



DIVISION OF
ENFORCEMENT

U.S. COMMODITY FUTURES TRADING COMMISSION

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September 7, 2004

Re: *CFTC v. Sun Platinum Group, et al*, 03-CV-7112

Dear Customer/Victim:

On August 19, 2004, the U.S. District Court for the Southern District of New York entered an order of final default judgment against Defendants Eduard Dmanskiy (also known as Edward Dumanskiy) and Sun Platinum Group ("Sun Platinum") and Relief Defendants Ocaline Int'l Corp. (Ocaline), Hesar Alliance Inc. (Hesar), Klondike Int'l Inc. (Klondike), Pymont Alliance Corp. (Pymont), and Total Trading Services Ltd. (TTS), all parties in a Commodity Futures Trading Commission ("CFTC") enforcement action originally filed on September 12, 2003 (See CFTC News Release 4842-03, September 23, 2003). A copy of the default judgment order is enclosed for your review.

The default judgment permanently enjoins Defendants Dmanskiy and Sun Platinum from engaging in any activity relating to commodity interest trading and from engaging in any conduct that violates federal commodities laws, as alleged in the complaint. The judgment also requires the defendants to pay over ten million dollars to former customers of Sun Platinum and more than thirty million dollars in civil penalties. The judgment further requires the relief defendants to disgorge more than four million dollars in ill-gotten gains.

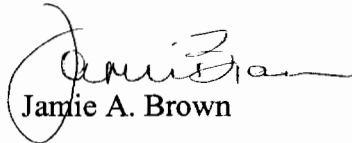
As set forth in the complaint, the vast majority of funds solicited by the defendants were transferred overseas to bank accounts for the benefit of offshore entities including the relief defendants. Although the default judgment is significant in nature and amount, the unfortunate reality is that there remains only a small amount of funds to levy. The CFTC intends to distribute these funds on a pro rata basis to customers that make a claim to their share and provide proof of their investment.

Enclosed you will find a customer claim form. The purpose of this document is for the CFTC to obtain an accurate accounting of each customer's investment and ultimate loss in order to determine the distribution amount. Please complete the attached form, sign the sworn statement, and return it, along with proof of your investment and any payments received by Sun Platinum, via FedEx (or other non-US postal service carrier) addressed to: Linda Lightner, Commodity

Futures Trading Commission, Division of Enforcement, 1155 21st St., NW, Washington, DC 20581. Acceptable proof of your investment includes front and back copies of checks, wire transfer transaction forms, and account statements. A final proposal will be submitted to the Court for approval, and no distribution shall ensue for at least 90 days from the date of entry of the Order of Default Judgment.

The deadline for response to this letter is November 19, 2004. If you do not respond within the prescribed time, the proposed distribution plan may be based on incomplete information, which might have an adverse affect on your proposed participation in any distribution. You are not obligated to respond to this letter. However, if you choose to respond, your response must be truthful and complete, under the penalty of perjury. Please refer to the enclosed Statement to Persons that describes your rights and responsibilities when voluntarily providing information to the CFTC. If you have additional questions about this process or your claim, you may contact Linda Lightner at (202) 418-5227, llightner@cftc.gov.

Sincerely,



Jamie A. Brown

Encl.: Order For Entry of Default Judgment
Statement of Customer Investment
Statement to Persons Directed To Provide Information

**STATEMENT OF CUSTOMER INVESTMENT IN SUN PLATINUM
PURSUANT TO 28 U.S.C. §1746**

Sections 6(c), 6c, and 8(a)(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 9, 12(a)(1), 13a-1, and 15 authorize the Commodity Futures Trading Commission ("Commission") to initiate and conduct investigations and bring administrative and civil enforcement proceedings. In the course of an investigation or enforcement proceeding, the Commission may secure voluntary statements and submissions. The Commission's primary purpose in soliciting the information from you is to determine the size of your investment in Sun Platinum and the amount of your loss or gain from that investment.

Disclosure of this information is voluntary. The Commission or the Department of Justice, if the matter is referred to that federal department, may also have the right to obtain disclosure of some of the information under statute or by subpoena, if they have not done so already.

Please fill out the attached table with the requested information. For each of the entries, please attach copies of any supporting documents, such as cancelled checks, wire transfer reports, and bank account statements. If the space provided in this form is insufficient, feel free to attach additional pages and include all requested information fields.

I, _____, hereby declare under the penalty of perjury that I have examined the information given in this Statement of Customer Investment, attached hereto, and to the best of my knowledge and belief, it is true, correct and complete. I have engaged in a thorough search of the records of _____ (name of investing entity/ individual) and determined that the information listed above is complete and accurate.

I understand that material misstatements or omissions made herein, or in any attachment hereto, may constitute criminal violations, punishable under 18 U.S.C. § 1001 (1994) or other statutes.

Signature

Date of signature

Sworn before me this _____ day of _____, 200__.

Notary Public

My Commission expires on _____
Date

COMMODITY FUTURES TRADING COMMISSION
WASHINGTON, D.C. 20581

**Statement to Persons Directed to Provide Information Pursuant to
A Commission Subpoena or Requested to Provide Information Voluntarily**

This document sets forth your legal rights and responsibilities as a person requested to supply information voluntarily or directed to provide sworn testimony or produce documents pursuant to a subpoena of the Commodity Futures Trading Commission. This statement also provides important information about the deposition process for persons providing testimony. Unless stated otherwise, the information below applies whether you are providing information voluntarily or pursuant to subpoena.

FALSE STATEMENTS AND DOCUMENTS

Any person who knowingly and willfully makes false or fraudulent statements, whether under oath or otherwise, or who falsifies, conceals or covers up a material fact, or submits any false writing or document, knowing it to contain false, fictitious or fraudulent information, is subject to the criminal penalties set forth in 18 U.S.C. § 1001 which include imprisonment of not more than five years, imposition of a substantial fine under the Federal Sentencing Guidelines, or both.

PRIVACY ACT

To restrict unauthorized dissemination of personal information, the Privacy Act of 1974, 5 U.S.C. § 552a, limits an agency's ability to disclose such information.¹ Under the Privacy Act, the Commission may disclose protected information as follows: when the individual to whom the record pertains consents in writing; when officers and employees of the Commission need the record to perform their duties; when required by the terms of the Freedom of Information Act, 5 U.S.C. § 552; or when disclosure is for a "routine use" (*i.e.*, one compatible with the purpose for which the information was collected).

The Privacy Act also requires that individuals requested to provide information receive notice of the following:

1. **AUTHORITY FOR SOLICITATION OF INFORMATION.** Sections 6(c) and 8(a) of the Commodity Exchange Act, 7 U.S.C. §§ 15, 12(a), and Commission Rule 11.2, 17 C.F.R. § 11.2, authorize the Commission to conduct investigations. In the course of any investigation or proceeding, the Commission or an officer designated by the Commission

¹ Individuals should refer to the full text of the Privacy Act, 5 U.S.C. § 552a(b), and to the Commission's Rules, 17 C.F.R. 146, for a complete list of authorized disclosures and coverage of the act. Only those disclosures arising most frequently are mentioned in this document.

may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, require production of documents, and secure voluntary statements or submissions.

2. **PURPOSE OF SOLICITATION OF INFORMATION.** The Commission's principal purpose in soliciting information from you is to determine whether any person has violated, is violating, or is about to violate the Commodity Exchange Act or the rules and regulations thereunder. In certain circumstances, the Commission may be obtaining information at the behest of a foreign futures authority under § 12(f) of the Commodity Exchange Act, 7 U.S.C. § 16(f).
3. **EFFECT OF NOT SUPPLYING INFORMATION.**
 - a. **Persons Directed to Provide Testimony or Produce Documents Pursuant to Subpoena.** Disclosure of information to the Commission is mandatory, subject to the valid assertion of any legal right or privilege you might have. If you fail to comply with the subpoena, the Commission may seek a court order requiring you to do so. If the Commission obtains such an order and you thereafter fail to supply the information, you may be subject to civil and/or criminal sanctions for contempt.
 - b. **Persons Requested to Provide Information Voluntarily.** There are no direct effects or sanctions for failing to provide any or all of the requested information. If you do provide information, however, you should note the sanctions for false statements and documents described above.
4. **ROUTINE USES OF INFORMATION.** Information which you provide may be used in the routine operation of the Commission, which includes law enforcement, review of legislative and regulatory proposals, regulation of the commodity futures markets, and review of reports and documents filed with the Commission.

Specific routine uses include the following:²

- a. Use in administrative proceedings before the Commission, injunctive actions authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or any member of the Commission or its staff participates as a party, or the Commission participates as amicus curiae;
- b. Providing information in response to a subpoena issued in a proceeding to which the Commission is not a party;
- c. Providing information to the Justice Department, the Securities and Exchange Commission, the United States Postal Service, the Internal Revenue Service, the

² See CFTC General Statement of Routine Uses, Privacy Act Issuances, 1991 Comp., Vol. IV., pp. 144-145.

Department of Agriculture, the Office of Personnel Management, and other federal, state or local law enforcement or regulatory agencies for use in meeting such agencies' responsibilities under the law;

- d. Making information available to a Member of Congress acting in his or her capacity as a Member of Congress;
- e. Providing information to any board of trade designated as a contract market by the Commission or to any futures association registered with the Commission if the Commission has reason to believe disclosure will assist such entity in carrying out its responsibilities under the Commodity Exchange Act;
- f. Providing information to any national securities exchange or national securities association registered with the Securities and Exchange Commission, to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq.;
- g. At the discretion of the Commission staff, giving or showing the information to anyone during the course of a Commission investigation when the staff has reason to believe that the person to whom it is disclosed may have further information about the matters discussed therein, and those matters appear relevant to the subject of the investigation;
- h. Including information in a public report issued by the Commission following an investigation to the extent that such use is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. § 12;³
- i. Disclosure to a federal agency in response to a request concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the award of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent the information is believed to be relevant to the requesting agency's decision on the matter;
- j. Disclosure to a prospective employer in response to a request relating to the hiring or retention of an employee, to the extent the information is believed to be relevant to the prospective employer's decision on the matter; and
- k. Disclosure to any person with whom the Commission is cooperating pursuant to Section 12(a) of the Commodity Exchange Act, 7 U.S.C. § 16(a), including "any department or agency of the Government, any state, territory, district, or possession, or department, agency, or political subdivision thereof, any foreign

³ Section 8 authorizes publication of certain reports, but contains restrictions on the publication of certain types of sensitive business information developed in an investigation. In certain contexts, such information might be deemed personal in nature.

futures authority, any department or agency of a foreign government or political subdivision thereof, or any person," when disclosure will further the policies of that Act or of other provisions of law.

FREEDOM OF INFORMATION ACT

The Freedom of Information Act, 5 U.S.C. § 552, ("FOIA") and the Commission's rules pursuant thereto, 17 C.F.R. Part 145, generally provide for disclosure of information to the public, unless information falls within a specified exemption. Commission Rule 145.9, 17 C.F.R. § 145.9, establishes the procedure by which you may request that certain sensitive information not be disclosed pursuant to a FOIA request.

TESTIMONY

The following information applies to individuals providing sworn testimony:

1. **RECORD.** Your testimony will be transcribed by a reporter. If at any time you wish to go off the record, please inform the Commission representative taking your testimony, and that representative will decide whether to grant your request. The reporter will go off the record only at the request of the Commission representative, and not at the direction of you or your counsel. The Commission representative may summarize all off-the-record discussions when you go back on the record.
2. **COUNSEL.** You may be accompanied, represented, and advised by counsel. He or she must be an attorney-at-law admitted to practice before the highest court in any state or territory or the District of Columbia, who has not been suspended or disbarred from appearance and practice before the Commission. Your counsel may be present and may advise you before, during, and after your testimony.⁴

Counsel may also question you briefly at the conclusion of your testimony to clarify any answers, and may make summary notes during your testimony. You may consult with your counsel at any time during the proceedings. If you want to consult privately with counsel, inform the Commission representative taking your testimony and necessary arrangements will be made.

If you are not accompanied by counsel and decide at any time during the proceeding that you wish to be accompanied, represented, or advised by counsel, please so advise the Commission representative taking your testimony. The proceeding will then be adjourned to afford you the opportunity to make necessary arrangements.

⁴ No one other than your attorney and persons providing assistance to your attorney necessary to ensure representation of counsel are entitled to accompany, represent or advise you at the proceeding.

The Commission may for good cause exclude a particular attorney from further participation in any investigation in which the Commission has found the attorney to have engaged in dilatory, obstructionist, or contumacious conduct.

3. **PERJURY.** Any person making false statements under oath during a Commission investigation is subject to the criminal penalties for perjury in 18 U.S.C. § 1621, which provides, in relevant part, that:

Whoever . . . having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, . . . willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under [title 18] or imprisoned not more than five years, or both.

4. **TRANSCRIPT AVAILABILITY.** Under Commission Rule 11.7(b), 17 C.F.R. § 11.7(b), any person compelled to submit testimony in the course of an investigatory proceeding is entitled, upon payment of appropriate fees, to procure a copy or transcript of his or her testimony. For good cause, however, a witness may be limited to review of the official copy of his or her testimony. The rights provided by this rule also apply to individuals testifying voluntarily.

To request written authorization to purchase a copy of the transcript of your testimony, send a written request to the Commission representative taking your testimony. Whether or not you wish to purchase a copy of the transcript, a copy will be available for your review at the Commission office most convenient to you. To arrange for such review, contact the Commission representative taking your testimony.

5. **FIFTH AMENDMENT.** Information you provide may be used against you in any federal, state, local or foreign administrative, civil or criminal proceeding brought by the Commission or any other agency. In accordance with the rights guaranteed to you by the Fifth Amendment to the Constitution of the United States, you may refuse to provide information that may tend to incriminate you or otherwise subject you to a fine, penalty, or forfeiture, by invoking the Fifth Amendment. An adverse inference may be drawn in a civil or administrative proceeding from your refusal to testify.

6. **FAILING TO ANSWER QUESTIONS.**

- a. **Testimony Pursuant to Subpoena.** If testifying pursuant to a subpoena, your disclosure of information to the Commission is mandatory, subject to any legal right or privilege you may have. If you fail to provide requested information, the Commission may seek a court order requiring you to do so. If such an order is obtained, you may be subject to civil and/or criminal sanctions for contempt of court for any continued failure to supply the information.

- b. **Voluntary Testimony.** If your testimony is not pursuant to a subpoena, your appearance to testify is voluntary. Accordingly, you may leave the proceeding at any time, and you are not required to answer questions. There are no direct sanctions or effects for failing to supply all or part of the information requested by the Commission. If you do provide information, however, you should note the sanctions for false statements and documents described above.
7. **FORMAL ORDER AVAILABILITY.** If the Commission has issued a formal order of investigation, Commission Rule 11.7(a), 17 C.F.R. § 11.7(a) allows you to examine it at your request during your testimony. To obtain a copy of the formal order, however, you must submit a written request to the Commission representative taking your testimony and demonstrate that your retention of a copy of the formal order "would be consistent both with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation." Commission Rule 11.7(a), 17 C.F.R. § 11.7(a).
8. **ALLOWABLE FEES AND EXPENSES.** If you were subpoenaed to testify or produce documents, you are entitled, pursuant to Commission Rule 11.4(d), 17 C.F.R. § 11.4(d), as set forth below, to the same prevailing fees and mileage paid to witnesses in federal court.⁵
- a. **Attendance Fees.** You are entitled to the prevailing federal witness fee for each day's attendance, including time needed to travel to and from the location of the proceeding.
- b. **Common Carrier Transportation.** If traveling by common carrier, you will be paid the actual expenses of transportation between your residence and the location of the proceeding, using the shortest practical route and the most economical rate reasonably available. To ensure the lowest rate, contact the Administrative Officer, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, for a prepaid travel ticket. Receipts must be submitted with all claims for transportation expenses. If you were supplied with a government-paid airline or train ticket, attach the receipt and/or stub to your claim.
- c. **Rental Cars.** Reimbursement for the use of a rental car cannot be made unless authorized in advance by the Commission on a signed travel order. The Commission must determine whether use of a rental car is cost beneficial to the government.

⁵ The exact amount of the prevailing attendance fee, mileage allowance, and subsistence allowance for federal witnesses is published at 28 U.S.C. § 1821.

- d. **Travel by Privately Owned Vehicle (POV).** If traveling by POV, you are entitled to a mileage allowance based on a uniform table of distances at a rate established by the General Services Administration and published at 28 U.S.C. § 1821(c)(2). Travel by POV must be approved in writing by Commission staff as advantageous to the government.
- e. **Miscellaneous Travel Expenses.** You are entitled to reimbursement for the following charges: toll charges on roads, bridges, tunnels and ferries; necessary taxicab fares between places of lodging and carrier terminals; and parking fees. You are not entitled to reimbursement for telephone expenses. Receipts must be submitted to obtain reimbursement for all permitted expenses.
- f. **Subsistence Expenses.** You are entitled to reimbursement for subsistence expenses when the distance between the place of attendance and your residence precludes daily return travel. Subsistence allowances for witnesses are calculated and paid in the same manner as those paid to federal employees. For information concerning the maximum daily allowance for reimbursement in your area, contact the Administrative Officer, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581. Receipts must be submitted for lodging expenses and all individual expenditures.
- g. **Reimbursement.** To receive reimbursement for allowable witness fees and expenses, you must complete and return a reimbursement claim form to the Commission **within 60 days** of the date of your appearance. The claim must include the departure time from your residence and the time you returned to your residence after presenting testimony. **In order to receive reimbursement, all receipts specified above must be submitted with the claim.** To obtain a reimbursement claim form, contact the Commission representative taking your testimony.

If you do **not** want to receive any reimbursement for fees and expenses, please: (1) print your name in Part I of the reimbursement claim (address is not necessary); (2) complete Part II, Line 7 with "0"; (3) sign and date Line 9; and (4) return claim. If you received a government-paid airline or train ticket, please attach the receipt or stub to the claim.

- h. **Travel Order.** In order to ensure that you will be reimbursed for your expenses, it is in your best interest to secure a signed copy of the travel order from the Administrative Officer, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, prior to testifying, if feasible. The travel order specifies all expenses which have been authorized, including, for example, travel by POV or rental car.

**INFORMAL PROCEDURE RELATING TO THE
RECOMMENDATION OF ENFORCEMENT PROCEEDINGS**

As a result of facts gathered in an investigation, the Division of Enforcement may decide to propose an enforcement action against one or more individuals. Under the Informal Procedure Relating to the Recommendation of Enforcement Proceedings,⁶ the Division of Enforcement, in its discretion, may inform persons to be named in such actions of the nature of the allegations pertaining to them. The Division may also, in its discretion, advise such persons that they may submit a written statement before the consideration by the Commission of any staff recommendation for the commencement of the proceeding. Unless otherwise provided, such written statements must be submitted within 14 days after persons are informed by the Division of Enforcement of the nature of the allegations pertaining to them.

SMALL BUSINESS REGULATORY AND ENFORCEMENT FAIRNESS ACT

Your comments are important. If you wish to comment on the enforcement or regulatory actions of the Commodity Futures Trading Commission, please call the Small Business Liaison in the Office of General Counsel at (202) 418-5120. You may also wish to contact the Small Business and Agriculture Regulatory Enforcement Ombudsman, or one of the 10 Regional Fairness Boards, which were established by the Small Business Regulatory and Enforcement Fairness Act. The Ombudsman and Boards receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to contact the Ombudsman to comment on the enforcement actions of the CFTC, please call 1-888-REG-FAIR (1-888-734-3247).

⁶ The Informal Procedure has been adopted as Appendix A to Part 11 of the Commission's Regulations, 17 C.F.R. Part 11, Appendix A. Appendix A more fully sets forth the substantive and procedural provisions of the Informal Procedure.