

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**U.S. COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**DANIEL WINSTON LAMARCO AND
GDLOGIX INC.,**

Defendants.

Case No. 17-cv-4087

**COMPLAINT FOR INJUNCTIVE RELIEF,
CIVIL MONETARY PENALTY, AND ANCILLARY EQUITABLE RELIEF**

Plaintiff, the United States Commodity Futures Trading Commission

(“Commission”), by its attorneys, alleges as follows:

I. SUMMARY

1. From January 2011 through March 2016 (“Relevant Period”), Daniel Winston LaMarco (“LaMarco”), individually and as agent and officer of GDLogix, Inc. (“GDLogix”) (collectively the “Defendants”), fraudulently solicited \$1,492,650 from 13 individuals (“pool participants”) to participate in a commodity pool that traded off-exchange leveraged or margined retail foreign currency (“forex”) contracts, in violation of the Commodity Exchange Act (“Act”) and its implementing regulations (“Regulations”).

2. LaMarco, by word of mouth, emails, false monthly statements and a written “Memorandum of Offering,” solicited and accepted on behalf of GDLogix \$1,492,650 from a number of pool participants located in New York, Ohio, Connecticut and Massachusetts.

LaMarco deposited participants' funds into a GDLogix bank account at J.P. Morgan Chase, as well as two personal bank accounts at J.P. Morgan Chase. All of these bank accounts were opened by LaMarco and under his control.

3. LaMarco then transferred approximately \$1.3 million of the \$1,492,650 of pool participants' funds to two personal trading accounts LaMarco opened in his name at registered futures commission merchant ("FCM") Gain Capital. The remaining pool participant funds were lost through trading or misappropriated to pay his personal expenses.

4. LaMarco concealed his misappropriation of participants' funds by falsely representing to existing and prospective pool participants that he was profitably trading pool participants' funds in forex contracts. To further conceal his fraud and solicit additional funds from participants, LaMarco falsely represented to pool participants that he had traded forex on participants' behalf and that their funds had increased in value, and he provided pool participants with false account statements reflecting fabricated data.

5. In addition to the above-described fraudulent conduct, GDLogix acted at all times during the Relevant Period as an unregistered commodity pool operator ("CPO"). GDLogix engaged in a business that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities or property, either directly or otherwise, for the purpose of trading in commodity interests, including without limitation, forex.

6. In addition to the above-described fraudulent conduct, LaMarco has also acted at all times during the Relevant Period as an unregistered associated person ("AP") of CPO

GDLLogix. LaMarco acted as an officer or agent of GDLLogix in a capacity that involved soliciting funds, securities, or property for participation in a commodity pool.

7. At no time during the Relevant Period did the Defendants advise participants that GDLLogix was operating the pool as a CPO without being registered as such as required by federal law, or that LaMarco was acting as an AP of GDLLogix without being registered as such as required by federal law.

8. By virtue of this conduct, and as more fully set forth below, Defendants have engaged, are engaging, and/or are about to engage in acts and practices in violation of Sections 4b(a)(2)(A)-(C) and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C) and 6o(1)(A)-(B) (2012). GDLLogix has engaged, is engaging, and/or is about to engage in acts and practices in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012). LaMarco has engaged, is engaging, and/or is about to engage in acts and practices in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012).

9. During the Relevant Period, LaMarco committed the acts and/or omissions alleged herein both in his individual capacity and also within the course and scope of his employment, agency, or office with GDLLogix. GDLLogix is therefore liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2016), for LaMarco's violations of the Act.

10. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), and Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012), the Commission brings this action to enjoin Defendants' unlawful acts and practices, to compel their compliance with the Act and Regulations thereunder, and to enjoin them from engaging in any commodity related

activity, as set forth below. In addition, the Commission seeks civil monetary penalties for each violation of the Act, 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.

11. Unless restrained and enjoined by this Court, there is a reasonable likelihood that Defendants will continue to engage in the acts and practices alleged in this Complaint, or in similar acts and practices, as described more fully below.

II. JURISDICTION AND VENUE

12. This Court possesses jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1 (2012), which authorizes the Commission to seek injunctive and other relief against any person whenever it appears to the Commission 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. Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012), provides the Commission jurisdiction over the forex solicitations and transactions at issue in this action.

13. Venue properly lies in this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Defendants transacted business in and committed acts and practices in violation of the Act and Regulations within this District.

III. PARTIES

14. Plaintiff **United States Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and

enforcement of the Act and the Regulations promulgated thereunder. The Commission maintains its principal office at 1155 21st Street N.W., Washington, D.C. 20581.

15. Defendant **Daniel Winston LaMarco**, also known as “Daniel Winston Edje,” is an independent software consultant currently residing in a federal prison in Manhattan, New York. He previously resided in Huntington, New York. During the Relevant Period, LaMarco provided his consultancy services through GDLogix, a company he founded. LaMarco has never been registered with the Commission in any capacity.

16. Defendant **GDLogix Inc.** is an inactive New York domestic business corporation with a last known principal place of business located at 4 Ladder Court, Huntington, New York. GDLogix has never been registered with the Commission in any capacity.

IV. RELEVANT STATUTES

17. Section 1a(11) of the Act, 7 U.S.C. § 1a(11) (2012), defines CPO, in relevant part, as any person who, for compensation or profit, engages 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, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any commodity for future delivery, security futures product, swap, or forex agreement, contract, or transaction.

18. Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012), applies provisions of the Act to agreements, contracts, or transactions in forex. Specifically, Section

2(c)(2)(C)(iv) of the Act, 7 U.S.C. § 2(c)(2)(C)(iv) (2012), states that Section 4b of the Act, 7 U.S.C. § 6b, applies to forex agreements, contracts, or transactions “as if” they were contracts of sale of a commodity for future delivery.

19. Section 2(c)(2)(C)(ii)(I) of the Act, 7 U.S.C. § 2(c)(2)(C)(ii)(I) (2012), states that Sections 4b and 4o of the Act, 7 U.S.C. §§ 6b, 6o (2012), apply to pooled investment vehicles that are offered for the purpose of trading, or that trade, any forex agreement, contract, or transaction, and that involve persons or entities who are not eligible contract participants (“ECPs”).

20. Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012), prohibits fraud in connection with any contract of sale of any commodity for future delivery that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market.

21. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), prohibits fraud by any CPO, or an associated person of a CPO, by use of the mails or any means or instrumentality of interstate commerce.

22. Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), makes it unlawful for any CPO, unless registered with the Commission, to make use of the mails or any means or instrumentality of interstate commerce in connection with the business of the CPO.

23. Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012), makes it unlawful for any AP, unless registered with the Commission, to be associated with any commodity pool as an officer or agent (or occupying a similar status or performing similar functions), in any

capacity that involves the solicitation of funds, securities, or property for participation in a commodity pool, or the supervision of any person so engaged.

24. Regulation 4.13(a)(1), 17 C.F.R. § 4.13(a)(1) (2016), provides in pertinent part that a person is not required to register under the Act as a CPO if:

- (i) It does not receive any compensation or other payment, directly or indirectly, for operating the pool, except reimbursement for the ordinary administrative expenses of operating the pool;
- (ii) It operates only one commodity pool at any time;
- (iii) It is not otherwise required to register with the Commission and is not a business affiliate of any person required to register with the Commission; and
- (iv) Neither the person nor any other person involved with the pool does any advertising in connection with the pool (for purposes of this section, advertising includes the systematic solicitation of prospective participants by telephone or seminar presentation).

25. Section 2(c)(2)(C)(vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(vii) (2012), provides that the Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract or transaction in foreign currency described in Section 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(C)(i) (2012).

26. Section 1a(18)(A)(iv) of the Act, 7 U.S.C. § 1a(18)(A)(iv) (2012), defines an ECP, in relevant part, as a commodity pool that has total assets exceeding \$5,000,000, and is formed and operated by a person subject to regulation under this Act, provided however that for purposes of Section 2(c)(2)(C)(vii), 7 U.S.C. § 2(c)(2)(C)(vii) (2012), the term ECP shall not include a commodity pool in which any participant is not otherwise an ECP.

27. Section 1a(18)(A)(xi) of the Act, 7 U.S.C. § 1a(18)(A)(xi) (2012), defines an ECP, in relevant part, as an individual who has amounts invested on a discretionary basis, the

aggregate of which is in excess of (I) \$10,000,000, or (II) \$5,000,000 and who enters into the agreement, contract or transaction in forex in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.

V. FACTS

A. Defendants' Fraudulent Solicitation and Acceptance of Pool Participants' Funds

1. The Fraudulent Solicitations

28. During the Relevant Period, LaMarco, as an agent or employee of GDLogix, solicited pool participants by word-of-mouth, by email, by the Internet, and by use of the mails and/or other means or instrumentalities of interstate commerce, to send money to a GDLogix bank account under LaMarco's control for the purpose of trading margined or leveraged forex contracts in a purported commodity pool operated by Defendants. The majority of these pool participants were friends and acquaintances of LaMarco located in and around Suffolk County, New York. Other pool participants lived in Connecticut, Massachusetts, and Ohio. At least one or more of these pool participants do not meet the financial requirements to qualify as an individual ECP.

29. LaMarco was a home-based independent software consultant, providing his software consultancy services through a company he founded, GDLogix. LaMarco used his software consultancy business, GDLogix, to facilitate his forex solicitation and trading activities.

30. In January 2011, LaMarco began verbally soliciting his first two participants, falsely representing to them the purported success of his personal investments in forex

trading. Based upon LaMarco's material, false representations, these two participants initially invested a total of \$25,000. Subsequently, LaMarco falsely represented to them the purported safety of his forex investment strategy, and encouraged these two participants to invest additional funds with him from proceeds of the participants' home equity loan. Based on LaMarco's materially false representations, these two participants provided LaMarco with additional funds totaling \$440,000.

31. LaMarco provided new, potential participants with a document entitled "Memorandum of Offering," which indicated that participants' money would be placed in the "Diamond Head Capital Commodity Pool" run by GDLogix. In the Memorandum of Offering, LaMarco represented to actual and prospective participants that he was the "Principal" of the commodity pool, as well as its "Pool Manager."

32. In soliciting investment funds, LaMarco further represented to pool participants that he was a profitable trader and touted the success of his personal investments in forex. All of these representations were material and false.

33. LaMarco also omitted material facts in his solicitations to actual and prospective pool participants, including but not limited to: failing to disclose that he had never been registered with the Commission in any capacity; that GDLogix had never been registered with the Commission in any capacity; that he was misappropriating participants' funds; that no trading took place on behalf of participants; and that he was losing money trading retail forex in his personal accounts.

2. False Statements

34. Beginning on or about February 2011, LaMarco emailed participants a fabricated monthly statement in the form of a spreadsheet (the “Monthly Statements”). The Monthly Statements purported to provide the participants with a monthly statement of the pool’s account activity, including profits, losses and net balances showing the participation units of each participant.

35. All of the information in the Monthly Statements was false. In reality, by late 2015 all of the funds LaMarco had misappropriated had been spent on LaMarco’s personal expenses or lost in LaMarco’s unprofitable trading in his personal accounts. LaMarco intentionally issued false Monthly Statements to mislead and lull participants into continuing to deposit investment funds in the pool.

36. According to the fraudulent Monthly Statements, in February 2016, LaMarco represented to the pool participants the total value of the commodity pool had increased to \$1,796,126.22. In reality, however, LaMarco knew that he had lost nearly all of the participants’ funds through unsuccessful trading and by diverting \$630,050 of the \$1,492,650 total principal invested to some participants as purported “profits” in the nature of a “Ponzi” scheme.

37. By March 2016, LaMarco stopped emailing participants fabricated Monthly Statements, and did not respond to email and telephone inquiries from participants regarding their invested funds.

38. As the sole signatory on the bank account used to collect funds from pool participants and the accounts used for forex trading, LaMarco had personal knowledge of the

amount of funds accepted from pool participants, the disposition of those funds, the losses in LaMarco's Personal Trading Accounts and the lack of profitability of trades undertaken on behalf of pool participants. When LaMarco represented to current and prospective pool participants that the Pool had achieved high rates of return and profits, he knew that his representations were false. Similarly, LaMarco knew that the statements he provided to pool participants, showing fictitious returns, were false because he owned the accounts and controlled the trading in the forex accounts.

39. At no time during the Relevant Period did any purported commodity pool operated by Defendants qualify as an ECP. The purported commodity pool operated by Defendants during the Relevant Period is a non-ECP and is therefore subject to the Commission's jurisdiction because: a) at no time during the Relevant Period did any commodity pool have assets in excess of \$5,000,000, and b) at no time during the Relevant Period was any purported commodity pool formed and operated by a person subject to regulation under the Act, because none of the Defendants were properly registered with the Commission as a CPO. Finally, any purported commodity pool operated by Defendants also did not qualify as an ECP and is therefore subject to the Commission's jurisdiction because one or more pool participants did not also qualify as an ECP, as defined by Section 1a(18)(A)(xi) of the Act, 7 U.S.C. § 1a(18)(A)(xi) (2012).

3. Defendants' Trading and Banking Accounts

40. LaMarco opened two trading accounts at FCM Gain Capital in August 2009 and December 2009, respectively (collectively, "LaMarco's Personal Trading Accounts"). The account he opened in August 2009 had an account number ending in *6530 ("LaMarco

Personal Trading Account No. 1”). The account he opened in December 2009 had an account number ending in *6033 (“LaMarco Personal Trading Account No. 2”). Both Gain Capital trading accounts were personal accounts held in the name of, for the benefit of, and controlled by, LaMarco, and were not pooled accounts for the benefit of participants in the commodity pool operated by Defendants.

41. As a result of LaMarco’s solicitations, during the Relevant Period, Defendants accepted an aggregate of \$1,492,650 from pool participants to trade forex in the commodity pool operated by Defendants. LaMarco deposited participants’ funds into a GDLogix bank account at J.P. Morgan Chase, as well as two personal bank accounts at J.P. Morgan Chase. All of these bank accounts were opened by LaMarco and under his control. Of the \$1,492,650 solicited and accepted from pool participants, LaMarco transferred approximately \$1.3 million in participants’ funds from the GDLogix and his personal J.P. Morgan Chase bank accounts to LaMarco’s Personal Trading Accounts.

42. LaMarco returned \$630,050 to certain pool participants who requested withdrawals from their accounts as either a portion or all of their original investment, as purported trading profits, or other payments. LaMarco lost the remaining funds trading or used them to pay his personal expenses.

43. LaMarco last traded forex in LaMarco Personal Trading Account No. 1 in March 2014. He withdrew the remaining \$551.00 out of this account on or about June 4, 2014. LaMarco last traded forex in LaMarco Personal Trading Account No. 2 in mid-March 2016. FCM Gain Capital closed both LaMarco Personal Trading Accounts in April 2016. At

that time, LaMarco Personal Trading Account No. 1 had a zero balance and LaMarco Personal Trading Account No. 2 had a balance of \$43.44.

44. At all relevant times, LaMarco was the sole signatory on the GDLogix Bank Account. He was also the sole person authorized to trade in LaMarco's Personal Trading Accounts. Accordingly, at all relevant times LaMarco had personal knowledge of the amount of funds accepted from pool participants, the disposition of those funds, and the losses in the LaMarco Personal Trading Accounts.

B. Defendants Failed to Properly Register with the Commission

45. During the Relevant Period, GDLogix acted at all times as an unregistered CPO. GDLogix engaged in a business that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or otherwise, for the purpose of trading in commodity interests, including without limitation, forex.

46. LaMarco has also acted at all times during the Relevant Period as an unregistered AP of CPO GDLogix. LaMarco acted as an officer or agent of GDLogix in a capacity that involved soliciting funds, securities, or property for participation in a commodity pool.

47. None of the Defendants has ever been registered in any capacity with the Commission, nor are they one of the enumerated exempt entities including a United States financial institution, registered broker dealer, financial holding company, or investment bank holding company or an AP of such entities as defined by the Act.

48. On or about March 2, 2014, LaMarco filed a notice of exemption with the National Futures Association (NFA) on behalf of GDLogix claiming it was exempt from the requirement to register as a CPO under Regulation 4.13(a)(1), 17 C.F.R. § 4.13(a)(1) (2016). GDLogix did not qualify for the exemption because, among other reasons, it advertised in connection with the pool. GDLogix failed to re-affirm the claimed CPO exemption as required on an annual basis, and NFA withdrew the invalid exemption on or about March 3, 2015.

49. At no time during the Relevant Period did GDLogix register as a CPO with the Commission.

VI. STATUTORY AND REGULATORY VIOLATIONS

COUNT ONE

FRAUD IN CONNECTION WITH FOREX CONTRACTS Violation of Sections 4b(a)(2)(A)-(C) of the Act

50. The allegations in the foregoing paragraphs are re-alleged and incorporated herein by reference.

51. Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C §§ 6b(a)(2)(A)-(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 for future delivery that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market:

- (A) to cheat or defraud or attempt to cheat or defraud the other 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 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 or . . . with the other person.

52. As described herein, Defendants cheated or defrauded, or attempted to cheat or defraud, other persons; issued, or caused to be issued, false statements and records; and willfully deceived, or attempted to deceive, other persons in connection with the offering of, or entering into the off-exchange leveraged or margined forex transactions alleged herein, by, among other things: (i) fraudulently soliciting pool participants and prospective pool participants by making material misrepresentations and omissions about Defendants' forex trading and profits; (ii) misappropriating pool participants' funds to pay for withdrawal requests of other pool participants; and (iii) fabricating false account statements, all in violation of Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012).

53. LaMarco, acting both individually and as agent and officer of GDLogix, engaged in the acts and practices described above knowingly, willfully or with reckless disregard for the truth.

54. LaMarco controlled GDLogix, directly or indirectly, and did not act in good faith. LaMarco knowingly induced, directly or indirectly, GDLogix to commit the acts and/or omissions alleged herein. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), LaMarco is liable for GDLogix's violations of Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012).

55. LaMarco acted within the course and scope of his employment, agency, or office with GDLogix. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)

(2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2016), GDLogix is liable for LaMarco's violations of Sections 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012).

56. Each act of fraudulent solicitation, misappropriation, false statement, or 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) (2012).

COUNT TWO

FRAUD BY A COMMODITY POOL OPERATOR Violations of Sections 4o(1)(A) and (B) of the Act

57. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

58. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2012), prohibits CPOs and APs of CPOs from using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or
- (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

59. GDLogix acted at all times during the Relevant Period as an unregistered CPO. GDLogix engaged in a business that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or otherwise, for the purpose of trading in commodity interests, including without limitation, forex.

60. LaMarco has also acted at all times during the Relevant Period as an unregistered AP of CPO GDLogix. LaMarco acted as an officer or agent of GDLogix in a capacity that involved soliciting funds, securities, or property for participation in a commodity pool.

61. Defendants routinely used the means or instrumentalities of interstate commerce to perpetrate their fraudulent scheme, including U.S. mail, emails, and telephones.

62. As alleged herein, Defendants employed or are employing a device, scheme, or artifice to defraud actual and prospective pool participants or engaged or are engaging in transactions, practices, or a course of business which operated or operates as a fraud or deceit upon pool participants or prospective pool participants, including without limitation: misappropriation of participants' funds, issuing false account statements, misrepresenting and/or omitting material facts in solicitations and communications with participants, and acting as a CPO and an AP of a CPO without registering as such as required by federal law, all in violation of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2012).

63. LaMarco controlled GDLogix, directly or indirectly, and did not act in good faith. LaMarco knowingly induced, directly or indirectly, GDLogix to commit the acts and/or omissions alleged herein. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), LaMarco is liable for GDLogix's violations of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2012).

64. LaMarco acted within the course and scope of his employment, agency, or office with GDLogix. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)

(2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2016), GDLogix is liable for LaMarco's violations of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2012).

65. Each instance during the Relevant Period in which Defendants employed a device, scheme, or artifice to defraud or attempt to defraud any participant or prospective participant, or engaged in any transactions, practices, or a course of business which operated as a fraud or deceit upon actual and/or prospective pool participants, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2012).

COUNT THREE

FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR Violation of Sections 4m(1) of the Act

66. The allegations in the foregoing paragraphs are re-alleged and incorporated herein by reference.

67. Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), makes it unlawful for any CPO, unless registered with the Commission, to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO.

68. During the Relevant Period, GDLogix acted as a CPO by engaging in a business that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or otherwise, for the purpose of trading in commodity interests, including without limitation, forex, while failing to register with the Commission as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

69. During the Relevant Period, GDLogix was not exempt from the requirement to register as a CPO.

70. LaMarco controlled GDLogix, directly or indirectly, and did not act in good faith. LaMarco knowingly induced, directly or indirectly, GDLogix to commit the acts and/or omissions alleged herein. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), LaMarco is liable for GDLogix's violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

71. Each instance during the Relevant Period in which GDLogix acted as an unregistered CPO, 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).

COUNT FOUR

FAILURE TO REGISTER AS AN ASSOCIATED PERSON OF A COMMODITY POOL OPERATOR Violation of Section 4k(2) of the Act

72. The allegations in the foregoing paragraphs are re-alleged and incorporated herein by reference.

73. Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012), makes it unlawful for any person to be associated with a CPO as an officer or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves the solicitation of funds, securities, or property for participation in a commodity pool, unless such person is registered with the Commission as an AP of a CPO.

74. During the Relevant Period, LaMarco was associated with the CPO GDLogix as an officer or agent (or any person occupying a similar status or performing similar

functions), in a capacity that involved the solicitation of funds, securities, or property for participation in a commodity pool, while failing to register with the Commission as an AP of the CPO GDLogix in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012).

75. During the Relevant Period, LaMarco was not exempt from the requirement to register as an AP of a CPO.

76. LaMarco acted within the course and scope of his employment, agency, or office with GDLogix. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2016), GDLogix is liable for LaMarco's violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2012).

77. Each instance during the Relevant Period in which LaMarco acted as an unregistered AP of a CPO, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (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 (2012), and pursuant to the Court's inherent equitable powers, enter:

A. An order finding that Defendants violated Sections 4b(a)(2)(A)-(C), 4k(2), 4m(1), and 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6k(2), 6m(1), and 6o(1)(A) and (B).

B. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from engaging in conduct that violates Sections

4b(a)(2)(A)-(C), 4k(2), 4m(1), and 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6k(2), 6m(1), and 6o(1)(A) and (B).

C. An order of permanent injunction prohibiting Defendants, and any of their agents, servants, employees, successors, assigns, attorneys, holding companies, alter egos, and persons in active concert or participation with Defendants, including any of their successors, 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) (2016)) for their own personal account or for any account in which they have a direct or indirect interest;
- (3) Having any commodity interests traded on their 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) (2016);

(7) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2016)), agent, or any other officer or employee of any person or entity 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) (2016); and

(8) Engaging in any business activities related to commodity interests.

D. An order directing Defendants, as well as any successors thereof, holding companies, and alter egos, 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 Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

E. An order directing Defendants, as well as any successors thereof, to make full restitution, pursuant to such procedure as the Court may order, to every person or entity whose funds they received or caused another person or entity to receive, as a result of the acts and practices constituting violations of the Act and Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

F. An order directing Defendants, as well as 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 them and any customer or pool participant whose funds any Defendant received as a result of the acts and practices constituting violations of the Act and Regulations, as described herein;

G. An order directing Defendants, as well as any successors thereof, to pay a civil monetary penalty for each violation of the Act and Regulations described herein, plus post-judgment interest, in the amount of the greater of: (i) \$170,472 for each violation of the Act and Regulations committed; or (ii) triple Defendants' monetary gain for each violation of the Act and Regulations committed, plus post-judgment interest;

H. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412 (2012); and

I. Such other and further relief as the Court deems proper.

Date: July 10, 2017

Respectfully submitted,

U.S. COMMODITY FUTURES TRADING
COMMISSION

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