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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

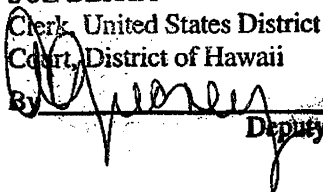
FEB 18 2009

at 10:00 clock and 00 min 4 M.
SUE BEITIA, CLERK

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

		CV 09-00069 JMS LEK
U.S. COMMODITY FUTURES TRADING COMMISSION,)	CASE NO. _____
)	
Plaintiff,)	
)	
v.)	COMPLAINT FOR PERMANENT
)	INJUNCTION, CIVIL
)	MONETARY PENALTIES, AND
BILLION COUPONS, INC., a/k/a)	OTHER EQUITABLE RELIEF;
BILLION COUPONS INVESTMENT,)	<i>SUMMONS</i>
a Hawaii corporation, and MARVIN)	
RAY COOPER, an individual,)	
)	
Defendants.)	
)	

ATTEST: A True Copy
SUE BEITIA
Clerk, United States District
Court, District of Hawaii
By  Deputy

Plaintiff, the United States Commodity Futures Trading Commission
(Commission or CFTC), by its attorneys, alleges as follows:

I. SUMMARY

1. From at least September 2007 to the present, Billion Coupons, Inc. a/k/a Billion Coupons Investment (BCI), by and through its employees and agents, as well as its principal and control person, Marvin Ray Cooper (Cooper) (collectively, Defendants), has solicited approximately \$4.4 million from approximately 125 members of the general public, all of whom are Deaf, for the sole purported purpose of trading off-exchange foreign currency futures contracts (forex). Defendants deposited only approximately \$1.7 million into forex and on-exchange futures contracts (futures) trading accounts. Of the \$4.4 million, Defendants misappropriated over \$1.4 million of customer funds, and, upon information and belief, used the misappropriated funds for their personal use.

2. Defendants promised customers a monthly 15 to 25 percent return on investment, depending on the amount and size of the customer's investment, while representing that the investment would be low risk.

3. Defendants claimed that the 15 to 25 percent return on investment was produced by their successful forex trading. In fact, Defendants' forex and futures combined trading resulted in substantial losses and any purported "profits" paid to

customers came from existing customers' original principal and/or from money invested by subsequent customers. Defendants, thus, are operating a Ponzi scheme.

4. To conceal and perpetuate their fraud, Defendants provided their customers with false account statements misrepresenting that their accounts were increasing by as much as 25 percent, when, in fact, their accounts were collectively losing money every month.

5. By virtue of this conduct and the further conduct described herein, Defendants have engaged, are engaging, or are about to engage in acts and practices in violation of Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Commodity Exchange Act (the Act) as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (CRA)), § 13102, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C).

6. Cooper, along with other BCI employees and agents, committed the acts and omissions described herein within the course and scope of their employment at Billion Coupons. Therefore, Billion Coupons is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Commission Regulation (Regulation) 1.2, 17 C.F.R. § 1.2 (2008), as principal for its agent's violations of the Act as amended by the CRA.

7. Cooper is liable under Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), as a controlling person of BCI for its violations of the Act, because he did not act in good faith or knowingly induced, directly or indirectly, the acts constituting BCI's violations.

8. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2), the Commission brings this action to enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act as amended by the CRA and to further enjoin Defendants from engaging in any commodity-related activity. 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.

9. 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

10. The Commission's jurisdiction stems from the Act as amended by the CRA. The Commission's jurisdiction in this matter is two-fold. First, for the futures trading at issue in this case, Section 6c(a) of the Act, 7 U.S.C. § 13a-1

(2006), authorizes the Commission to seek injunctive 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 the Act or any rule, regulation, or order thereunder.

11. Second, the Commission has jurisdiction over the forex transactions at issue in this case pursuant to Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2), for transactions that occurred after June 18, 2008, the relevant effective date of the CRA. The CRA, among other things, clarified the Commission's anti-fraud jurisdiction over off-exchange foreign currency transactions of the type offered by Defendants. Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2). Defendants' forex transactions that occurred on or after June 18, 2008, are therefore subject to the Commission's jurisdiction.

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

III. PARTIES

13. **Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et seq.*, and Regulations, 17 C.F.R. §§ 1.1 *et seq.* The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

14. **Billion Coupons, Inc. a/k/a Billion Coupons Investment** is a Hawaii corporation formed on January 11, 2007, with its principal place of business at 778 Wiliwili Street, Suite 402, Honolulu, Hawaii 96826 and/or 835 6th Avenue, Honolulu, Hawaii 96826. BCI has never been registered with the CFTC.

15. **Marvin Ray Cooper**, who is Deaf, resides in Honolulu, Hawaii, and is the Chief Executive Officer, and sole director, trader, owner and signatory on the bank account of BCI. At all material times, BCI was wholly owned by Cooper who held himself out to the public as the owner and operator of BCI. Cooper has never been registered with the CFTC.

IV. FACTS

16. On or about September 2007, BCI, by and through its employees and agents, including Cooper, its principal and control person, began to solicit members of the general public to trade forex. Upon information and belief, Defendants never told one or more customers that their funds were being used to

trade futures. To date, Defendants received more than \$4.4 million from approximately 125 Deaf American and Japanese customers, of which Defendants misappropriated more than \$1.4 million. In order to conceal their fraud, Defendants issued false account statements to customers misrepresenting the purported value of customer accounts.

17. Defendants used their employees and agents, websites, www.billioncoupons.com and/or www.bci-forex.com (collectively, BCI websites), and live seminars to solicit members of the public to trade through BCI.

18. BCI's employees and agents include, but are not limited to, self-described "investor groups," "investor group" representatives and BCI representatives. Many, if not all, of Defendants' employees and agents solicited new customers for Defendants and also invested funds themselves with BCI.

19. Defendants, through the BCI websites, promised customers monthly 15 to 25 percent returns on investment, depending on the amount and size of the customer's investment, while representing that the investment would be low risk. These statements are false. In fact, Defendants never achieved these returns.

20. At one or more live seminars, Defendants represented that customers would make 15 to 25 percent return on investment a month through Defendants' successful trading. Additionally, Defendants represented that a \$10,000 investment with BCI would earn at least \$100,000 within twelve months. Defendants claimed

to be making \$30,000 to \$300,000 *each day* through their investing. These statements are false. In fact, Defendants never achieved these returns.

21. Upon information and belief, customers who were eager to invest based on BCI solicitations, but did not have adequate financial means to do so, took out home equity loans and ran up debt on their personal credit cards.

22. Defendants represented to customers that their monthly 15 to 25 percent monthly return on investment was produced by profits from Defendants' forex trading. This representation is false. Defendants' forex and futures trading resulted, collectively, in substantial losses. The purported 15 to 25 percent monthly return on investment was paid to customers from existing customers' original principal and/or from money invested by subsequent customers. Defendants, thus, are running a Ponzi scheme.

23. Of the approximately \$4.4 million received by BCI from customers, only approximately \$1.7 million was deposited into trading accounts located at ODL Securities, Inc. (ODL) and Global Futures and Forex, LTD. (Global), both registered Futures Commission Merchants (FCMs).

24. In April 2008, Defendants opened an account in BCI's name at ODL. Approximately \$1.5 million was deposited into the ODL account. From at least May 2008, Defendants, for the benefit of their customers, traded forex in this account.

25. From June 18, 2008, Defendants incurred total trading losses in the ODL account, including commissions and fees, of more than \$679,000.

Furthermore, during this same period, Defendants withdrew more than \$820,000 of customer funds from this account.

26. In November 2008, Defendants opened two accounts in BCI's name at Global. One account traded forex and the other account traded futures.

Approximately \$200,000 was deposited into these accounts, with each account initially receiving \$100,000 for trading. Since at least December 2008 to the present, Defendants, for the benefit of their customers, traded forex and futures at Global. Since December 2008, Defendants withdrew over \$109,100 of customer funds from these two accounts.

27. Combined, the accounts at ODL and Global incurred total trading losses to date, including commissions and fees, of more than \$749,000. More than \$920,000 of customer funds were withdrawn from these accounts and deposited into bank accounts in the name of BCI.

28. Currently, approximately \$30,000 in equity remains in the BCI-controlled trading accounts located at ODL and Global.

29. In late 2008 and early 2009, Defendants suspended all customer withdrawals and informed them that BCI was not in a position to distribute any

purported gains to its customers. Despite this, as of February 9, 2009, Defendants are still actively trading at Global.

30. In running their Ponzi scheme, Defendants' returned approximately \$1.6 million to customers as purported "profits" and paid commissions to its employees and agents.

31. Further, Defendants used more than \$1.4 million in customer funds to pay for personal items such as computer and electronic equipment, Cooper's flying lessons, and a \$1 million home for Cooper.

32. In order to conceal and perpetuate their fraud, from at least March 2008 through the present, Defendants reported consistent monthly profits to their customers. The reported monthly profits were as high as 25 percent per month; not a single negative month was reported. In fact, however, Defendants' actual collective trading resulted in net losses every month.

33. This false information was reported to customers in the form of, among other things, individual customer account statements that were sent either by regular mail, e-mail, videophone, and/or were made available on the BCI websites. Thus, for example, Defendants reported to one customer profits of 15 percent for July 2008, when, in fact, the BCI trading accounts collectively lost over \$437,000 that month. Defendants reported to another customer a profit of 23 percent for March 2008, when, in fact, the BCI trading accounts had not even been

opened or funded for trading that month. Customers were not informed of the losses for these months or any other month.

34. Neither Defendants nor the FCMs that were the counterparty to the forex transactions were financial institutions, registered broker dealers, insurance companies, bank holding companies, or investment bank holding companies or the associated persons of financial institutions, registered broker dealers, insurance companies, bank holding companies, or investment bank holding companies.

35. Some or all of Defendants' customers were not "eligible contract participants" as that term is defined in the Act. *See* Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12) (2006) (an "eligible contract participant," as relevant here, is an individual with total assets in excess of (i) \$10 million, or (ii) \$5 million and who enters 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").

36. The forex transactions conducted by Defendants at ODL and Global on behalf of their customers were entered into on a leveraged or margined basis. Defendants were required to provide only a percentage of the value of the forex contracts that they purchased.

37. The forex transactions conducted by Defendants neither resulted in delivery within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively,

in connection with their lines of business. Rather, these forex contracts remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).

38. By virtue of their actions, Defendants have engaged, are engaging, or are about to engage in acts and practices that violate Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C).

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

**Violations of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA,
to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C)
(Fraud in Connection with Forex)**

39. The allegations set forth in paragraphs 1 through 38 are realleged and incorporated herein by reference.

40. Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), make it unlawful

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market – (A) to cheat or defraud or attempt to cheat or defraud the other person; (B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or

cause to be entered for the other person any false record; [or] (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person.

Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA apply to Defendants' forex transactions "as if" they were a contract of sale of a commodity for future delivery. Section 2(c)(2)(C)(iv) of the Act as amended by the CRA.

41. As set forth above, from at least June 18, 2008, through the present, in or in connection with forex contracts, made, or to be made, for or on behalf of or with other persons, Defendants cheated or defrauded, or attempted to cheat or defraud, customers or prospective customers and willfully deceived or attempted to deceive customers or prospective customers by, among other things, knowingly (i) misappropriating customer funds, and (ii) misrepresenting that the 15 to 25 percent monthly return on investment is produced by Defendants' trading, when, in fact, Defendants' trading resulted in substantial losses, and the purported "profits" were paid to customers from existing customers' original principal and/or from money invested by subsequent customers; and (iii) knowingly providing customers account statements that misrepresented the value of the customers' investment as well as claiming that Defendants' trading was producing profits when, in fact, it was not,

all in violation of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C).

42. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

43. Cooper controlled BCI, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, BCI's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Cooper is liable for BCI's violations of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C).

44. The foregoing acts, misrepresentations, omissions, and failures of Cooper, along with other BCI employees and agents, occurred within the scope of their employment with BCI; therefore, BCI is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2008).

45. Each misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C).

COUNT II

Violations of Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) (Fraud in Connection with Futures)

46. The allegations set forth in paragraphs 1 through 38 are realleged and incorporated herein by reference.

47. Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), make it unlawful

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person – (A) to cheat or defraud or attempt to cheat or defraud the other person; (B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record; (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person.

Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA apply to Defendants' futures transactions.

48. As set forth above, in or in connection with a contract of sale of a commodity for future delivery, made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of other persons, Defendants cheated

or defrauded or attempted to cheat or defraud customers or prospective customers and willfully deceived or attempted to deceive customers or prospective customers by, among other things, knowingly (i) misappropriating customer funds, and (ii) knowingly providing customers account statements that misrepresented the value of the customers' investment as well as claiming that Defendants' trading was producing the represented profits when, in fact, it was not, all in violation of Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C).

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

50. Cooper controlled BCI, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, BCI's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Cooper is liable for BCI's violations of Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C).

51. The foregoing acts, misrepresentations, omissions, and failures of Cooper, along with other BCI employees and agents, occurred within the scope of their employment with BCI; therefore, BCI is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2008).

52. Each misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C).

VI. RELIEF REQUESTED

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

a) An order finding that Defendants violated Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C).

b) An order of permanent injunction prohibiting Defendants and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any Defendant, including any successor thereof, from engaging, directly or indirectly:

(i) in conduct in violation of Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C); and

(ii) in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (2006) (“commodity interest”), including but not limited to, the following:

(aa) from trading of any commodity interest account for themselves or on behalf of any other person or entity;

(bb) from soliciting, receiving, or accepting any funds in connection with the purchase or sale of any commodity interest contract;

(cc) from applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2008), or acting as a principal, agent, or any other officer or employee of any person registered, exempted from registration or required to be registered with the CFTC, except as provided for in Regulation 4.14(a)(9); and

(dd) from engaging in any business activities related to commodity interest trading.

c) An order directing Defendants, as well as any successors and/or agents to any Defendant, to disgorge, pursuant to such procedure as the Court may

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

d) An order directing Defendants to make full restitution to every person or entity whose funds Defendants received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

e) Enter an order directing 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 customers whose funds were received by them as a result of the acts and practices which constituted violations of the Act, as described herein;

f) An order directing each Defendant to pay a civil monetary penalty under the Act, to be assessed by the Court, in amounts of not more than the higher of (1) triple the monetary gain to Defendant for each violation of the Act or (2) \$130,000 for each violation of the Act occurring from October 23, 2004 through October 22, 2008, and \$140,000 for each violation of the Act occurring on or after October 23, 2008;

- g) An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- h) Such other and further relief as the Court deems proper.

Respectfully submitted,

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Dated this __ day of February, 2009.