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22 **UNITED STATES DISTRICT COURT**
23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

24 U.S. COMMODITY FUTURES)
25 TRADING COMMISSION and THE)
26 COMMISSIONER OF CORPORATIONS)
27 OF THE STATE OF CALIFORNIA,)

28 Plaintiffs,)

v.)

JINSUP CHOI a/k/a GENE CHOI)
d/b/a FUTURES INVESTMENT GROUP,)

Defendant.)

SACV08-965 AG (SSx)

CIV. ACTION NO.

COMPLAINT FOR
INJUNCTIVE RELIEF,
CIVIL MONETARY
PENALTIES AND
ANCILLARY EQUITABLE
RELIEF UNDER THE
COMMODITY EXCHANGE
ACT, AS AMENDED,
7 U.S.C. §§ 1 *ET SEQ.* AND
CALIFORNIA
CORPORATIONS
CODE §§ 29520 AND 29536

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

FILED

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11 Plaintiffs U.S. Commodity Futures Trading Commission ("CFTC" or "Commission") and
12 the Commissioner of Corporations of the State of California ("State of California") (collectively,
13 "Plaintiffs"), by and through their attorneys, hereby allege as follows:

14 **I. SUMMARY**

15 1. Since at least June 2002 through about April 2007 (the "relevant time period"),
16 defendant, Jinsup Choi a/k/a Gene Choi doing business as Futures Investment Group ("Choi" or
17 "Defendant") fraudulently solicited individuals in and around the Los Angeles, California area to
18 purchase futures contracts ("futures") in violation of the anti-fraud provisions of the Commodity
19 Exchange Act ("CEA"), as amended, 7 U.S.C. §§ 1 *et seq.* (2002).

20 2. Defendant's conduct also violates provisions of the California Commodity Law of
21 1990, Cal. Corp. Code ("CCC") §§ 29520 and 29536.

22 3. In order to induce customers and prospective customers to purchase futures, Choi
23 made numerous material misrepresentations and omissions, including, among others,

24 a. falsely representing to customers that their funds would be pooled with the
25 funds of other customers for the purpose of engaging in futures trading;

26 b. falsely guaranteeing customers that customers could earn eight to ten
27 percent profit per month trading in futures and that Choi would split evenly such profits with the
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1 customers when, in fact, Choi was not purchasing futures with customer funds;

2 c. falsely promising customers that he could reduce their risk of loss to ten
3 percent by employing a ten percent stop-loss; and

4 d. providing customers with false written reports showing consistent profits
5 in non-existent futures trading accounts.
6

7 4. As a result, customers “invested” with Choi approximately \$19 million to
8 purchase futures, and Choi paid back to older investors in fictitious “profits” of approximately \$9
9 million from new investor money. Thus, the overall loss as a result of Choi’s scheme is
10 \$10,035,614.

11 5. Choi has engaged, is engaged, or is about to engage in acts and practices in
12 violation of Section 4b(a)(2)(i)-(iii) of the CEA, 7 U.S.C. §§ 6b(a)(2)(i)-(iii) (2002) and CCC §§
13 29520 and 29544.
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15 6. Accordingly, pursuant to Sections 6c, 6(d)(1), and 12(e) of the CEA, 7 U.S.C. §§
16 13a-1, 13a-2, and 16(e), and CCC §§ 29520 and 29544, Plaintiffs bring this action to enjoin
17 Defendant’s unlawful acts and practices and to compel his compliance with the CEA. In
18 addition, Plaintiffs seek civil monetary penalties and other equitable relief, including restitution
19 to victims of the fraud, disgorgement of Defendant’s ill-gotten gains, a permanent trading ban,
20 and such other relief as this Court may deem necessary or appropriate.
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22 7. Unless enjoined by this Court, Defendant is likely to continue to engage in the
23 acts and practices alleged in this Complaint, as more fully described below.

24 **II. JURISDICTION AND VENUE**

25 8. The CEA establishes a comprehensive system for regulating the purchase and sale
26 of futures and options. The Court has jurisdiction over this action pursuant to Section 6c of the
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1 CEA, 7 U.S.C. § 13a-1, which authorizes the Commission to seek injunctive relief against any
2 person whenever it shall appear to the Commission that such person has engaged, is engaging, or
3 is about to engage in any act or practice constituting a violation of any provision of the CEA or
4 any rule, regulation, or order thereunder.

5
6 9. This Court also has jurisdiction over this action pursuant to Section 6d(1) of the
7 CEA, which provides that whenever it shall appear to any State that the interests of the residents
8 of the State have been, are being, or may be threatened or adversely affected because of such
9 violations of the CEA, the State may bring a suit in the district courts of the United States to
10 enjoin such acts or practices and to enforce compliance with the CEA, or to obtain such other and
11 further relief as the court deems appropriate; this includes the State of California claims brought
12 pursuant to Section 12(e) of the CEA, 7 U.S.C. § 16(e), over which this Court has supplemental
13 jurisdiction pursuant to 28 U.S.C. § 1367(a).
14

15 10. Venue properly lies with this Court pursuant to Section 6c(e) of the CEA,
16 7 U.S.C. § 13a-1(e), in that Defendant is found in, inhabits, or transacts business in this District,
17 and the acts and practices in violation of the CEA and Regulations have occurred, are occurring,
18 or are about to occur within this District, among other places.
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III. THE PARTIES

A. Plaintiffs

11. The **U.S. Commodity Futures Trading Commission** is a federal independent regulatory agency charged with the administration and enforcement of the CEA, 7 U.S.C. §§ 1 *et seq.*, and the Regulations thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2008).

12. Plaintiff **Commissioner of Corporations of the State of California**, through Preston DuFauchard, Corporations Commissioner, is empowered by legislative enactment to protect the people of the California from unlawful commodity transactions and activities.

B. Defendant

13. Defendant Jinsup Choi a/k/a Gene Choi resides in Orange, California. He is, and was at all times relevant herein, doing business as Futures Investment Group (“FIG”). During the relevant period, Choi was not registered in any capacity with the CFTC.

IV. FACTUAL BACKGROUND

A. Choi’s Fraudulent Sales Solicitations

14. During the relevant period, Choi, doing business as FIG, solicited approximately 83 individuals in around the Los Angeles, California area to purchase futures.

15. Customers induced to “invest” with Choi signed a “Client Agreement,” which provided, in pertinent part, that “FIG will make trades on Client’s behalf in futures/Currency Market.”

16. Choi solicited members of the retail public to send him money purportedly to trade in futures, by, among other things:

a. falsely representing to customers that their funds would be pooled with the funds of other customers for the purpose of engaging in futures trading;

1 b. falsely guaranteeing customers that he could earn eight to ten percent
2 profit per month trading in futures and that Choi would split evenly such profits with the
3 customers when, in fact, he was not investing customer funds in futures;

4 c. falsely promising customers that he could reduce their risk of loss to ten
5 percent by employing a ten percent stop-loss on each futures transaction; and
6

7 d. failing to disclose that he converted customer funds to his own personal
8 use.

9 17. Choi solicited customers to send funds to domestic bank accounts under his
10 control, including accounts at Wells Fargo Bank in Los Angeles, California.

11 **B. Choi's Ponzi Scheme**

12 18. The vast majority of the money Choi solicited and received from the retail public
13 was never used by Choi to purchase futures. Rather, Choi invested only \$1.8 million of the
14 customers' money, and none of that money was used in the futures markets.
15

16 19. To lull customers into a false sense of security that their funds were secure and not
17 at risk and to prevent customers from complaining to federal and/or state authorities, Choi mailed
18 false account statements to his customers. Those account statements, prepared by Choi, falsely
19 stated that customers' FIG accounts had increased in value.
20

21 20. In fact, Choi did not generate any profits from engaging in futures transactions.
22 Rather, Choi conducted a large "Ponzi" scheme by paying alleged interest and profits to
23 customers with monies paid to Choi by other customers and falsely told customers that the
24 interest and profits paid to them were generated from futures transactions.
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1 21. Choi used customers' monies to purchase, without the customers' knowledge or
2 consent, jewelry, luxury automobiles, a yacht, and a home, among other personal items and
3 services, to support his lavish lifestyle.

4 22. As a result of Choi's fraudulent scheme, customers invested approximately \$19
5 million, paid back to older investors in fictitious "profits" approximately \$9 million from new
6 investor money and Choi stole the remaining approximately \$10,035,614.

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8 **C. Choi's Guilty Plea**

9 23. In *U.S. v. Jinsup Choi, aka Gene Choi*, Cr. No. 08-00108, C.D. Calif., on
10 January 28, 2008, Choi pleaded guilty on a two count Information charging violations of 18
11 U.S.C. § 1343 (wire fraud), for (1) devising a scheme or plan for obtaining money or property by
12 making false promises or statements; (2) knowingly making false promises or statements; (3) that
13 were material in that they would reasonably influence a person to part with money or property;
14 (4) acting with the intent to defraud; and (5) using, or causing to be used wires in interstate
15 commerce to carry out the scheme.

16
17 24. Choi admitted that he was, in fact, guilty of the offenses described in counts one
18 and two of the information. In so doing, Choi admitted, among other things, the allegations
19 contained in ¶¶ 16a-d and 18-22 of this Complaint.
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V.
CFTC COUNT FOR VIOLATIONS OF THE
COMMODITY EXCHANGE ACT

COUNT ONE

**VIOLATION OF SECTION 4b(a)(2)(i)-(iii) OF THE CEA,
7 U.S.C. §§ 6b(a)(2)(i)-(iii)
(Fraud In Connection with a Futures Contract)**

25. Paragraphs 1 through 24 are realleged and incorporated herein.

26. Section 4b(a)(2)(i)-(iii) of the CEA, 7 U.S.C. § 6b(a)(2)(i)-(iii), 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, made, or to be made, for or on behalf of any other 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—(i) to cheat or defraud or attempt to cheat or defraud such other person; (ii) willfully to make or cause to be made to such other person any false report or statement thereof, . . . [or]; (iii) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person.

27. As set out in paragraphs 14 through 24, during the relevant period, Defendant violated Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii), in that he cheated or defrauded or attempted to cheat or defraud other persons by, among other things: (a) misappropriating customer funds; (b) making material misrepresentations about purchasing futures contracts; (c) making material misrepresentations about the profit potential and reduction of risk involved in futures trading with him; and (d) providing false written reports to customers.

1 28. Each false, deceptive, or misleading representation of material facts, each failure
2 to disclose material facts, each false report, and each misappropriation of customer funds
3 including, but not limited to those specifically alleged herein, is alleged as a separate and distinct
4 violation of Section 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) (2002).

5
6 **VI. STATE OF CALIFORNIA COUNTS FOR**
7 **VIOLATIONS OF STATE LAW**

8 **COUNT ONE**

9 **VIOLATIONS OF CCC SECTION 29520**

10 29. Paragraphs 1 through 28 are realleged and incorporated herein.

11 30. CCC Section 29520 provides as follows:

12 Except as otherwise provided in Section 29530, 29531, or 29532, no person
13 shall sell or purchase or offer to sell or purchase any commodity under any
14 commodity contract or under any commodity option, or offer to enter into, or
15 enter into, as seller or purchaser any commodity contract or any commodity
16 option.

17 For purposes of the California Commodity Law of 1990, under CCC Section
18 29504, " 'Commodity' means . . . any foreign currency"

19 31. A "commodity contract" is defined in CCC Section 29505, in relevant part, as
20 "any account, agreement, or contract for the purchase or sale, *primarily for speculation or*
21 *investment purposes* and not for use or consumption by the offeree or purchaser, of one or more
22 commodities" (Emphasis added.)

23 32. As set out in paragraphs 14 through 24 during the relevant period, Defendant
24 offered to sell or purchase and to enter into commodity contracts in California, and in particular
25 the Los Angeles area, CCC Section 29520, and his transactions fail to qualify under any
26 exceptions or exemptions. Unless enjoined by this Court, Defendant will continue to violate
27 CCC Section 29520.

1 **COUNT TWO**

2 **VIOLATIONS OF CCC SECTION 29536**

3 **(WILLFUL OMISSION OF MATERIAL FACTS AND**
4 **WILLFUL MAKING OF UNTRUE STATEMENTS)**

5
6 33. Paragraphs 1 through 32 are realleged and incorporated herein.

7 34. CCC Section 29536 provides:

8 It is unlawful for any person, directly or indirectly, in connection with the
9 purchase or sale of, the offer to sell, the offer to purchase, the offer to enter
10 into, or the entry into, a commodity, commodity contract, or commodity
option to do any of the following:

- 11 a) To willfully employ any device, scheme, or artifice to defraud.
12 b) To willfully make any false report, enter any false record, make
13 any untrue statement of a material fact, or omit to state a material
14 fact necessary in order to make the statements made, in the light of
15 the circumstances under which they were made, not misleading.
16 c) To willfully engage in any transaction, act, practice, or course of
business which operates or would operate as a fraud or deceit upon
any persons.
d) To willfully misappropriate or convert the funds, security, or
property of any other person.

17 35. As set out in paragraphs 14 through 24 during the relevant period, Defendant
18 willfully omitted and willfully made untrue statements of material facts and engaged in
19 fraudulent schemes in connection with the offer to sell, the offer to purchase, and the offer to
20 enter into commodities and commodity contracts.
21

22 36. Unless enjoined by this Court, defendants will continue to violate CCC Section
23 29536(b).
24

25 **VII. RELIEF**

26 WHEREFORE, Plaintiffs respectfully request that this Court, as authorized by Section 6c
27 of the CEA, 7 U.S.C. § 13a-1, and pursuant to its own equitable powers, enter:
28

1 (a) an order finding that Defendant violated Section 4b(a)(2)(i)-(iii) of the CEA, 7
2 U.S.C. §§ 6b(a)(2)(i)-(iii),

3 (b) an order finding that Defendant violated Sections 29520 and 29536 of the CCC;

4 (c) an order of permanent injunction prohibiting Defendant, and any other person or
5 entity associated with him, including any successor thereof, from engaging in conduct that
6 violates the section of the CEA that he has been alleged to have violated;

7 (d) an order of permanent injunction prohibiting Defendant, and any other person or
8 entity associated with him, including any successor thereof, from engaging in conduct that
9 violates the sections of the CCC that he has been alleged to violate;

10 (e) an order of permanent injunction prohibiting Defendant from engaging, directly or
11 indirectly, in any activity related to trading in any commodity, as that term is defined in Section
12 1a(4) of the CEA, 7 U.S.C. § 1a(4) (commodity interest), including but not limited to, the
13 following:

14 1. trading on or subject to the rules of any registered entity, as that term is
15 defined in Section 1a(29) of the CEA, 7 U.S.C. § 1a(29);

16 2. engaging in, controlling, or directing the trading for any commodity
17 interest account for or on behalf of any other person or entity, whether by power of attorney or
18 otherwise;

19 3. soliciting or accepting any funds from any person in connection with the
20 purchase or sale of any commodity interest;

21 4. entering into any commodity interest transactions for his own personal
22 account, for any account in which he has a direct or indirect interest and/or having any
23 commodity interests traded on his behalf; and
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1 5. engaging in any business activities related to commodity interest trading.

2 (f) an order of permanent injunction from applying for registration or claiming
3 exemption from registration with the Commission in any capacity, and engaging in any activity
4 requiring such registration or exemption from registration with the Commission, except as
5 provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent or
6 any other officer or employee of any person registered, exempted from registration or required to
7 be registered with the Commission, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. §
8 4.14(a)(9);

9
10 (g) an order directing Defendant, as well as any other person or entity associated with
11 him, including any successor thereof, to disgorge, pursuant to such procedure as the Court may
12 order, all benefits received from the acts or practices which constitute violations of the CEA or
13 the CCC, as described herein, and interest thereof from the date of such violations;

14
15 (h) an order directing Defendant, as well as any other person or entity associated with
16 him, including any successor thereof, to make full restitution, pursuant to such procedure as the
17 Court may order, to every customer whose funds were received by him as a result of acts and
18 practices which constitute violations of the CEA or CCC, as described herein, and interest
19 thereon from the date of such violations;

20
21 (i) an order requiring Defendant to pay civil penalties under Section 6c of the Act, 7
22 U.S.C. § 9a, and Regulation 143.8, 17 C.F.R. § 143.8; and

23 (j) an order for such other and further remedial ancillary relief as the Court may deem
24 appropriate.

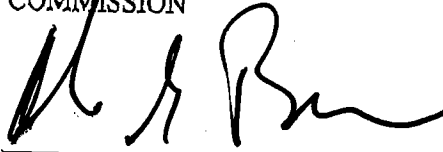
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August ~~16~~ 2008

Respectfully submitted,

PLAINTIFF UNITED STATES
COMMODITY FUTURES TRADING
COMMISSION

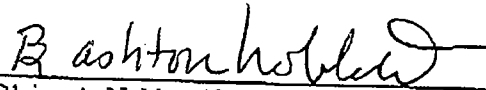


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