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U.S. DISTRICT COURT

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DISTRICT OF UTAH

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
CENTRAL DIVISION**

U.S. Commodity Futures Trading Commission,

Plaintiff,

v.

Christopher D. Hales, Eric A. Richardson and
Bentley Equities, LLC,

Defendants.

Case: 2:12cv00415

Assigned To : Campbell, Tena

Assign. Date : 5/2/2012

Description: U.S. Commodity Futures
Trading Commission v. Hales et al

**COMPLAINT FOR INJUNCTIVE,
OTHER EQUITABLE RELIEF AND
FOR CIVIL MONETARY PENALTIES
UNDER THE COMMODITY
EXCHANGE ACT, AS AMENDED,
7 U.S.C. §§ 1 et seq.**

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

I. SUMMARY

1. From at least April 2009 through August 2010 (the “relevant period”), Christopher D. Hales (“Hales”) and Eric A. Richardson (“Richardson”), individually and as controlling persons and agents of Bentley Equities, LLC (“Bentley”) (collectively, “Defendants”), fraudulently solicited approximately thirty-eight (38) pool participants (“participants”) and clients in the United States for the purpose of trading commodity futures either in a commodity pool account in the name of Bentley (“the Bentley pool”), an individual managed account, or both, to be carried at a futures commission merchant (“FCM”) registered with the CFTC.

2. Specifically, Defendants fraudulently solicited and accepted at least \$1,001,642.93 from at least twenty-eight (28) participants for the purpose of trading futures in the Bentley pool, and Defendant Hales solicited and accepted \$109,000 from three clients for the purpose of trading individual managed accounts. Of this \$1,110,642.93, Defendants misappropriated at least \$557,000 for Hales’ and Richardson’s personal use, including food, clothing, auto expenses, utility payments, and credit card payments, and another \$71,000 to make payments to existing participants and clients in the manner of a Ponzi scheme.

3. In addition, Hales solicited \$1,233,875 from at least fourteen (14) clients who directly funded their individual accounts, seven of whom also invested in the Bentley pool, to open and fund individual accounts at the same FCM carrying the Bentley pool account at Hales’ direction that Hales would manage. Hales traded at least six of these accounts without obtaining

a power of attorney as required. Bentley also solicited and accepted participant funds in Hales' name and commingled participant funds intended for commodity trading with Hales' and Richardson's personal funds and the funds of others.

4. Further, Defendants falsely claimed to prospective and existing participants and clients that they actively managed more than \$1 million in commodity futures trading accounts, had made hundreds of thousands of dollars in profits trading futures, and that Bentley had trading software that could guarantee profitable returns. In reality, Defendants were not successful commodity futures traders, never managed more than \$480,000 in commodity futures trading accounts at one time, and lost approximately \$482,190.05 of the Bentley participants' and clients' funds and \$814,429.88 of their managed clients' funds trading commodity futures contracts.

5. To conceal their trading losses and misappropriation, Defendants issued false account statements to participants and clients by altering trading statements that they received from the FCM carrying the Bentley pool account. These doctored statements falsely showed inflated account balances and profitable returns from trading commodity futures, when, in fact, Defendants' futures trading for their participants and clients consistently lost money.

6. By virtue of the above conduct alleged and the further conduct described herein, the Defendants engaged in fraud by misrepresentation and misappropriation in violation of Section 4b(a)(1)(A) and (C) of the Commodity Exchange Act ("Act" or "CEA"), as amended by the Food, Conservation and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (subtitled "CFTC Reauthorization Act of 2008" ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), 7 U.S.C. §§ 6b(a)(1)(A), (C) (2006 and Supp. III 2009); fraud by false

statements in violation of Section 4b(a)(1)(B), as amended, 7 U.S.C. § 6b(a)(1)(B) (2006 and Supp. III 2009); and commodity pool operator (“CPO”) and commodity trading advisor (“CTA”) fraud in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006). Defendant Bentley acted in a capacity requiring registration with the CFTC as a CPO without the benefit of registration, and defendant Hales acted in a capacity requiring registration with the CFTC as a CTA without the benefit of registration, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1). Hales and Richardson acted in a capacity requiring registration with the CFTC as associated persons (“APs”) of Bentley without the benefit of registration in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(3) (2006). Finally, Bentley commingled customer funds in violation of Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2010).

7. Hales and Richardson owned and controlled Bentley and failed to act in good faith, or knowingly induced, directly or indirectly, the acts constituting the violations alleged herein. Therefore, Hales and Richardson are liable for Bentley’s violations of the Act pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

8. Hales and Richardson committed the acts, omissions and failures alleged herein within the course and scope of their employment, agency, or office with Bentley. Therefore, Bentley is liable as a principal for these acts, omissions, and failures committed by Hales and Richardson and their other employees, agents and representatives pursuant to Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2010).

9. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), the Commission brings this action to enjoin such acts and practices, and to compel compliance with

the provisions of the Act. In addition, the Commission seeks disgorgement, restitution, rescission, civil penalties, and such other equitable relief as the Court may deem necessary and appropriate.

10. Unless restrained and enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in the Complaint, as more fully described below.

II. JURISDICTION

11. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2006), which provides that whenever it shall appear to the CFTC that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order promulgated thereunder, the CFTC may bring an action in the proper district court of the United States against such person to enjoin such act or practice, or to enforce compliance with the Act, or any rule, regulation or order thereunder.

12. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), in that the Defendants are found in, inhabit or transact business in this district, and the acts and practices in violation of the Act occurred, are occurring or are about to occur within this district.

III. PARTIES

A. Plaintiff

13. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act, as

amended, 7 U.S.C. §§ 1 *et seq.*, and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2011).

B. Defendants

14. Defendant **Christopher D. Hales** is thirty-one (31) years old and is currently an inmate at the Florence Federal Correctional Complex (FCC) in Florence, Colorado. On November 2, 2011, Hales was sentenced to 90 months incarceration and ordered to pay \$12,719,236 in criminal restitution in connection with a judgment entered against him for the conduct alleged in this matter as well as mortgage fraud. *USA v. Christopher D. Hales*, 2:10-cr-00183 (C.D. UT, Mar. 10, 2010) (“*USA v. Hales*”) (\$6,986,206 of Hales’ restitution amount is to be paid jointly and severally with John P. Grealish, as ordered in *USA v. John P. Grealish*, 2:11-cr-00083 (C.D. UT, Jan. 26, 2011)). Hales has been an owner, manager, organizer and agent of Bentley since April 9, 2009 and owns 50% of Bentley. Hales has never been registered with the Commission in any capacity.

15. Defendant **Eric A. Richardson** is thirty-eight (38) years old and resides in Cedar Hills, Utah. Richardson owns 50% of Bentley and has been a manager, organizer and agent of Bentley since April 9, 2009. Richardson has been a councilman for the city of Cedar Hills, Utah since January 1, 2006. Richardson has never been registered with the Commission in any capacity. Since October 10, 2011, Richardson has been a registered representative of MCA Securities LLC, a registered broker-dealer with the U.S. Securities and Exchange Commission (“SEC”) located in Beverly Hills, California, and holds the series 6, 7, 9, 10 and 24 securities licenses with the SEC. Prior to MCA Securities LLC, Richardson was a registered representative

of Fidelity Brokerage Services LLC in Salt Lake City, Utah from August 1995 until November 2008 and Bennett Ross, Inc. in Fort Worth, Texas from November 2010 through October 2011.

16. Defendant **Bentley Equities, LLC** is a Delaware limited liability company formed by Hales and Richardson on or about April 9, 2009 for the purpose of investing customer funds, but is currently in default status for failure to pay its annual franchise tax fee. During the relevant period, Bentley's principal place of business was Richardson's residence in Cedar Hills, Utah and Hales' residence in Draper, Utah. Bentley has never been registered with the Commission in any capacity.

IV. RELATED ENTITY

17. Freedom Wealth Group LLC ("FWG") is a Nevada limited liability company with its principal place of business in Carson City, Nevada. FWG also maintains additional offices in Sandy, Utah and Lehi, Utah. FWG purports to be an educational company, teaching a "niche trading strategy" to its customers through its automated trading indicators, written educational materials and instructional presentations designed to help individuals trade their own accounts. FWG has never been registered with the Commission in any capacity and on April 28, 2009 filed a Notice of Exemption with the National Futures Association pursuant to Commission Regulation 4.14(a)(8)(i)(B), 17 C.F.R. § 4.14(a)(8)(i)(B) (2007), seeking exemption from registration with the Commission as a CTA.

V. FACTS

A. Statutory Background

18. Prior to July 16, 2011, Section 1a(5) of the Act, 7 U.S.C. § 1a(5), defined a "commodity pool operator" as any firm or individual engaged in a business which is of the

nature of an investment trust, syndicate, or similar form of enterprise, and that, in connection therewith, solicits, accepts or receives from other funds, securities or property, either directly through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market. Upon the effective date of Title VII of the Dodd-Frank Act on July 16, 2011, the definition of a CPO was expanded and re-designated in Section 1a(11) of the Act, as amended, to be codified at 7 U.S.C. § 1a(11).

19. Commission Regulation 4.10(d)(1), 17 C.F.R § 4.10(d)(1) (2011), defines a “commodity pool” (hereinafter “pool”) as any investment trust, syndicate or similar form of enterprise engaged in the business of investing its pooled funds in trading commodity futures and/or commodity options.

20. Commission Regulation 4.10(c), 17 C.F.R § 4.10(c) (2011), defines a “participant” as any person who has any direct financial interest in a commodity pool.

21. Section 1a(6) of the Act, 7 U.S.C. § 1a(6) (2006), defines a “commodity trading advisor” as 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 the 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 a contract market of derivatives transaction execution facility.

22. Commission Regulation 1.3(aa)(3), 17 C.F.R. 1.3(aa)(3) (2011), defines an “associated person” as any natural person who is associated in any of the following capacities with a CPO as a partner, officer, employee, consultant, or agents (or any natural person

occupying a similar status or performing similar functions) in any capacity which involves the solicitation of funds, securities, or property for participation in a commodity pool, or the supervision of any person or persons so engaged.

B. Defendants' Trading

23. In July 2009, Hales and Richardson, individually and as controlling persons and agents of Bentley, opened the Bentley pool account at an FCM, and falsely represented in the account opening documents that the account would not trade any third-party customer funds.

24. During the relevant period, Defendants deposited approximately \$591,350 of at the least \$1,110,642.93 Defendants had solicited and received from at least twenty-eight participants in the Bentley pool account at the FCM. Defendants lost approximately \$482,190.05 trading the Bentley pool account and transferred the remaining \$109,159.95 to bank accounts in the name of Bentley, where they were misappropriated for Hales and Richardson's personal use.

25. During the relevant period, Defendants directed at least three individual clients to open individual trading accounts at the same FCM where the Bentley pool account was located and provide Defendants with the funds that they wished to deposit into these accounts. Defendants, in turn, promised that they would fund and trade these accounts for the clients. The three clients opened up accounts at the same FCM where the Bentley pool account was located and provided Defendants with at least \$109,000 to trade the accounts as instructed, but Defendants never funded or traded the accounts as promised. Instead, Defendants misappropriated the money.

26. Also, during the relevant period, at least fourteen clients opened and funded individual trading accounts at the same FCM where the Bentley pool account was located with a

total of \$1,233,875 for Defendants to manage. Hales obtained a power of attorney to trade approximately eight of these fourteen accounts, but Hales instructed at least the other six clients to provide him with their respective usernames and passwords to trade their accounts and traded their accounts without obtaining a power of attorney as required. These fourteen accounts suffered trading losses totaling approximately \$814,429.88.

C. Defendants' Fraudulent Solicitations

27. During the relevant period, Defendants solicited participants and clients to trade commodity futures through face-to-face meetings at Hales' home, monthly trading seminars hosted by FWG in the Salt Lake City, Utah area, and presentations at FWG's offices in Utah.

28. During these solicitations, Hales and Richardson, individually, and as controlling persons and agents of Bentley, held themselves out to the public as highly-successful and experienced commodity futures traders, and stated that Bentley actively managed more than \$1 million in commodity futures trading accounts, that Bentley made hundreds of thousands of dollars in profits, and that Defendants had earned either 2% to 5% per day, 15%-20% per month, or 80% to 90% per year trading for participants and clients pursuant to their trading software, and had not had a losing month in more than two years. Defendants also demonstrated their purported successful trading pursuant to their trading software to participants and clients on various computers, guaranteed profits of at least 10% per month, and made no mention of the risks of trading commodity futures.

29. Defendants knew that these misrepresentations were false or recklessly disregarded the truth while making them. Defendants were not successful commodity futures traders, and their trading accounts suffered consistent monthly losses – totaling approximately

\$482,190.05 for the Bentley pool account and approximately \$814,429.88 for the individual client managed accounts during the relevant period. Further, Hales was not an experienced trader and did not trade commodity futures prior to July 2009. In addition, Defendants did not use trading software as represented in trading for and behalf of participants and clients.

30. Defendants also touted Richardson's position as city councilman to earn prospective and existing participants' and clients' trust and persuade them to invest with Defendants.

31. Once a participant decided to invest with Bentley, Hales and Richardson typically provided the participant with a document titled, "Contractual Joint Venture Agreement and Memorandum of Understanding" ("Agreement"). Hales and Richardson signed the Agreement as officers and agents of Bentley, and the Agreement states that participants' funds would be invested into "a futures trading account."

32. Defendants instructed participants and clients to invest via cash, check or wire transfer, made payable to Bentley or Hales. Defendants then deposited their funds into bank accounts in the names of Bentley and Hales, and used only \$591,350 of the \$1,110,642.93 to actually trade futures as promised.

33. Hales advised participants and clients that all profits generated from the trading of the Bentley Pool account and individual client accounts were to be split 50/50 with the participants and clients. However, there were never any profits generated from Defendants' futures trading, and never an instance in which Defendants were entitled to be paid.

34. Defendants encouraged their managed account clients to open accounts at the same FCM that carried the Bentley pool account and the trading accounts through which

Defendants were operating their scheme. Defendants claimed to their participants and clients that the FCM carrying the Bentley pool account had trading systems compatible with the trading software Defendants purportedly used to trade the Bentley pool account and individual client accounts.

35. On August 12, 2010, the Bentley pool account at the FCM was closed and the remaining \$20,809.10 balance in the account was transferred to a bank account in the name of Bentley, where it was misappropriated for Hales' and Richardson's personal use.

36. On or about September 1, 2010, Hales was arrested by federal authorities for the conduct described herein, among other things.

D. False Reports

37. Although Defendants' trading for participants and clients suffered consistent losses, Defendants' falsely represented to the participants and clients both verbally and in writing that the Defendants were earning returns from 7% to 10% per month.

38. Between August 2009 and August 2010, Defendants altered trading statements they received from the FCM carrying the Bentley pool account to falsely reflect profitable trading of futures contracts, and falsely reported trading profits in the Bentley pool account when, in fact, the accounts were suffering consistent monthly losses. Defendants sent the falsified statements to participants and clients via e-mail or hand-delivery to conceal the actual trading losses and misappropriations.

39. Additionally, Hales prepared at least one false statement at Richardson's request showing a balance between half a million and one million dollars in the Bentley pool account when, in fact, the account never had a month end balance of more than \$40,600.00. On

information and belief, Richardson provided this statement to a third party as proof of funds in order to obtain financing for another project or scheme.

E. Commingling and Misappropriation of Participants' and Clients' Funds

40. During the relevant period, Defendants opened two bank accounts in the name of Bentley, one with JPMorgan Chase and the other with Zions Bank (the "Bentley bank accounts"). Defendants have at all relevant times maintained exclusive control over the Bentley bank accounts. During the relevant period, at least twenty-five (25) Bentley participants made their funds payable to Bentley, at Defendants' direction, and Defendants deposited those funds into the Bentley bank accounts where they were commingled with funds of Hales, Richardson and others. Defendants transferred participant funds from the Bentley bank accounts to the Bentley pool account at the FCM where they were commingled with Hales' and Richardson's personal funds and the funds of others.

41. Of the \$1,110,642.93 that Defendants solicited and accepted for the purpose of trading commodity futures in the Bentley pool or through individually managed futures accounts, they lost \$482,190 trading commodity futures, and knowingly used the remaining \$628,452.93 to pay for Hales' and Richardson's personal expenses, including auto expenses, utility payments, and credit card payments, and to make payments to existing participants and clients in the manner of a Ponzi scheme. Defendants never disclosed to participants and clients that they would use their funds for these purposes.

F. Failure to Register

42. During the relevant period, Bentley acted as a CPO in that it has solicited and accepted funds from at least twenty-nine pool participants for the purpose of pooling the funds in

a commodity pool known as the “Bentley pool” and investing the funds in commodity futures. Thus, Bentley was acting as a CPO without being registered as required. Hales and Richardson were partners, officers, employees and/or agents of Bentley and solicited funds from prospective and existing participants for participation in the Bentley pool. Therefore, Hales and Richardson were required to be registered with the CFTC as APs of Bentley. However, neither Hales nor Richardson was registered as such or exempt from such registration. Additionally, Bentley, while acting as a CPO, allowed Hales and Richardson to act as its APs when it knew or should have known that Hales and Richardson were not registered as APs.

43. During the relevant period, Hales held himself out generally to the public as a CTA in that he solicited clients to open individual managed accounts that he would trade in exchange for 50% of any profits earned in the accounts, and touted his trading expertise at FWG seminars and face-to-face meetings at his home. Therefore, Hales was required to be registered as a CTA, but was not registered as such or exempt from such registration.

G. Hales and Richardson Are Controlling Persons of Bentley

44. Hales and Richardson were principals and managers of Bentley and during the relevant period held themselves out to the public as such. Hales and Richardson managed the day to day operations of Bentley, and solicited participants to trade commodity futures in the Bentley pool that they managed. Hales also solicited clients to trade commodity futures through individual managed trading accounts. Hales and Richardson were responsible for conducting the futures trading on behalf of Bentley’s participants and Hales was responsible for conducting the futures trading on behalf of the individual client accounts at the FCM. Hales and Richardson also signed agreements with Bentley’s participants as managers and agents of Bentley.

45. Hales and Richardson were authorized signatories on two corporate bank accounts in the name of Bentley and Hales was the sole authorized signatory on two bank accounts in his own name, all four of which received participants' and clients' funds for the purpose of trading commodity futures. Hales and Richardson were also the only authorized traders on the Bentley pool account at the FCM.

46. Moreover, Hales and Richardson had actual knowledge about their trading losses and misappropriation of participants' and clients' funds and continued to solicit new participants and clients with profitability claims. Accordingly, Hales and Richardson had actual knowledge of the core activities that constitute the violations at issue in this Complaint and allowed them to continue.

VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND REGULATIONS

COUNT I

Violations of Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C) Fraud By Misrepresentation and Misappropriation

47. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

48. Section 4b(a)(1)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A) and (C), 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 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; [or] (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to 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 . . . the other person . . .

49. As set forth above, during the relevant period, in or in connection with commodity futures, made, or to be made, for or on behalf of, or with, other persons, Defendants cheated or defrauded or attempted to cheat or defraud participants and clients or prospective participants and clients and willfully deceived or attempted to deceive participants and clients or prospective participants and clients by, among other things, knowingly (i) soliciting investments through fraudulent misrepresentations and omissions about Defendants' past and current trading performance (ii) misappropriating participants' and clients' funds, and (iii) engaging in unauthorized trading by persuading clients and participants to allow Defendants to trade their funds through misrepresentations and material omissions regarding their actual trading success all in violation of Section 4b(a)(1)(A) and (C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A) and (C).

50. Hales and Richardson controlled Bentley, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bentley's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), both Hales and Richardson are liable for Bentley's violations of Sections 4b(a)(1)(A) and (C) of the Act, as amended 7 U.S.C. § 6b(a)(1)(A) and (C).

51. The foregoing acts, omissions, and failures of Hales and Richardson occurred within the scope of their employment, office or agency with Bentley. Therefore, Bentley is liable as a principal for these acts, omissions, and failures committed by Hales and Richardson and their other employees, agents and representatives, which constitute a violation of Section

2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2.

52. Each act of misrepresentation or omission of material facts, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(1)(A) and(C) of the Act, as amended 7 U.S.C. § 6b(a)(1)(A) and(C).

COUNT II

Violations of Section 4b(a)(1)(B) of the Act, 7 U.S.C. § 6b(a)(1)(B) Fraud By False Statements

53. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

54. Section 4b(a)(1)(B) of the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(1)(B), 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 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 . . . to willfully 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 . . .

55. As set forth above, Defendants violated Section 4b(a)(1)(B) of the Act by willfully making or causing to be made false reports or statements in connection with orders to make, or the making of any contract of sale of any commodity for future delivery,

56. Specifically, monthly account statements Defendants sent to participants and clients reported consistent monthly profits for the Bentley pool account and the clients' individual managed accounts when in fact Defendants' actual trading resulted in losses.

57. Hales and Richardson controlled Bentley, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bentley's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), both Hales and Richardson are liable for Bentley's violations of Section 4b(a)(1)(B) of the Act, as amended 7 U.S.C. § 6b(a)(1)(B).

58. The foregoing acts, omissions, and failures of Hales and Richardson occurred within the scope of their employment, office or agency with Bentley. Therefore, Bentley is liable as a principal for these acts, omissions, and failures committed by Hales and Richardson and their other employees, agents and representatives constituting violations of Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2.

59. Each act of falsifying and distributing false account statements to clients and participants, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(1)(B) of the Act, as amended, 7 U.S.C. §§ 6b(a)(1)(B).

COUNT III

Violations of Section 40(1) of the Act, 7 U.S.C. § 60(1) Fraud By a CTA, CPO and APs of a CPO

60. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

61. Section 40(1)(A) and (B) of the Act, 7 U.S.C. § 60(1)(A) and (B), prohibits CTAs, CPOs and APs of CTAs and CPOs from directly or indirectly employing any device, scheme or artifice to defraud any client, participant or prospective client or participant, or engaging in transactions, practices or a course of business which operate as a fraud or deceit

upon any client or participant or prospective client or participant by using the mails or other means or instrumentalities of interstate commerce.

62. As set forth above, during the relevant period, Bentley acted as a CPO by soliciting, accepting and receiving funds from participants while engaged in a business that is the nature of an investment trust, syndicate, or similar form of enterprise, for the purpose of, among other things, trading in commodity futures.

63. During the relevant period Hales acted as a CTA by engaging in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in contracts of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, in exchange for compensation or profit.

64. Beginning in or about July 2009 and continuing through August 2010, Bentley, while acting as a CPO, Hales, while acting as a CTA and an AP of Bentley, and Richardson, while acting as an AP of Bentley, violated Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B), by employing schemes or artifices to defraud clients and participants and prospective clients and participants and engaging in transactions, practices or a course of business which operated as a fraud or deceit upon clients or participants or prospective clients or participants by using the mails or other means or instrumentalities of interstate commerce. The fraudulent acts include, but are not limited to, the following: (i) soliciting investments through fraudulent misrepresentations and omissions regarding Defendants' past and current trading performance; (ii) issuing false statements to participants and clients; (iii) misappropriating funds received from participants and clients for the purpose of trading commodity futures; and

(iv) engaging in unauthorized trading by persuading clients and participants to allow Defendants to trade their funds through misrepresentations and material omissions regarding their actual trading success.

65. Hales and Richardson controlled Bentley, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bentley's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Hales and Richardson are liable for Bentley's violations of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B).

66. The foregoing acts, omissions, and failures of Hales and Richardson occurred within the scope of their employment, office or agency with Bentley; therefore, Bentley is liable as a principal for these acts, omissions, and failures committed by Hales and Richardson and their other employees, agents and representatives pursuant to Section 2(a)(1)(B) of the Act, as amended, 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2.

67. Each act of soliciting investments through fraudulent misrepresentations and omissions regarding Defendants' past and current trading performance, issuing false statements to participants and clients, misappropriating funds received from participants and clients for the purpose of trading commodity futures, and engaging in unauthorized trading while acting as a CTA and CPO and APs of a CPO during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B).

COUNT IV

Violation of Sections 4m(1) of the Act, 7 U.S.C. §§ 6m(1) Failure to Register as a CTA and a CPO

68. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

69. With certain exemptions and exclusions not applicable here, Section 4m(1) of the Act, 7 U.S.C. § 6m(1), makes it unlawful to use the mails or instrumentalities of interstate commerce to act as a CTA or CPO unless registered as such under the Act.

70. Hales acted as a CTA without the benefit of registration with the Commission as a CTA, and in connection with his CTA business, made use of the mails or other means or instrumentalities of interstate commerce. Therefore, Hales violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

71. Bentley acted as a CPO without the benefit of registration with the Commission as a CPO, and in connection with its CPO business, made use of the mails or other means or instrumentalities of interstate commerce. Therefore, Bentley violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

72. Hales and Richardson controlled Bentley, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Bentley's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Hales and Richardson are liable for Bentley's violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

73. The foregoing acts, omissions, and failures of Hales and Richardson occurred within the scope of their employment, office or agency with Bentley; therefore, Bentley is liable for as a principal for these acts, omissions, and failures committed by Hales and Richardson and their other employees, agents and representatives pursuant to Section 2(a)(1)(B) of the Act, as amended 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2.

74. Each use of the mails or other means or instrumentalities of interstate commerce in connection with Hales operation as a CTA and Bentley's operation as a CPO without proper registration, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

COUNT V

**Violation of Section 4k(2) of the Act, 7 U.S.C. §§ 6k(2)
Failure to Register as an AP and Permitting an Unregistered AP to Remain Associated in a
Capacity Requiring Registration**

75. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

76. With certain exemptions and exclusions not applicable here, it is unlawful for a person to be associated with a CPO as a partner, officer, employee, consultant, or agent, or a person occupying a similar status or performing similar functions, in any capacity that involves the solicitation of funds, securities, or property for participation in a commodity pool unless registered with the Commission as an AP of the CPO pursuant to Section 4k(2) of the Act, 7 U.S.C § 6k(2).

77. Section 4k(2) of the Act, 7 U.S.C. § 6k(2), also makes it unlawful for a CPO to permit such a person to become or remain associated with the CPO in any such capacity if the CPO knew or should have known that the person was not registered as an AP.

78. Hales and Richardson violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2), in that each acted as an AP of Bentley, a CPO, without the benefit of registration as an AP of a CPO.

79. Bentley violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2), in that, acting as a CPO, it allowed Hales and Richardson to act as its APs when it knew or should have known that Hales and Richardson were not registered as APs.

80. Each act by Hales and Richardson of soliciting funds, securities, or property for participation in a commodity pool while being associated with Bentley as a partner, officer, employee, consultant, or agent without being registered as APs of a CPO, and each act by Bentley of allowing Hales and Richardson to be associated with it in such a capacity when Bentley knew or should have known Hales and Richardson were was not registered as APs, is alleged as a separate and distinct violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2).

COUNT VI

Violations of Regulation 4.20(c): Commingling of Pool Funds

81. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

82. Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2010), prohibits any CPO from commingling the property of any pool that it operates or that it intends to operate with the property of any other person.

83. As set forth above, Here, Bentley commingled participant funds intended for investment in the Bentley pool account with Hales and Richardson's personal funds and the funds of others in bank and trading accounts in its name.

84. By this conduct, Bentley violated Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2010).

85. Each occasion that Bentley commingled participant funds with Hales' and Richardson's personal funds and the funds of others is alleged as a separate and distinct violation of Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2010).

VII. RELIEF REQUESTED

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

A. An order finding that Defendants violated Section 4b(a)(1)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A)-(C) and Sections 4o(1) and 4k(2) of the Act, 7 U.S.C. §§ 6o(1) and 6k(2), and that Bentley and Hales violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1), and that Bentley violated Regulation 4.20(c), 17 C.F.R. §4.20(c);

B. A statutory restraining order and an order of preliminary injunction pursuant to Section 6c(a) of the Act, as amended, 7 U.S.C. § 13c(a), restraining Defendants and all persons or entities insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants, who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants, wherever located, including all such records concerning Defendants' business operations;

2. Refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants, wherever located, including all such records concerning Defendants' business operations; and
3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, including, but not limited to, all funds, personal property, money or securities held in safes or safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account, whether domestic or foreign, held by, under the control of, or in the name of the Defendants.

C. Orders of preliminary and permanent injunction enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants, who receive actual notice of such order by personal service or otherwise, from engaging, directly or indirectly:

1. In conduct in violation of Section 4b(a)(1)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(1)(A)-(C) and Sections 4o(1), 4m(1) and 4k(2) of the Act, 7 U.S.C. §§ 6o(1), 6m(1), 6k(2), and Regulations 4.20(c);

2. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a;
3. Entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Commission Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2011)) (“commodity options”), security futures products, and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (“forex contracts”)), for their own personal or proprietary account or for any account in which they have a direct or indirect interest;
4. Having any commodity futures, options on commodity futures, commodity options, security futures products, and/or forex contracts traded on their behalf;
5. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, security futures products, and/or forex contracts;
6. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, security futures products, and/or forex contracts;

7. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011); and
8. Acting as a principal (as that term is defined in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011)), agent or any other officer or employee of any person (as that term is defined in Section 1a of the Act, as amended, to be codified at 7 U.S.C. § 1a) registered, exempted from registration or required to be registered with the Commission, except as provided for in Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011).

D. An order directing that Defendants make an accounting to the Court of all of (i) Defendants' assets and liabilities, together with all funds Defendants received from and paid to pool participants, clients or any other persons in connection with futures transactions or purported futures transactions, including the names, mailing addresses, email addresses, and telephone numbers of any such persons from whom Defendants received such funds from July 1, 2009 to the date of such accounting, and (ii) all disbursements for any purpose whatsoever of funds received from pool participants, clients and other persons, including salaries, commissions, fees, loans, and other disbursements of money and property of any kind, from July 1, 2009 to and including the date of such accounting;

E. An order requiring Defendants immediately to identify and provide an accounting of all assets and property that they currently maintain outside the United States, including, but not limited to, all funds on deposit in any financial institution, futures commission merchant, bank, or savings and loan accounts held by, under the control of, or in the name of Defendants, or in which any such person or entity has a beneficial interest of any kind, whether jointly or otherwise, and requiring Defendants to repatriate all funds held in such accounts by paying them to the Clerk of the Court, or as otherwise ordered by the Court, for further disposition in this case;

F. An order requiring Defendants, and any of their successors, agents, employees or assigns, to disgorge to the Commission all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices that constitute violations of the Act as described herein, including pre- and post-judgment interest;

G. An order directing Defendants, and any of their successors, agents, employees or assigns, 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 participants or clients whose funds were received by Defendants as a result of the acts and practices that constitute violations of the Act as described herein;

H. An order requiring Defendants to make restitution by making whole each and every participant and client or other person or entity whose funds were received or utilized by them in violation of the provisions of the Act as described herein, including pre- and post-judgment interest;

I. An order requiring Defendants to pay civil monetary penalties under the Act, to be assessed by the Court, in amounts of not more than the higher of \$140,000 for each violation of the Act occurring on or after October 22, 2008 or triple the monetary gain to Defendants for each violation of the Act described herein, plus post-judgment interest;

J. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

K. Such other and further relief as this Court deems appropriate.

Date: May 2, 2012

Respectfully Submitted By,

/s/ Brigitte Weyls



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