own equitable powers, enter:

- a) An order finding that Defendant violated Section 4m(1) of the Act, 7 U.S.C. § 4m(1).
- b) An order finding that Defendant violated Regulations 4.41(a)(3) and (b)(1), 17 C.F.R. §§ 4.41(a)(3) and (b)(1).

- c) An order of permanent injunction prohibiting Defendant and any of his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with the Defendant, including any successor thereof, from engaging, directly or indirectly, in any conduct or activity that:
- i. violates Section 4m(1) of the Act, 7 U.S.C. § 4m(1), or Regulations 4.41(a)(3) and (b)(1), 17 C.F.R. §§ 4.41(a)(3) and (b)(1) (2010);
 - ii. results in 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. involves, or is in any way related to activity associated with, 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, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for his own personal accounts or for any accounts in which he has a direct or indirect interest;
 - iv. involves having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on his behalf;

- v. involves 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. is related to or otherwise involves 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. is related to or otherwise involves 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. constitutes acting as a principal (as that term is defined in 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).

d) An order directing Defendant, as well as any successors and/or agents of Defendant, 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, and pre- and post-judgment interest thereon from the date of such violations;

e) An order directing Defendant to make full restitution to every person or entity whose funds Defendant 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;

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

g) An order directing Defendant to pay civil monetary penalties of not more than the higher of \$140,000 or triple the monetary gain to Defendant for each violation of the Act occurring on or after October 23, 2008;

- h) An order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- i) An order providing for such other and further relief as the Court deems just and appropriate.

Dated this 31st day of May, 2011

Respectfully Submitted,
by:
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