

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

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

**Plaintiff, )**

**v. )**

**RFF GP, LLC, KGW CAPITAL )  
MANAGEMENT, LLC, and KEVIN G. )  
WHITE, )**

**Defendants, )**

**REVELATION FOREX FUND, LP, )  
MERIDIAN PROPANE LP, and )  
W CORPORATE REAL ESTATE, LP d/b/a )  
KGW REAL ESTATE, )**

**Relief Defendants. )**

**FILED UNDER SEAL**

**CIVIL ACTION NO. 4:13cv382**

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND FOR  
CIVIL MONETARY PENALTIES UNDER THE COMMODITY EXCHANGE ACT**

Plaintiff, U.S. Commodity Futures Trading Commission (the “Commission” or “CFTC”), alleges as follows:

**I. SUMMARY**

1. From at least September 2011, through the present (the “Relevant Period”), Kevin G. White (“White”), individually, and while acting as an agent and controlling person of RFF GP, LLC (“RFF GP”) and KGW Capital Management, LLC (“KGW Capital”) (collectively “Defendants”), fraudulently solicited at least \$5.8 million from at least 20 actual and prospective participants in a pooled investment vehicle (“pool participants”) established by Defendants for the purpose of trading in off-exchange agreements, contracts or transactions in foreign currency (“forex”) on a leveraged or margined basis.

2. Of the at least \$5.8 million the Defendants accepted for forex trading during the Relevant Period, Defendants misappropriated approximately \$1.7 million for personal and other expenses.

3. Defendants solicited prospective pool participants through two websites, *www.revelationforex.com* and *www.kgwcapital.com* (collectively “websites”), written promotional materials, and at least one trade show presentation to invest in Revelation Forex Fund, LP (“RFF”), a self-described hedge fund and commodity pool, where pool participants’ funds would be pooled for the purpose of trading forex.

4. In soliciting actual and prospective pool participants, Defendants intentionally or recklessly misrepresented or omitted material facts by: (1) failing to disclose that Defendants were misappropriating pool participants’ funds; (2) claiming that RFF achieved consistently profitable rates of return and a compound annual growth rate as high as 37.08% since Defendants purportedly began trading on its behalf in January 2009, when in reality, RFF consistently lost money since Defendants began trading in September 2011; (3) misrepresenting RFF’s performance in comparison with other forex funds; and (4) misrepresenting White’s brokerage experience and failing to disclose that White was fired from his employment as a broker in the securities industry and was censured and barred by the New York Stock Exchange (“NYSE”) based on multiple customer complaints filed against him.

5. As a result of Defendants’ fraudulent conduct, RFF received pool participants’ funds to which it has no legitimate interest or entitlement. Similarly, Defendants transferred some of the funds that they misappropriated to Relief Defendants, Meridian Propane LP (“Meridian Propane”), and W Corporate Real Estate, LP d/b/a KGW Real Estate (“KGW Real Estate”), both of which are controlled by White and share a business address with Defendants.

Meridian Propane and KGW Real Estate have no legitimate business interest or entitlement to the misappropriated funds, which were derived from Defendants' unlawful acts.

6. By virtue of this conduct and the conduct further described herein, Defendants have engaged, are engaging, or are about to engage in acts and practices in violation of provisions of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1 *et seq.* (2006 & Supp. V 2011), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Pub. L. No. 111-203, §§ 701-774, 124 Stat. 1376, 1641 *et seq.* (effective July 16, 2011). Specifically, Defendants violated Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011) and Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006).

7. White committed the acts and omissions alleged herein in the scope of his employment, agency or office with RFF GP and KGW Capital. Therefore, RFF GP and KGW Capital are liable under Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B) (2006 & Supp. V 2011), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2012), for the acts and omissions of White in violation of the Act.

8. White controlled RFF GP and KGW Capital throughout the Relevant Period and knowingly induced RFF GP's and KGW Capital's violations of the Act. Therefore, White is liable for RFF GP's and KGW Capital's violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13a-1 (2006).

9. Accordingly, pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. V 2011), the Commission brings this action to enjoin Defendants' unlawful acts

and practices and to compel compliance with the Act, as amended.

10. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

11. Unless restrained and enjoined by this Court, Defendants are likely to 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 of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. V 2011), which authorizes the Commission to seek injunctive and other relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

13. The Commission has jurisdiction over the forex solicitations and transactions at issue in this case pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. V 2011), and Section 2(c)(2)(C) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C) (2006 & Supp. V 2011).

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

### III. THE PARTIES

#### Plaintiff

15. Plaintiff **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act, as amended, and the Commission Regulations promulgated thereunder. The Commission maintains its principal office at Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

#### Defendants

16. Defendant **RFF GP, LLC** is a Texas company that was formed on or about July 20, 2011, with offices at 2400 Dallas Parkway, Suite, 540, Plano, Texas 75093. RFF GP is RFF's general partner. RFF GP is not registered with the Commission.

17. Defendant **KGW Capital Management, LLC** is a Texas company that was formed on or about July 25, 2007, with offices at 2400 Dallas Parkway, Suite 540, Plano, Texas 75093. KGW Capital purports to be "one of the world's leading private investment firms" that offers investments in forex through RFF among other investments. KGW Capital has never been registered with the Commission.

18. Defendant **Kevin G. White** resides in the Plano, Texas area and has a business office at 2400 Dallas Parkway, Suite 540, Plano, Texas 75093. White is the manager and director of RFF GP and the president and CEO of KGW Capital. White was previously registered with the Commission as an associated person at Lehman Brothers Inc. (later Shearson Lehman Brothers) from 1981 to 1987, and as an associated person at EF Hutton and Company Inc. (later Shearson Lehman Hutton) from 1987 to 1988.

**Relief Defendants**

19. Relief Defendant **Revelation Forex Fund, LP** is a Texas company that was formed on or about June 10, 2011, with offices at 2400 Dallas Parkway, Suite 540, Plano, Texas 75093. RFF is a commodity pool operated by Defendants.

20. Relief Defendant **Meridian Propane LP** is a Texas company that was formed on or about August 16, 2012, with offices at 2400 Dallas Parkway, Suite 540, Plano, Texas 75093. White is the president and CEO of Meridian Propane.

21. Relief Defendant **W Corporate Real Estate, LP d/b/a KGW Real Estate** is a Texas company that was formed in April 2005, with offices at 2400 Dallas Parkway, Suite 540, Plano, Texas 75093. White is the founder and CEO of KGW Real Estate.

**IV. STATUTORY BACKGROUND**

22. Section 2(c)(2)(C)(i), (iii) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(i), (iii) (2006 & Supp. V 2011), in pertinent part, provides that the Commission has jurisdiction over forex transactions if the transactions are offered to or entered into with a person that is not an Eligible Contract Participant (“ECP”) on a leveraged or margined basis; the transactions do not result in actual delivery within two days or otherwise create an enforceable obligation to make/take delivery in connection with the parties’ line of business; and neither the counterparty to the transactions nor the Defendants are one of certain enumerated persons.

23. To qualify as an ECP a pool participant must be an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of (i) \$10 million, or (ii) \$5 million and who enters into the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.” Section 1a(18)(A)(xi) of the Act, as amended, 7 U.S.C. § 1a(18)(A)(xi) (2006 & Supp. V 2011).

24. A commodity “pool” is defined in Commission Regulation 4.10(d)(1), 17 C.F.R. § 4.10(d)(1) (2012), as any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests.

25. A “commodity pool operator” (“CPO”) is defined in Commission Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2012), as any person who operates or solicits funds, securities, or property for a pooled investment vehicle that is not an ECP as defined in Section 1(a)(18) of the Act, as amended, 7 U.S.C. § 1a(18) (2006 & Supp. V 2011) and that engages in retail forex transactions.

26. An “associated person” (“AP”) of a CPO is defined in Commission Regulation 5.1(d)(2), 17 C.F.R. § 5.1(d)(2) (2012), as any natural person who is associated with a CPO as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves the solicitation of funds, securities, or property for a participation in a commodity pool, or the supervision of any person or persons so engaged.

27. A pool “participant” is defined in Commission Regulation 4.10(c), 17 C.F.R. § 4.10(c) (2012), as any person that has any direct financial interest in a commodity pool.

## V. FACTS

28. Since at least September 2011, Defendants solicited approximately \$5.8 million from at least 20 pool participants to invest in a purported hedge fund, RFF, where the pool participants’ funds would be placed in a commodity pool for the purposes of trading forex on a leveraged or margined basis. Under Defendants’ purported business structure, the RFF pool is one of the “investment strategies” offered by the parent management company, KGW Capital, while RFF GP was involved in day-to-day operations of the pool.

29. Pool participants deposited funds into RFF's bank accounts, which were controlled by White. White then transferred funds received from pool participants into one of eleven forex trading accounts he opened at FXCM, LLC ("FXCM") under the name of RFF. FXCM is a New York company that is registered with the Commission as a forex dealer, a forex firm, a retail foreign exchange dealer, and a futures commission merchant.

30. Defendants subsequently used the pooled pool participants' funds they deposited with FXCM to speculatively trade forex on a leveraged basis with neither Defendants nor the pool participants making actual purchases of foreign currency nor receiving actual delivery of foreign currency. Upon information and belief, at least some of the pool participants were non-ECPs. Neither Defendants nor the counterparty to the forex transactions that were entered into by Defendants and the pool participants were United States financial institutions, registered brokers or dealers (or their associated persons), or financial holding companies.

**A. Defendants Misappropriated Pool Participants' Funds**

31. During the Relevant Period, pool participants provided Defendants with funds either through bank wire transfers to RFF's bank accounts, which were controlled by White, or through checks made payable to RFF for purposes of trading forex. White in turn transferred some of these pool participant funds to his personal bank accounts, while using other pool participants' funds for personal and business expenses. Additionally, White transferred funds to Relief Defendants Meridian Propane and KGW Real Estate, which were entities controlled by him and that had nothing to do with forex trading.

32. Of the approximately \$5.8 million invested with RFF during the Relevant Period, Defendants misappropriated approximately \$1.7 million. White used the misappropriated funds for personal expenses, including a gym membership, retail purchases, meals, travel, a dog



training service, vehicle maintenance, and alimony payments as well as business expenses including furniture, electronic equipment, and marketing services. In essence, White treated RFF's bank accounts as his personal bank account.

33. Defendants concealed their misappropriation of pool participants' funds from prospective pool participants by claiming in their promotional materials that they charged an "industry standard" 2% annual management fee and a 20% annual performance fee, which was purportedly based on profits. Furthermore, White told prospective pool participants that Defendants would not be paid unless RFF was profitable. Contrary to Defendants' representations, White's personal expenditures of pool participants' funds and those pool participants' funds transferred to other businesses controlled by him far exceeded the purported 2% annual management fee. Moreover, White's misappropriation of pool participants' funds continued in spite of RFF's unprofitability.

**B. Defendants' Material Misrepresentations and Omissions**

34. During the Relevant Period, Defendants made a litany of material misrepresentations and omissions that misstated RFF's profitability as well as White's previous brokerage experience and that failed to disclose Defendants' misappropriation of funds. Defendants made these misrepresentations and omissions through written promotional materials used to solicit prospective pool participants by depicting purported profitable trading results that are posted on Defendants' currently active websites. Additionally, White used these same misleading materials to solicit prospective pool participants at the May 2013, "MoneyShow" trade show event in Las Vegas.

35. In promotional material entitled "Historical Performance" posted on their websites and distributed by White at the "MoneyShow," Defendants claimed annualized returns

for RFF ranging from 24.01% to 59.73% for each year between 2009 and 2012. These claims are false because Defendants' actual performance in trading forex on behalf of RFF resulted in successive losses of \$34,000 in 2011 and \$933,000 in 2012, for a cumulative loss of approximately \$967,000. Moreover, Defendants' forex trading did not begin until September 2011, not January 2009, as they claim.

36. For 2013, Defendants' promotional materials claimed an annualized growth rate of 32.07% through April 30, 2013, when in actuality RFF lost an additional \$433,000 during this same period with cumulative losses of \$1.4 million. Although Defendants' trading positions have subsequently recouped most of these losses, RFF remains at a net loss of approximately \$82,000 through June 17, 2013.

37. Defendants further solicited prospective pool participants by claiming that RFF had an "astounding" 37.08% (later revised to 36.56%) compound annual growth rate since January 2009, and that an investment of \$250,000 in 2009 would have yielded \$964,591 as of April 30, 2013, for a total return of 385.84%. These claims are false. In reality, a pool participant who invested in RFF since Defendants began trading in September 2011, and remained invested to April 30, 2013, or the present, would have suffered an investment loss—in stark contrast to RFF's purported 385.84% gain. White knew that Defendants' representations regarding RFF's purported profitability since 2009 were false because he controlled RFF's trading and bank accounts and because he formed RFF in 2011.

38. Although Defendants' trading was consistently unprofitable, Defendants' promotional materials claimed that "Revelation Forex Fund has achieved positive gains in 42 of the last 52 months (*80.77% months with gains*) through April 30, 2013." White told prospective pool participants at the "MoneyShow" that RFF had never had two successive losing months.

These claims are false. Through April 30, 2013, RFF has been profitable in only 7 of the 20 months that Defendants have been trading, meaning that in only approximately 35% of the months was RFF profitable—not 80.77% as Defendants claimed. Contrary to Defendants' claims, RFF has only once been profitable for two successive months. White knew that the claims he made at the "MoneyShow" regarding the purported consistency of RFF's profits were false because he controlled RFF's trading and bank accounts.

39. To lure prospective pool participants to invest, while concealing their trading losses, Defendants claimed that RFF was recently recognized as the "#2 best performing [forex] fund" in the world by EliteForexFunds, which purports to be "The Definitive Source on The World's Best Forex Funds." To support these claims, Defendants solicited prospective pool participants with a chart depicting their fraudulent claims of annual profits for RFF since 2009 and which maintained that the "#2" ranking is based upon "a minimum of 4 years [of] audited results." These claims are totally false. Defendants' chart showed purported profits for four full years, from 2009 to 2012, when in fact they only began trading in September 2011, and lost money in both 2011 and 2012. Furthermore, upon information and belief, EliteForexFunds is a sham ranking system manipulated by Defendants to mislead prospective pool participants through fraudulent claims of "audited" results.

40. In their solicitation of pool participants, Defendants touted White's purported 25-year Wall Street career as including a "long distinguished tenure at Shearson Loeb Rhodes and predecessor firms . . . Shearson Lehman Brothers, Shearson Lehman Hutton . . . ." Defendants' claims are false and contain material omissions. White's Wall Street career lasted only approximately seven years and he was fired by both Shearson Lehman Brothers and its

successor firm, Shearson Lehman Hutton. White was subsequently censured and barred by the NYSE, for unauthorized trades in customer accounts and making material misstatements.

41. In connection with Defendants' misleading claims that White was a successful Wall Street broker, Defendants failed to disclose that White filed for Chapter 7 bankruptcy in 1995 and that several federal tax liens have been filed against him.

42. During the Relevant Period, Defendants failed to disclose to actual and prospective pool participants that: (1) they misappropriated pool participants' funds; (2) their forex trading was unprofitable; and (3) White was not an experienced and successful Wall Street broker.

43. The Defendants were required to disclose such material information because when making representations that RFF was highly profitable, that RFF's profitability compared favorably with other forex funds, and that through White, RFF was managed by a highly experienced and successful broker, the Defendants were required to disclose the truth about their misappropriation of funds, unprofitability, and White's checkered brokerage experience.

**C. White Controlled RFF GP and KGW Capital**

44. During the Relevant Period, White served as an officer of RFF GP and KGW Capital. White exercised day-to-day control over the business activities of RFF GP and KGW Capital by opening trading and bank accounts on RFF GP's and KGW Capital's behalf and serving as the sole signatory on said accounts. Additionally, White was responsible for the creation of the websites and solicited prospective pool participants on behalf of RFF GP and KGW Capital. Accordingly, White knew of, and personally controlled RFF GP's and KGW Capital's activities giving rise to the above-described acts.

**VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

**COUNT ONE**

**Violations of Section 4b(a)(2)(A), (C) of the Act, as Amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011): Fraud by Misappropriation, Misrepresentations, and Omissions**

45. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

46. Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011), 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 for future delivery, or swap, 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 . . . (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 such other person.

47. Pursuant to Section 2(c)(2)(C)(ii)(I) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(ii)(I) (2006 & Supp. V 2011), Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 4b(a)(2)(A), (C) (2006 & Supp. V 2011), applies to Defendants' forex transactions, agreements or contracts and pooled investment vehicle. Additionally, pursuant to Section 2(c)(2)(C)(iv) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(iv) (2006 & Supp. V 2011), Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011), applies to Defendants' forex transactions "as if" they were contracts of sale of a commodity for future delivery.

48. During the Relevant Period, Defendants violated Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011), in that Defendants cheated

or defrauded, or attempted to cheat or defraud, and willfully deceived, or attempted to deceive, actual and prospective pool participants by, among other things: (1) misappropriating pool participants' funds; (2) misrepresenting the profitability of their trading; and (3) omitting material information, including that: (i) they were misappropriating funds; (ii) their trading was not profitable; and (iii) White was not a successful broker.

49. White engaged in the acts and practices described above willfully, knowingly or with reckless disregard for the truth.

50. The foregoing acts, omissions, and failures of White occurred within the scope of White's employment, office, or agency with RFF GP and KGW Capital. Therefore, RFF GP and KGW Capital are liable for these acts, omissions, and failures pursuant to Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B) (2006 & Supp. V 2011), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2012).

51. White controlled RFF GP and KGW Capital, directly or indirectly, and knowingly induced, directly or indirectly, RFF GP's and KGW Capital's violations of Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011). White is therefore liable for RFF GP's and KGW Capital's violations as a controlling person pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

52. Each misappropriation, misrepresentation or omission of material fact, and, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011).

**COUNT TWO**

**Violations of Section 4o(1)(A) and (B) of the Act,  
7 U.S.C. § 6o(1)(A) and (B) (2006):  
Fraud by a Commodity Pool Operator**

53. The allegations set forth in paragraphs 1 through 52 are re-alleged and incorporated herein by reference.

54. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006), in relevant part, makes it unlawful for a CPO or an AP of a CPO, 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 prospective participant; or (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any participant or prospective participant.

55. Pursuant to Section 2(c)(2)(C)(ii)(I) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(ii)(I) (2006 & Supp. V 2011), Section 4o(1)(A) and (B) of the Act, 7 U.S.C. 6o(1)(A) and (B) (2006), applies to Defendants' forex transactions, agreements or contracts and accounts and pooled investment vehicle.

56. During the Relevant Period, RFF GP and KGW Capital acted as CPOs by operating or soliciting, accepting, and receiving funds into a pooled investment vehicle for the purpose of trading in retail forex as described in Section 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. § 2(c)(2)(C)(i) (2006 & Supp. V 2011).

57. During the Relevant Period, White acted as an AP of a CPO by soliciting, accepting and receiving funds for RFF GP and KGW Capital.

58. During the Relevant Period, Defendants violated Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006), in that while acting as CPOs and as an AP of a CPO,

they directly or indirectly employed a device, scheme, or artifice to defraud pool participants or prospective pool participants, and engaged in transactions, practices, or a course of business which operated as a fraud or deceit upon pool participants or prospective pool participants by using the mails or other means or instrumentalities of interstate commerce. The fraudulent acts include, but are not limited to, the following: (1) misappropriating pool participants' funds; (2) misrepresenting RFF's profitability and White's experience as a broker; and (3) failing to disclose material information.

59. White engaged in the acts and practices described above willfully, knowingly or with reckless disregard for the truth.

60. The foregoing acts, omissions, and failures of White occurred within the scope of White's employment, office, or agency with RFF GP and with KGW Capital. Therefore, RFF GP and KGW Capital are liable for these acts, omissions, and failures pursuant to Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B) (2006 & Supp. V 2011), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2012).

61. White controlled RFF GP and KGW Capital directly or indirectly, and knowingly induced, directly or indirectly, RFF GP's and KGW Capital's violations of Section 4o(a)(1)(A) and (B) of the Act, 7 U.S.C. § 6o(a)(1)(A) and (B) (2006). White is therefore liable for RFF GP's and KGW Capital's violations as a controlling person pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

62. Each misappropriation, misrepresentation or omission of material fact by Defendants during the Relevant Period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006).



**COUNT THREE**

**Disgorgement of Funds From Relief Defendants**

63. The allegations set forth in paragraphs 1 through 62 are re-alleged and incorporated herein by reference.

64. Defendants defrauded pool participants and misappropriated pool participants' funds.

65. Relief Defendants, RFF, Meridian Propane and KGW Real Estate received funds as a result of Defendants' fraudulent conduct and misappropriation of pool participants' funds, and they have been unjustly enriched thereby.

66. Relief Defendants, RFF, Meridian Propane and KGW Real Estate have no legitimate entitlement to or interest in the funds received as a result of Defendants' fraudulent conduct and misappropriation.

67. Relief Defendants, RFF, Meridian Propane and KGW Real Estate should be required to disgorge funds up to the amount they received from Defendants' fraudulent conduct and misappropriation, or the value of those funds that they may have subsequently transferred to third parties.

**VII. RELIEF REQUESTED**

WHEREFORE, the CFTC respectfully requests that this Court, as authorized by Section 6c of the Act, as amended, 7 U.S.C. § 13a-1 (2006 & Supp. V 2011), and pursuant to its own equitable powers, enter:

A. An order finding that Defendants violated Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011);

B. An order finding that Defendants violated Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006);

C. An order of permanent injunction prohibiting Defendants and any other person or entity associated with them from engaging in conduct in violation of Section 4b(a)(2)(A), (C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A), (C) (2006 & Supp. V 2011);

D. An order of permanent injunction prohibiting Defendants and any other person or entity associated with them from engaging in conduct in violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B) (2006);

E. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from directly or indirectly:

1. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a of the Act, as amended, 7 U.S.C. § 1a (2006 & Supp. V 2011);

2. Entering into any transactions involving commodity futures, swaps (as that term is defined in Section 1a(47) of the Act, as amended, 7 U.S.C. § 1(a)(47) (2006 & Supp. V 2011) and as further defined by Commission Regulation 1.3(xxx), 17 C.F.R. 1.3(xxx) (2012)) (“swaps”), options on commodity futures, commodity options (as that term is defined in Commission Regulations 1.3(hh) and 32.1(b)(1), 17 C.F.R. §§ 1.3(hh) and 32.1(b)(1) (2012)) (“commodity options”), security futures products, and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (2006 & Supp. V 2011) (“forex contracts”), for their own personal or proprietary account or for any account in which they have a direct or indirect interest;

3. Having any commodity futures, swaps, options on commodity futures, commodity options, security futures products, and/or forex contracts 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 futures, swaps, options on commodity futures, commodity options, security futures products, and/or forex contracts;

5. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, swaps, options on commodity futures, commodity options, security futures products, and/or forex contracts;

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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012); and

7. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), 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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012);

F. An order requiring Defendants, the Relief Defendants, and any third party transferee and/or successors thereof, to disgorge, pursuant to such procedure as the Court may

order, all benefits received from the acts and practices which constitute violations of the Act, as described herein, plus pre-judgment interest thereon from the date of such violations, plus post-judgment interest;

G. An order requiring Defendants, as well as any of their successors, to make full restitution, pursuant to such procedure as the Court may order, to every pool participant or other person or entity whose funds were received or utilized by them in violation of the provisions of the Act, as described herein, plus pre-judgment interest thereon from the date of such violations, plus post-judgment interest;

H. An order directing Defendants, Relief Defendants, and any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between them and any of the pool participants whose funds were received by Defendants as a result of the acts and practices which constitute violations of the Act, as described herein;

I. An order directing Defendants, as well as any of their successors, to pay civil monetary penalties under the Act, to be assessed by the Court, in amounts of not more than the higher of: (1) triple the monetary gain to Defendants for each violation of the Act; or (2) \$140,000 for each violation of the Act committed on or after October 23, 2008, plus post-judgment interest;

J. An order directing Defendants, as well as any of their successors, to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and

K. An order providing such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Dated: July 9, 2013

Respectfully Submitted,

By: /s/ Harry E. Wedewer  
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