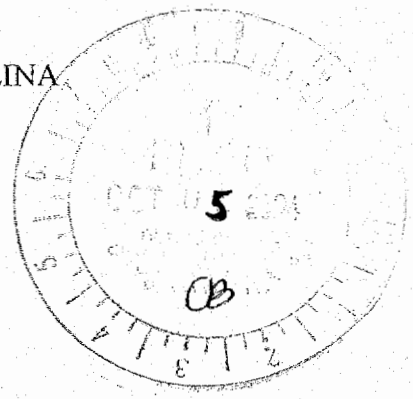
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



U.S. Commodity Futures Trading Commission,	)
	)
Plaintiff,	)
	)
v.	)
	)
Longhorn Financial Advisors, LLC, Phoenix Financial Group, Daniel Belbeck, and Roger Owen	)
	)
Defendants.	)

1:04CV00911

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF AND FOR CIVIL MONETARY PENALTIES UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED, 7 U.S.C. SECTIONS 1 *ET SEQ.*

I.

SUMMARY

1. From at least January 2002 through November 2003, Longhorn Financial Advisors, LLC ("Longhorn") and Roger Owen ("Owen"), and from at least January 2003 through November 2003, Phoenix Financial Group ("Phoenix") and Owen, used fraudulent and misleading advertising to promote a commodity futures trading system alternatively named, Equity Recovery Program or the 60 Minute Swing Trading System ("trading system"). Longhorn, Phoenix and Owen misrepresented the performance record of the trading system by exaggerating the likelihood of large profits using the trading system, fraudulently omitted to tell clients about the risk of loss associated with trading commodity futures contracts and, despite the large profit projections, failed to disclose that every client who purchased the trading system lost money.

2. Longhorn, while acting as an unregistered commodity trading advisor ("CTA"), by and through Owen, its unregistered associated person ("AP"), fraudulently

solicited clients primarily in North Carolina via: (1) written promotional material; (2) face-to-face solicitations of prospective clients; and (3) an internet website. Longhorn also used Daniel Belbeck ("Belbeck"), an unregistered AP who operates an estate planning business in Tennessee, to fraudulently promote the trading system to prospective Tennessee clients. Defendant Phoenix, while acting as an unregistered CTA, by and through Owen, its unregistered AP, fraudulently solicited clients primarily in North Carolina via: (1) a newspaper advertisement; and (2) an internet website. Further, neither Longhorn nor Phoenix provided clients with mandated disclosure documents.

3. By virtue of these acts, Longhorn, Phoenix and Owen have engaged in acts and practices that violate Sections 4b(a)(2)(i) and (iii), 4o(1), 4k(3) and 4m(1) of the Commodity Exchange Act, as amended (Act), 7 U.S.C. §§ 6b(a)(2)(i) and (iii), 6o(1), 6k(3) and 6m(1) (2002), and Sections 4.31(a) and (b) and 4.41(a) of the Commodity Futures Trading Commission's ("Commission") Regulations ("Regulations"), 17 C.F.R. §§ 4.31(a) and (b), and 4.41(a) (2004). Further, Belbeck engaged in acts that violate Section 4k(3) of the Act, 7 U.S.C. § 6k(3).

4. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the Commission brings this action to enjoin defendants' unlawful acts and practices and to compel their compliance with the Act and the Regulations. In addition, the Commission seeks civil monetary penalties, restitution to individuals for losses caused by defendants' acts, disgorgement of ill-gotten gains, a trading prohibition and such other relief as this Court may deem necessary or appropriate.

5. 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

6. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. 13a-1, which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person, 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.

7. Venue properly lies with this Court pursuant to 7 U.S.C. 13a-1(e), in that the defendants are found in, inhabit or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District, among other places.

III.

THE PARTIES

8. Plaintiff **Commodity Futures Trading Commission** is an independent federal agency that is charged with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et. seq.*

9. Defendant **Longhorn Financial Advisors** is a North Carolina limited liability corporation that offers estate-planning services. Its principal place of business is

4411 W. Market Street, Suite 303, Greensboro, North Carolina 27403. Longhorn has never been registered with the Commission in any capacity.

10. Defendant **Phoenix Financial Group** is an unincorporated company that was formed in early 2003. It is operated by Roger Owen to promote and profit from the sale of the trading system. Its principal place of business is 422 W. Radiance Drive, Greensboro, North Carolina 27403. Phoenix has never been registered with the Commission.

11. Defendant **Roger Owen** resides at 422 W. Radiance Drive, Greensboro, North Carolina 27403. Owen is registered with the Commission as an AP of Commodity Partners Brokerage Inc, an Introducing Broker ("IB"), and Commodity Partners Group Corporation, a CTA. None of the acts alleged in this Complaint relate to either of these two corporations.

12. Defendant **Daniel Belbeck** resides at 497 Elysian Fields Road, Nashville, Tennessee. Belbeck operates Dan Belbeck & Associates, LLC, a Tennessee limited liability corporation that offers estate planning services. Belbeck has never been registered with the Commission in any capacity.

IV.

FACTS

A. The Trading System

13. In or about 2000, Daniel Dowling ("Dowling") developed the trading system, alternatively called The Equity Recovery Program or the 60 Minute Swing Trading Program. Longhorn, Phoenix and Owen solicited prospective clients by claiming that the trading system consisted of a computer program that was designed to

predict market movements of, among other things, the S&P 500 and NASDAQ 100 e-mini futures contracts by sending alerts or signals via a computer about when to buy and sell the contracts.

14. Owen, first through Longhorn, and then Phoenix, was primarily responsible for marketing the trading system. Owen and Dowling split the proceeds of each sale of the trading system made by Longhorn and Phoenix.

15. Longhorn used the trading system from at least January 2002 through approximately November 2002. By November 2002, Owen knew that the trading system was not generating profitable trades and stopped using it because of mounting client losses. Nevertheless, Owen, through Longhorn and Phoenix, continued to solicit new clients to purchase commodity futures contracts using the trading system by claiming that the trading system was profitable.

B. Longhorn

16. In 2001, Owen created Longhorn as an unincorporated business. Owen was the sole owner and operator of Longhorn. In September 2003, Owen incorporated Longhorn as a Limited Liability Corporation. Upon registering Longhorn with the North Carolina Department of State, Owen identified himself as the sole organizer and member of Longhorn.

17. Owen was solely responsible for Longhorn's business activities. He was responsible for the day-to-day operations, such as 1) soliciting prospective clients; 2) developing promotional material; 3) interacting with clients and handling their complaints; 4) developing business plans; 5) establishing bank accounts; and 6) hiring

staff and determining their salary. He also made decisions as to when to cease trading the commodity futures accounts of clients who purchased the trading system.

18. Longhorn is an estate planning business that assists clients and prospective clients, including senior citizens, in managing their assets. As part of its activities, Longhorn solicited prospective clients, primarily in North Carolina, to purchase the trading system.

19. Most clients who purchased the trading system from Longhorn paid an initial fee of $6500 for use of the trading system. Longhorn, through its agent and registered IB, Frank Ebel (Ebel), entered all trades for clients that purchased the trading system. Longhorn's clients were required to execute powers of attorney granting Ebel trading authority over their accounts. Longhorn entered into a contractual arrangement with Ebel pursuant to which Longhorn installed the trading system software on Ebel's computer. Longhorn did not provide the software to any of its clients or any other IBs. Pursuant to the contract, Ebel was only permitted to enter trades that were specified by the signals provided by Longhorn's trading system. Moreover, the contract required Longhorn to handle all client inquiries regarding trades entered pursuant to signals provided by the trading system. In addition, Longhorn's clients were required to open commodity futures trading accounts at a futures commission merchant (FCM).

20. In order to entice prospective clients to purchase the trading system, Longhorn used: (1) written promotional materials; (2) face-to-face solicitations of prospective clients; and (3) an internet website. Longhorn also used Belbeck to fraudulently promote the trading system to prospective clients through his estate-planning business in Tennessee.

21. As part of Longhorn's marketing plan to solicit prospective clients to use the trading system, Owen, drafted, prepared and distributed a written promotional pamphlet (pamphlet). This pamphlet explained and described the trading systems to prospective clients. Owen also gave the pamphlet to Belbeck to distribute to clients and prospective clients in Tennessee.

22. The pamphlet claimed that clients using the trading system actually averaged a profit of $6500 per month on a $30,000 investment. The pamphlet also contained a month-by-month chart of the profits that Longhorn claimed were earned by their clients who purchased the trading system. According to the chart, the trading system earned profits in excess of 134% in 2000, 66% in 2001 and 40% in 2002.

23. All of these claims are designed to convey the false impression that the trading system successfully earned a profit in 2000, 2001 and 2002 when, in fact, the trading system never generated a profit for any client.

24. In an effort to convince prospective clients to use the trading systems, Owen gave one or more prospective clients an actual trading account statement that reflected a large profit. Although the trading account statement was real, Owen falsely claimed that the profits were earned using the trading system, when in fact the account owner was not a Longhorn client and did not trade the account using the trading system.

25. Moreover, on one or more occasions, as part of his face-to-face solicitations, Owen misled prospective clients by claiming that the trading system was very successful and that there was virtually no risk involved. On one or more occasions, Owen told prospective clients that there was no way they could lose money trading and guaranteed that they would double or triple their money.

26. On at least one occasion, Owen provided a written statement to a prospective client guaranteeing that the purchase of the trading system was risk-free and promised to pay the prospective client for any trading losses that occurred. After the client's account suffered losses, Owen refused to recoup the losses as promised.

27. On behalf of Longhorn, Owen developed a website, www.longhorn-fin-adv.com (Longhorn website). The Longhorn website operated through at least April 2003.

28. As late as April 5, 2003, the Longhorn website claimed that a client who used the trading system could earn more than a 300% profit in three years by turning $30,000 into $110,000. The Longhorn website did not disclose that every client who purchased the trading system lost money. Further, the Longhorn website did not disclose that trading for all existing Longhorn clients ceased in November 2002 because all of the clients were losing money.

29. Unlike the pamphlet the Longhorn website contained a statement regarding the limitations of hypothetical trading. However, it does not appear that the profitability claims made were based on either real or hypothetical trading results.

30. Finally, Longhorn employed Belbeck to solicit prospective clients in Tennessee to purchase the trading system. Belbeck, a relative of Owen, operates a financial services and estate-planning company in Nashville, Tennessee owned and operated by Daniel Belbeck, a relative of Roger Owen. Belbeck's clients consist primarily of senior citizens.

31. To assist Belbeck's solicitation, Owen gave Belbeck the pamphlet, which contained the material misrepresentations described above. As compensation for

Belbeck's services, Owen paid Belbeck a portion of the fee paid by Belbeck's clients for the trading system.

32. As a result of Belbeck's solicitations on behalf of Longhorn, at least 4 clients bought the trading system.

C. Phoenix

33. In early 2003, Owen and Dowling formed Phoenix as an unincorporated business entity. They created Phoenix for the sole purpose of promoting the trading system.

34. Owen's business responsibilities with Phoenix were similar to his business responsibilities with Longhorn described in paragraph 17, above. Dowling's responsibilities included developing the software, soliciting customers, and entering trades for Phoenix's clients.

35. Clients who purchased the trading system from Phoenix paid a $500 monthly fee for use of the trading system. Clients were required to execute powers of attorney granting trading authority to Dowling, the co-founder of Phoenix, and to open accounts at an FCM. Dowling used the trading system to enter trades on behalf of Phoenix's clients in accordance with the trading system's direction.

36. In order to entice prospective clients to purchase the trading system, Phoenix, through Owen, published a newspaper advertisement. Phoenix also created a website, www.phoenixfinancial.biz ("Phoenix website").

37. Owen, on behalf of Phoenix, placed a newspaper advertisement on March 23, 2003, in the News and Record that is widely distributed in the Greensboro, North Carolina area. The advertisement falsely claimed that Phoenix clients earned an average

profit exceeding 52%. Further, as late as April 2003, the Phoenix website claimed that the trading system earned in excess of 52% profit for its clients.

38. These claims are false. Both the newspaper advertisement and Phoenix website led prospective subscribers to believe that the trading claims they made were based on actual trading results. However, the trading system never generated this amount of profit for any client. Moreover, Phoenix had published the advertisement and operated the website at a time when Phoenix, by and through Owen, knew that the trading system was not profitable, and that by November 2002, Longhorn had stopped using the trading system because all Longhorn clients were losing money. Despite this, Phoenix and Owen continued to fraudulently claim the likelihood of earning huge profits by using their trading system.

D. Trading Losses

39. Clients who purchased the trading system from Longhorn began trading on or about March 2002. All of Longhorn's clients lost money trading using the trading system. As client losses mounted during the spring and summer of 2002, Owen, ceased using the trading system for Longhorn's clients in or about November 2002.

40. Owen continued to solicit new clients, however, to purchase the trading system. Subsequent to November 2002, Owen solicited at least two additional clients to purchase the trading system. These clients also lost money using the trading system. They ultimately stopped trading in approximately July 2003.

41. A total of 17 Longhorn and Phoenix clients purchased the trading system. Clients lost $205,589.76 using the trading system. Longhorn, Phoenix and Owen received at least $120,000 in fees from these clients for use of the trading system. In

total, clients sustained losses of at least $325,589.76 by purchasing and trading with the trading system.

E. Longhorn and Phoenix Acted as Unregistered CTAs

42. Longhorn, as part of their estate planning services, and Phoenix routinely solicited prospective clients to purchase the trading system. Clients paid a fee, agreed to open an account at an FCM and execute powers of attorney in favor of Ebel or Dowling, respectively. This enabled Ebel, on behalf of Longhorn, and Dowling, on behalf of Phoenix, to manage client accounts and enter into trades in the S & P 500 and NASDAQ e-mini futures contracts based on signals provided by the trading system.

43. Longhorn held itself out generally to the public as CTAs via its use of the Internet, the pamphlet, face-to-face solicitations and through Belbeck's solicitations. Phoenix held itself out generally to the public as CTAs via its use of the Internet and the newspaper advertisement. Each company used its solicitations to promote the profit potential of managed futures accounts.

44. At no point were either Longhorn or Phoenix registered as a CTA.

F. Owen was an Unregistered AP of Longhorn and Phoenix

45. Between January 2002 and November 2003, while at Longhorn, and between January 2003 and November 2003, while at Phoenix, Owen associated with Longhorn and Phoenix, both CTAs, as a partner, officer, employee, consultant, or agent. In that capacity, Owen solicited prospective clients to open discretionary accounts and supervised others who were engaged in the same activity. Therefore, Owen was associated with both Longhorn and Phoenix in a capacity requiring registration as an AP, but was

not registered as such or exempt from such registration. Further, both Longhorn and Phoenix knowingly permitted Owen to act in such capacity without registering.

G. Belbeck was an Unregistered AP of Longhorn

46. Between January 2002 and November 2003, Belbeck associated with Longhorn, a CTA, as a partner, officer, employee, consultant, or agent. In that capacity, Belbeck solicited prospective clients to open discretionary accounts. Therefore, Belbeck was associated with Longhorn in a capacity requiring registration as an AP, but was not registered as such or exempt from such registration. Further, Longhorn knowingly permitted Belbeck to act in such capacity without registering.

H. Defendant Owen was a Controlling Person of Longhorn and Phoenix

47. Owen directly or indirectly controlled Longhorn and Phoenix and did not act in good faith, or knowingly induced, directly or indirectly, the violations of the Act. He therefore is liable as a controlling person.

48. Owen was the sole member and organizer of Longhorn. He was co-owner and operator of Phoenix. As described above in paragraphs 17 and 34, Owen was responsible for Longhorn and Phoenix's day-to-day business operations. Further, he developed the Longhorn website and created the pamphlet. Owen also wrote and paid for the Phoenix newspaper advertisement and handled all customer complaints and inquiries.

49. Moreover, Owen had actual knowledge about the trading losses being generated by the trading system and continued to solicit new clients with profitability claims. Accordingly, Owen had actual knowledge of the core activities that constitute the violations at issue in this complaint, and allowed them to continue.

V.

VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS

COUNT I

VIOLATIONS OF SECTION 4b(a)(2)(i) and (iii) OF THE ACT: FUTURES FRAUD

50. The allegations contained in paragraphs 1 through 49 above are realleged and incorporated below by reference.

51. During the relevant time, Longhorn, Phoenix and Owen (i) cheated or defrauded or attempted to defraud other persons; and (iii) willfully deceived or attempted to deceive other persons, in or in connection with orders to make, or the making of, contracts of sale of commodities for future delivery, made, or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), all in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. 6b(a)(2)(i) and (iii).

52. In the course of their solicitations, Longhorn, Phoenix and Owen knowingly made material misrepresentations and omitted materials facts including, but not limited to, the misrepresentations set forth in paragraphs 13 through 49, all in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §6b(a)(i) and (iii).

53. The foregoing fraudulent acts, misrepresentations, and omissions of Owen, and other employees and/or agents of Longhorn occurred within the scope of their employment or office with Longhorn. Longhorn is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

54. The foregoing fraudulent acts, misrepresentations, and omissions of Owen, and other employees and/or agents of Phoenix occurred within the scope of their

employment or office with Phoenix. Phoenix is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

55. Owen directly or indirectly controls or controlled Longhorn and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Longhorn that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

56. Owen directly or indirectly controls or controlled Phoenix and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Phoenix that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

57. Each material misrepresentation or omission, and each willful deception made including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(i) and (iii) of the Act.

COUNT II

VIOLATIONS OF SECTION 4o(1) OF THE ACT AND REGULATION 4.41(a) FRAUD BY CTA AND AP OF A CTA

58. The allegations contained in paragraphs 1 through 57 above are realleged and incorporated below by reference.

59. As defined in Section 1a(6) of the Act 7 U.S.C. 1a(6), a CTA is any person who for compensation or profit engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of any contract market or derivatives transaction or,

for compensation or profit, and as part of a regular business, issues or promulgates analysis or reports concerning any of the activities referred to above.

60. Longhorn and Phoenix acted as CTAs. Specifically Longhorn, Phoenix and Owen solicited members of the general public to purchase a managed trading system they sold for a fee. In connection with such conduct, Longhorn Phoenix and Owen used the internet and other means or instrumentalities of interstate commerce, directly or indirectly, to misrepresent the likelihood of substantial profits, the risks involved in trading commodity futures contracts, the performance results of the trading system and, in light of the claims of large profit potential, Longhorn, Phoenix and Owen fraudulently omitted to inform prospective clients about the dismal performance record of its trading system.

61. Longhorn, Phoenix and Owen violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and Longhorn and Phoenix violated Section 4.41(a) of the Regulations, 17 C.F.R. § 4.41(a), in that they directly or indirectly employed a device, scheme or artifice to defraud clients or prospective clients, or engaged in transactions, practices or a course of business which operated as a fraud or deceit upon clients or prospective clients, including, but not limited to, the activities set forth in paragraphs 13 through 49 above.

62. The foregoing fraudulent acts, misrepresentations, and omissions of Owen, and other employees and/or agents of Longhorn occurred within the scope of their employment or office with Longhorn. Longhorn is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

63. The foregoing fraudulent acts, misrepresentations, and omissions of Owen, and other employees and/or agents of Phoenix occurred within the scope of their

employment or office with Phoenix. Phoenix is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

64. Owen directly or indirectly controls or controlled Longhorn and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Longhorn that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

65. Owen directly or indirectly controls or controlled Phoenix and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Phoenix that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

66. Each material misrepresentation or omission, and each willful deception including but not limited to those specifically alleged in this complaint, is alleged as a separate and distinct violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) and Section 4.41(a) of the Regulations, 17 C.F.R. § 4.41(a).

COUNT III

VIOLATION OF SECTION 4m(1) and 4k(3)OF THE ACT:
ACTING AS AN UNREGISTERED CTA;
ACTING AS AN UNREGISTERED AP OF A CTA

67. The allegations contained in paragraphs 1 through 66 above are realleged and incorporated below by reference.

68. Section 4m(1) of the Act makes it unlawful to use the mails or instrumentalities of interstate commerce to provide commodity trading advice to 15 or more persons during the preceding 12-month period, or to hold oneself out generally to the public as a CTA, unless registered as a CTA under the Act. Commission Regulation 4.14(a)(9) further provides that CTAs that direct the trading in another's commodity

interest account are not exempt from being registered as a CTA. 17 C.F.R. § 4.14(a)(9). Commission Regulation 4.10(f) defines "direct", as used in the context of trading commodity interest accounts, as an "agreement whereby a person is authorized to cause transactions to be effected for a client's commodity interest account without the client's specific authorization." 17 C.F.R. § 4.10(f).

69. By virtue of the acts described in paragraphs 13 through 49, between at least January 2002 and November 2003, Longhorn, and between at least January 2003 and November 2003, Phoenix, acted as unregistered CTAs in violation of Section 4m(1), 7 U.S.C. § 6m(1), without meeting any applicable exemption from the CTA.

70. By virtue of the acts described in paragraphs 13 through 49, during the same periods referred to in the above paragraph, Owen acted as an AP of Longhorn and Phoenix, respectively, by acting as a partner, officer, employee or consultant of Longhorn and Phoenix, involving the (i) solicitation of a client's or prospective client's discretionary account, or (ii) the supervision of any persons or persons so engaged.

71. Owen violated Section 4k(3) of the Act, 7 U.S.C. §6k(3), by being associated with and acting as an officer of Longhorn and Phoenix, both CTAs, in a capacity requiring registration, without being registered as an AP or having a valid exemption from such registration.

72. By virtue of the acts described in paragraphs 20, 21 and 30 through 32, Belbeck acted as an AP of Longhorn by acting as a partner, officer, employee or consultant of Longhorn involving the (i) solicitation of a client's or prospective client's discretionary account, or (ii) the supervision of any persons or persons so engaged.

73. Belbeck violated Section 4k(3) of the Act, 7 U.S.C. §6k(3), by being associated with and acting as an employee or consultant of Longhorn, a CTA, in a capacity requiring registration, without being registered as an AP or having a valid exemption from such registration as an AP of a CTA.

74. Longhorn violated Section 4k(3) of the Act, 7 U.S.C. §6k(3) by knowingly permitting Owen and Belbeck to act as APs without registering.

75. Phoenix violated Section 4k(3) of the Act, 7 U.S.C. §6k(3) by knowingly permitting Owen to act as an AP without registering.

76. Owen directly or indirectly controls or controlled Longhorn and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Longhorn that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

77. Owen directly or indirectly controls or controlled Phoenix and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Phoenix that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

78. Each act and transaction undertaken as an unregistered CTA or as an unregistered AP of a CTA, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1), 7 U.S.C. § 6m(1) and Section 4k(3) of the Act, 7 U.S.C. § 6k(3), respectively.

COUNT IV

VIOLATIONS OF SECTIONS 4.31(a) AND (b) OF THE REGULATIONS, 17 C.F.R. §§ 4.31(a) AND (b) CTA REGULATORY VIOLATIONS

79. The allegations contained in paragraphs 1 through 78 are realleged and incorporated by reference.

80. From January 2002 until November 2003, Longhorn, and from January 2003 until November 2003, Phoenix, violated Regulations Sections 4.31(a) and (b), 17 C.F.R. §§ 4.31(a) and (b) by 1) soliciting and entering into agreements to manage client accounts without first delivering the mandatory Disclosure Documents to these prospective clients prior to managing such accounts, and 2) without receiving back from these prospective clients an acknowledgement that these prospective clients received the Disclosure Documents.

81. The foregoing failure to deliver and receive back the mandatory disclosure documents occurred within the scope of Owen, other employees, and/or Longhorn agents employment or office with Longhorn. Longhorn is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

82. The foregoing failure to deliver and receive back the mandatory disclosure documents occurred within the scope of Owen, other employees, and/or Phoenix agents employment or office with Phoenix. Phoenix is therefore liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

83. Owen directly or indirectly controls or controlled Longhorn and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Longhorn that is alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

84. Owen directly or indirectly controls or controlled Phoenix and did not act in good faith or knowingly induced, directly or indirectly, the conduct by Phoenix that is

alleged in this Count. Owen therefore is a controlling person and is liable for these acts pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

85. Each failure to deliver and receive the disclosure documents, including but not limited to those failures, specifically alleged in this complaint, is alleged as a separate and distinct violation of Regulation 4.31(a) and (b).

RELIEF REQUESTED

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

1. Longhorn, Phoenix and Owen

A. Find that Longhorn, Phoenix and Owen violated Sections 4b(a)(2)(i) and (iii), 4o(1) 4k(3) and 4m(1) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii), 6o(1), 6k(3) and 6m(1), and Sections 4.31(a) and (b), and 4.41(a) of the Regulations, 17 C.F.R. § 4.31(a) and (b), and 4.41(a).

B. Enter orders of permanent injunction restraining and enjoining Longhorn, Phoenix and Owen and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns and attorneys, and all persons insofar as they are acting in concert or participation with Longhorn, Phoenix and Owen who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

i. Cheating, defrauding or willfully deceiving or attempting to cheat or defraud or willfully deceive other persons, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on

behalf of any person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii);

ii. While acting as a CTA, or an AP of a CTA, employing any device, scheme, or artifice to defraud any investor or prospective investor, or engaging in any transaction, practice, or course of business which operated as a fraud or deceit upon any investor or prospective investor by use of the mails or any means or instrumentality of interstate commerce, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and Section 4.41(a) of the Regulations, 17 C.F.R. § 4.41(a);

iii. Acting as an unregistered CTA by engaging, without Commission registration or an applicable exemption or exclusion from registration, by engaging in the business of advising others (for compensation or profit), either directly or through publications, writing ors electronic media, as to the value of or the advisability of trading in: (i) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract

market or derivatives execution transaction execution facility; (ii) any commodity option authorized under section 4c; or any leverage transaction authorized under section 19; or (iii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to above, in violation of Section 4m(1) of the Act, 7 U.S.C. §6m(1);

iv. Acting as an unregistered AP of a CTA by associating with a CTA and soliciting a client's or prospective client's discretionary account or supervising persons so engaged, without being registered as an AP; or knowingly permitting an AP to act in such capacity without registering and, in violation of Section 4k(3) of the Act, 7 U.S.C. §6k(3); and

v. While acting as a CTA who is registered or required to register, managing client accounts and failing to provide the mandatory Disclosure Document to prospective clients prior to managing such accounts, and without receiving back from these prospective clients an acknowledgement that these prospective clients received the Disclosure Document, in violation of Sections 4.31(a) and (b), 17 C.F.R. §§ 4.31(a) and (b).

2. Belbeck

A. Find that Belbeck violated Section 4k(3) of the Act, 7 U.S.C. § 6k(3).

B. Enter an order of permanent injunction restraining and enjoining Belbeck

and all persons insofar as they are acting in the capacity of his agents, servants, successors, assigns and attorneys, and all persons insofar as they are acting in concert or participation with Belbeck who receive actual notice of such order by personal service or otherwise, from directly or indirectly by acting as an unregistered AP of a CTA by associating with a CTA and soliciting a client's or prospective client's discretionary account or supervising persons so engaged, without being registered as an AP; or knowingly permitting an AP to act in such capacity without registering, in violation of Section 4k(3) of the Act, 7 U.S.C. §6k(3).

3. All Defendants

A. Enter an order requiring defendants to pay civil monetary penalties under the Act in the amounts of not more that the higher of $120,000 for each violation of the Act and Regulations or triple the monetary gain to defendants for each violation of the Act and Regulations described herein;

B. Enter an order requiring defendants to disgorge all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits, derived, directly or indirectly, from such acts or practices which constitute violations of the Act as described herein, including pre-judgment interest;

C. Enter an order requiring defendants to make restitution by making whole each and every investor whose funds were lost in violation of the provisions of the Act as described herein, including pre-judgment interest; and

D. Order such other and further remedial ancillary relief, as this Court may deem necessary and appropriate under the circumstances.

Respectfully Submitted,

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