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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

U.S. COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

ALOHA TRADING COMPANY,  
INC., PERRY JAY GRIGGS and  
RACHELLE GRIGGS

Defendants.

Civil Action No.

CV10 00631 SOM  
BMK

COMPLAINT FOR INJUNCTIVE  
RELIEF, CIVIL MONETARY  
PENALTIES, AND OTHER  
EQUITABLE RELIEF;  
SUMMONS IN A CIVIL ACTION

Summary

1. Beginning in or about 2005 and continuing through late 2009,  
defendant Aloha Trading Company ("Aloha"), through its officers, agents and

other persons acting for it, including defendants Perry Jay Griggs and Rachelle Griggs, as well as Perry Griggs and Rachelle Griggs individually, fraudulently solicited money from members of the general public for participation interests in a commodity pool that purportedly was to trade commodity futures contracts. In fact, Aloha, Perry Jay Griggs and Rachelle Griggs (collectively, "Defendants") operated a classic Ponzi scheme. They succeeded in soliciting over \$3 million in investments from participants, of which they misappropriated approximately \$1 million for personal uses, including payments for luxury car leases, the rental of a home in Hawaii, the purchase of jewelry, and the chartering of a private jet. Defendants also misappropriated approximately \$1.1 million to pay "returns" on the investments made by participants in their Ponzi scheme.

2. This scheme began while Perry Griggs was serving a federal prison sentence for wire fraud and money laundering. While incarcerated on these criminal charges, Perry Griggs solicited investments from fellow prisoners while his wife, Rachelle Griggs, solicited investments from families of prisoners and other members of the general public. Because the prison where Perry Griggs was incarcerated housed many inmates from Hawaii, many of Defendants' victims resided in Hawaii.

3. Perry and Rachelle Griggs both claimed that Perry Griggs was an expert commodity trader and that participants' funds would be used to trade

commodity futures. In fact, he was not a successful commodity trader. Both individual Defendants promised enormous returns in the form of monthly payments for a determined length of time (usually five years), and a lump sum payment of as much as \$3 million at the end of the time period. Both individual Defendants convinced many of the individuals they solicited to refinance their homes and invest the proceeds with Defendants. Other participants liquidated retirement accounts and invested with Defendants.

4. Defendants pooled the funds they received from participants and deposited a fraction of those funds in commodity futures trading accounts that they controlled. Defendants lost 83% of the money they deposited in those accounts trading futures contracts. Perry and Rachelle Griggs also misappropriated some of the funds for other unsuccessful business ventures in which they were involved and misappropriated other funds for personal use.

5. Aloha made monthly payments to their investors for a period of time, with Perry and Rachelle Griggs claiming that the payments were returns from Perry Griggs' successful commodity trading. In fact, these payments were simply funds obtained from the same or other participants.

6. By virtue of this conduct and the conduct further described herein, Defendants have engaged in conduct in violation of Sections 4b(a)(2)(i) and (iii) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 6b(a)(2)(i) and (iii) (2006), and

Sections 4b(a)(1)(A) and (C), 4k(2), 4m, and 4o(1)(A) and (B) of 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), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), 6k(2), 6m, and 6o(1)(A) and (B).

7. Accordingly, pursuant to Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, the Commodity Futures Trading Commission (“Plaintiff”, “CFTC” or “Commission”) brings this action to enjoin the unlawful acts and practices of Defendants. In addition, Plaintiff seeks disgorgement of all benefits received by Defendants, restitution, rescission, civil monetary penalties, and such other equitable relief that the Court may deem necessary or appropriate.

#### **Jurisdiction and Venue**

8. The Court has jurisdiction over this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. §13a-1, which provides that, whenever it shall appear to the Commission that any person has engaged in, is engaging in, or is about to engage in any act or practice that constitutes a violation of any provision of the Act or any rule, regulation, or order promulgated

thereunder, the Commission may bring an action against such person to enjoin such practice or to enforce compliance with the Act.

9. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, as amended, to be codified at, 7 U.S.C. §13a-1(e), because Defendants are found in, inhabit, or transact business in this District, or the acts and practices in violation of the Act occurred, are occurring, or are about to occur within this District, among other places.

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

#### Parties

11. The U.S. Commodity Futures Trading Commission is an independent federal regulatory agency charged by Congress with the responsibility for administering and enforcing the provisions of the Act, as amended, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission's Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2010).

12. Perry Jay Griggs is an individual whose most recent known address was in Las Vegas, Nevada. He left that address sometime around January 2010. His present whereabouts are unknown. Perry Griggs has never been registered with the Commission in any capacity.

13. Rachelle Griggs is Perry Griggs' wife. She maintained an address in Las Vegas, Nevada until around January 2010. Her present whereabouts are unknown. She has never been registered with the Commission in any capacity.

14. Aloha Trading Company, Inc. is a Nevada corporation incorporated by Rachelle Griggs in 2005 with a principal place of business in Las Vegas, Nevada. It ceased operations in or about January 2010. Rachelle Griggs was the sole officer and director and she, along with Perry Griggs, controlled Aloha's operations. Aloha has never been registered with the Commission in any capacity.

#### **Other Relevant Individuals and Entities**

15. Kapua Keolanui ("Keolanui") resides in Honolulu, Hawaii. She has never been registered with the Commission in any capacity. Under the direction of Perry and Rachelle Griggs, Keolanui solicited persons residing in Hawaii to invest in commodity futures.

16. Paradise Trading, LLC ("Paradise") is a Nevada limited liability corporation formed in 2006. Rachelle Griggs and Keolanui were both directors and part-owners of Paradise and they, along with Perry Griggs, controlled Paradise's operations. Paradise ceased operations in or about January 2010. ~~Paradise has never been registered with the Commission in any capacity.~~

### Statutory Background

17. Section 1a(5) of the Act, as amended, to be codified at 7 U.S.C. § 1a(5) (2006), defines a Commodity Pool Operator (“CPO”) as any person engaged in the business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or 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 or derivatives transaction execution facility.

18. Prior to being amended, Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), made it unlawful for any person to (i) cheat or defraud or attempt to cheat or defraud, or (iii) willfully deceive or attempt to deceive by any means whatsoever other persons in or in connection with orders to make, or the making of, contracts of sale of commodities, for future delivery, made, or to be made, for or on behalf of such other persons where such contracts for future delivery were or may have been 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.

19. Similarly, Section 4b(a)(1)(A) and (C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), prohibit 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 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 any other 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 the other person.

20. Commission Regulation 1.3(aa)(3), 17 C.F.R. §1.3(aa)(3) (2010), defines an Associated Person (“AP”), with certain qualifications, as a natural person associated with any CPO as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves: (i) the solicitation of funds, securities, or property for a participation in a commodity pool; or (ii) the supervision of any person or persons so engaged.

21. Section 4m(1) of the Act, as amended, to be codified at 7 U.S.C. § 6m(1), with certain exceptions, prohibits anyone acting as a CPO from making



use of the mails or any means or instrumentality of interstate commerce in connection with its business unless registered with the Commission as a CPO.

22. Section 4k(2) of the Act, 7 U.S.C. §6k(2), provides that it shall be unlawful for any person to be associated with a CPO as:

a partner, officer, employee, consultant or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities or property for participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission as an associated person ... of such commodity pool operator.

Section 4k(2) of the Act, as amended, to be codified at 7 U.S.C. § 6k(2). Section 4k(2) further provides that it shall be unlawful for a CPO to “permit such person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered ....”

23. Under Sections 4o(1)(A) and (B) of the Act, as amended, to be codified at 7 U.S.C. §§ 6o(1)(A) and (B), CPOs and their APs may not employ any device, scheme or artifice to defraud any participant or prospective participant; or engage in any transaction, practice or course of business that operates as a fraud or deceit upon any participant or prospective participant.

## Facts

### A. Background

24. In August 2003, Perry Griggs was sentenced to a prison term of 96 months after pleading guilty to charges of wire fraud and money laundering in a criminal prosecution captioned *USA v. Perry Jay Griggs*, No. EDCR 02-05-RT (C.D. Cal.). These charges arose out of a scheme in which he solicited funds for investment in coffee futures, claiming that he had inside information that guaranteed 100% returns on the investments. He did not, in fact, invest any of the funds in futures; instead, he misappropriated the funds for personal expenses and to pay off other investors. As part of that sentence, Perry Griggs was ordered to pay restitution of over \$3 million to 47 individual victims.

25. Perry Griggs began serving his sentence at the federal prison camp at Nellis Air Force Base ("Nellis") in Las Vegas, Nevada, on October 20, 2003. At or about the same time, Rachelle Griggs moved to Las Vegas.

26. Soon after arriving at Nellis, Perry Griggs began soliciting investments from fellow prisoners. At the same time, Rachelle Griggs began soliciting investments from inmates' family members, whom she met during her visits to the prison, as well as other members of the general public. Many of the individuals solicited by Perry and Rachelle Griggs were from Hawaii.

**B. Fraudulent Operation of Aloha Trading Company, Inc.**

27. In June 2005, Perry and Rachelle Griggs formed Aloha, listing Rachelle Griggs as the sole officer and director. In July 2005, Rachelle Griggs opened a commodity futures trading account on behalf of Aloha with Man Financial, Inc. (the "Aloha Account"). Rachelle Griggs also signed agreements on behalf of Aloha, communicated with Aloha's participants and controlled Aloha's bank accounts.

28. To induce prospective participants to invest money with them, Both Perry and Rachelle Griggs claimed that Perry Griggs was a multi-millionaire expert in commodity futures trading. Both individual Defendants convinced participants to refinance their mortgages or liquidate their retirement savings in order to invest with Aloha's commodity futures trading program. In truth, Perry Griggs had no prior success with commodities trading and was not wealthy.

29. Both Perry and Rachelle Griggs both told prospective participants that their investments carried no risks and that profits were guaranteed.

30. Both Perry and Rachelle Griggs told some participants that Perry Griggs would trade commodity futures contracts with participants' funds, and his trading would generate such enormous returns that Aloha could make guaranteed monthly payments to participants, in addition to a lump payment of as much as \$3 million at the end of the investment term.

31. Other prospective participants who were asked to make smaller investments were promised by both individual Defendants returns of 25% within three to four months, along with full refunds of their principal.

32. Both Perry and Rachelle Griggs told participants and prospective participants that Perry Griggs was serving time for tax offenses instead of wire fraud and money laundering in connection with a Ponzi scheme. Neither Perry nor Rachelle disclosed to any participant or prospective participant the material fact that Perry Griggs had been ordered to pay over \$3 million in restitution to victims of his earlier commodity fraud scam.

33. Both Perry and Rachelle Griggs omitted other material information in their solicitations of prospective participants by failing to disclose that (a) none of the Defendants were registered with the Commission in any capacity; (b) only a fraction of the funds participants gave Defendants would actually be invested in commodities; (c) Perry and Rachelle Griggs would misappropriate much of the remaining funds; and (d) any returns that a participant received would be paid from the participant's own deposit or deposits made by other participants, and not from profits from trading commodity futures contracts.

34. Both Perry and Rachelle Griggs knew that the statements and omissions in paragraphs 27-33 were fraudulent at the time that they made them, and they made them with the purpose of cheating, defrauding, and willfully

deceiving participants in connection with the trading of commodity futures contracts.

35. While he was incarcerated, Perry Griggs executed trades in the Aloha Account via the Internet and/or on a telephone, using funds Defendants had solicited. Perry Griggs also directed Rachelle Griggs to execute certain trades in the Aloha Account.

36. In furtherance of their fraudulent scheme, Defendants made use of the U.S. Mails to, among other things, (a) mail several investment receipts from Las Vegas to a participant in Hawaii in February and March 2006, (b) mail a purported investment statement from Las Vegas to a participant in Hawaii in May 2006, (c) receive a \$200,000 investment check mailed by a participant in Hawaii to Las Vegas in July 2006, and (d) receive two investment checks, totaling \$30,000, mailed by a participant in California to Las Vegas in October 2008.

**C. Fraudulent Operation of Paradise Trading, LLC**

37. In 2006, Rachelle and Perry Griggs convinced Keolanui, whose husband was incarcerated with Perry, to form a Hawaii-based commodity futures investment company for the purposes of marketing an identical investment program to Keolanui's friends and family. To that end, Keolanui and Rachelle Griggs formed Paradise in late 2006. Both Keolanui and Rachelle Griggs were

listed as directors of Paradise, and Rachelle Griggs was a 51% owner of the company.

38. Under the direction of Rachelle and Perry Griggs, and based on the statements they made to her, Keolanui solicited investments from her friends and family. Keolanui told prospective participants that the investment she was marketing had no risk, and was guaranteed to make a profit, just as she had been told by Rachelle and Perry Griggs. Keolanui then sent the majority of the funds she received to Rachelle and Perry Griggs for trading commodity futures.

39. Under the direction of Perry and Rachelle Griggs, Keolanui also met personally with several prospective Aloha participants living in Hawaii and assisted them in making wire transfers of funds directly to Aloha.

**D. Defendants' Profits**

40. Paradise participants invested at total of over \$1 million in 2007 and 2008, approximately \$663,000 of which Keolanui wired to Aloha, believing that Defendants would use those funds to trade commodity futures contracts. Including those Paradise funds, Defendants received a total of approximately \$3 million from participants between 2005 and 2009. Most of those funds were deposited into Aloha's bank account via wire transfer.

41. Defendants used that \$3 million in the following way:

- a. \$467,000 was wired from Aloha to Paradise. Perry and Rachelle Griggs led Keolanui to believe that these funds represented the returns from successful commodities trades made by Perry Griggs; Keolanui used some of these funds to satisfy Paradise's obligations to its participants.
- b. \$775,000 was deposited into the Aloha Account in 2005 and 2006. Defendants sustained trading losses of 83% of these funds and withdrew \$130,000 in 2006 and 2007.
- c. Approximately \$1.1 million was paid as "returns" to participants of Aloha and Paradise.
- d. The remaining approximately \$1 million was misappropriated for Perry and Rachelle Griggs' own personal use, including payments for luxury car leases, the rental of a home in Hawaii, the purchase of jewelry, and the chartering of a private jet.

**E. The Scheme Collapses**

42. Perry Griggs was released from prison in September 2008. By late 2008, Paradise no longer had sufficient funds to satisfy all of the monthly payments that were due under its participant agreements. Shortly thereafter, Aloha also began to fail to make some of the monthly payments that were due under its participant agreements.

43. Perry Griggs began to communicate directly with Aloha and Paradise participants via email and telephone calls, repeatedly promising them that he would resume making their monthly payments as soon as he closed on a real estate deal in San Diego. These communications continued through the summer of 2009. The last payment to any participant of Aloha or Paradise was sent in or about September 2009.

44. At about the same time, Perry Griggs began promising Aloha and Paradise participants that he would send them their money in December 2009. Those promises continued through December. Near the end of December 2009, he promised several participants that money would be wired to them on January 5, 2010. No such wires were ever sent.

45. On or about January 5, 2010, Perry and Rachelle Griggs stopped responding to all attempts by Aloha and Paradise participants to contact them. They disappeared at around the same time, and their whereabouts are currently unknown.

## **VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

### **Count One**

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#### **Violations of Section 4b(a)(1)(i) and (iii) of the Act and Section 4b(a)(1)(A) and (C) of the Act, as amended: Fraud by Misappropriation, Misrepresentation and Omission**

46. Paragraphs 1 through 45 are re-alleged and incorporated herein.



47. Prior to being amended, Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), made it unlawful for any person to (i) cheat or defraud or attempt to cheat or defraud; or (iii) willfully deceive or attempt to deceive by any means whatsoever other persons in or in connection with orders to make, or the making of, contracts of sale of commodities, for future delivery, made, or to be made, for or on behalf of such other persons where such contracts for future delivery were or may have been 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.

48. Similarly, Section 4b(a)(1)(A) and (C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), prohibit 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 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 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 the other person.

49. As set forth above, from at least 2005 through December 2009, in or in connection with futures contracts made, or to be made, for or on behalf of other persons, Defendants cheated, defrauded or attempted to cheat or defraud other persons and willfully deceived or attempted to deceive other persons in connection with offering of, or entering into the commodity transactions alleged herein, for or on behalf of such persons, by (a) making material misrepresentations including but not limited to, falsely claiming that Perry Griggs was a multi-millionaire expert commodity trader, falsely claiming that funds deposited with Aloha were guaranteed safe, and promising enormous returns in the form of monthly and lump sum payments based on profitable commodity futures trading when they knew that the payments were simply taken from other participants' funds; and (b) failing to disclose that the funds were likely to be used to pay personal expenses for Perry and/or Rachelle Griggs, or to pay other investors and not to trade commodity futures contracts, the true nature of Perry Griggs' criminal history, that they were not registered with the Commission in any capacity, and (c) misappropriating funds invested by participants.

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

51. By this conduct, Defendants violated Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii) (2006), before June 18, 2008, and Defendants violated Section 4b(a)(2)(A) and (C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C) with respect to conduct on or after June 18, 2008.

52. The acts, omissions and failures of Perry and Rachelle Griggs, as described in this Count One, were committed within the scope of their employment with Aloha and, therefore, Aloha is liable for their acts, omissions and failures constituting violations of Section 4b(a)(2)(i) and (iii) of the Act (with respect to conduct prior to June 18, 2008) and Section 4b(a)(1)(A) and (C) of the Act, as amended (with respect to conduct on or after June 18, 2008), pursuant to Section 2(a)(1)(B) of the Act, as amended, to be codified at 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2010).

53. During the relevant time, Perry and Rachelle Griggs directly and indirectly controlled Aloha, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aloha's violations described in this Count One. Pursuant to Section 13(b) of the Act, as amended, to be codified at 7 U.S.C. § 13c(b), Perry and Rachelle Griggs are therefore liable for Aloha's violations described in this Count One to the same extent as Aloha.

54. Each misappropriation of funds and 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 Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), with respect to acts before June 18, 2008, and as a violation of Section 4b(a)(1)(A) and (C) of the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(1)(A) and (C), with respect to acts on or after June 18, 2008.

## COUNT TWO

### **Violations of Section 4o(1)(A) and (B) of the Act: Fraud by a CPO and its APs**

55. Paragraphs 1 through 45 are realleged and incorporated herein by reference.

56. Section 4o(1) of the Act, in relevant part, prohibits CPOs and their APs, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly (A) to employ any device, scheme or artifice to defraud any participant; or (B) to engage in any transaction, practice or course of business that operates as a fraud or deceit upon any participant.

57. Beginning in or about 2005 and continuing through as least December 2009, Perry and Rachelle Griggs, while acting as APs of a CPO, and Aloha, while acting as a CPO, violated Section 4o(1) of the Act, as amended, to be codified at 7 U.S.C. § 6o(1), in that they employed schemes or artifices to defraud pool

participants or prospective pool participants or engaged in transactions, practices or a course of business which operated as a fraud or deceit upon pool participants or prospective pool participants by using the mails or other means or instrumentalities of interstate commerce.

58. The use of the mails or other instrumentalities of interstate commerce included, but are not limited to: (a) making wire transfers to and from Aloha's bank account, (b) using the U.S. Mail to send investment receipts and statements from Las Vegas to participants in Hawaii, and (c) accepting an investment check mailed from Hawaii to Las Vegas, all in violation of Sections 4o(1)(A) and (B) of the Act.

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

60. The acts, omissions and failures of Perry and Rachelle Griggs, as described in this Count Two, were committed within the scope of their employment with Aloha and, therefore, Aloha is liable for their acts, omissions and failures constituting violations of Section 4o(1) of the Act, pursuant to Section 2(a)(1)(B) of the Act, as amended, to be codified at 7 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17 C.F.R. § 1.2 (2010).

61. During the relevant time, Perry and Rachelle Griggs directly and indirectly controlled Aloha and its employees, and did not act in good faith or

knowingly induced, directly or indirectly, the acts constituting Aloha's violations described in this Count Two. Pursuant to Section 13(b) of the Act, as amended, to be codified at 7 U.S.C. § 13c(b), Perry and Rachelle Griggs are therefore liable for Aloha's violations described in this Count Two to the same extent as Aloha.

62. Each misappropriation of funds and 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 4o(1)(A) and (B) of the Act.

### **COUNT THREE**

#### **Violation of Section 4m(1) of the Act: Acting as a CPO without Registration**

63. Paragraphs 1 through 45 are realleged and incorporated herein by reference.

64. Section 4m(1) of the Act, as amended, to be codified at 7 U.S.C. § 6m(1), prohibits anyone acting as a CPO from making use of the mails or any means or instrumentality of interstate commerce in connection with its business unless registered with the Commission as a CPO.

65. Aloha acted as a CPO by engaging in the business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and, in connection therewith, soliciting, accepting, or receiving from others, funds for the purpose of trading commodity futures. Aloha used the mails or other instrumentalities of

interstate commerce in connection with its activities as a CPO without the benefit of registration as a CPO, in violation of Section 4m(1) of the Act, as amended, to be codified at 7 U.S.C. §6m(1).

66. Perry and Rachelle Griggs directly or indirectly controlled Aloha and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aloha's violations alleged in this Count Three. Perry and Rachelle Griggs are therefore liable for Aloha's violations of Section 4m(1) of the Act, as amended, to be codified at 7 U.S.C. § 6m(1), pursuant to Section 13(b) of the Act, as amended, to be codified at 7 U.S.C. § 13c(b).

67. Each use by Defendants of the mails or any means or instrumentality of interstate commerce in connection with their business as a CPO without proper registration during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act, as amended, to be codified at 7 U.S.C. § 6m(1).

#### **COUNT FOUR**

**Violation of Section 4k(2) of the Act:  
Failure to Register as APs and  
Allowing Unregistered APs to Remain Associated with a CPO**

68. Paragraphs 1 through 45 are realleged and incorporated herein by reference.

69. Section 4k(2) of the Act, as amended, to be codified at 7 U.S.C. § 6k(2), requires that APs of CPOs are required to be registered with the Commission. Further, a CPO violates Section 4k(2) of the Act, as amended, to be codified at 7 U.S.C. § 6k(2), when it allows an unregistered AP to become or remain associated with the CPO when the CPO knew or should have known that the AP was not registered as such with the Commission.

70. Perry and Rachelle Griggs acted as APs when they engaged in their solicitation activities for Aloha. Because they engaged in their AP activities without the benefit of registration as APs of a CPO, Perry and Rachelle Griggs violated Section 4k(2) of the Act, as amended, to be codified at 7 U.S.C. § 6k(2).

71. Aloha violated Section 4k(2) of the Act, to be codified at 7 U.S.C. § 6k(2), by allowing Perry and Rachelle Griggs to act as unregistered APs of the company when it knew or should have known that they were not registered with the CFTC.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiff 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 Defendants violated: Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii) (2006) (with respect to conduct before June



18, 2010); Sections 4b(a)(1)(A) and (C) of the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(1)(A) and (C) (with respect to conduct on or after June 18, 2010); and Sections 4k(2), 4m and 4o(1)(A) and (B) of the Act, as amended, to be codified at 7 U.S.C. §§ 6k(2), 6m, and 6o(1)(A) and (B);

B. An order of permanent injunction prohibiting Defendants and any other persons or entities in active concert with them from engaging in conduct in violation of Sections 4b(a)(1)(A) and (C), 4k(2), 4m, and/or 4o(1)(A) and (B) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), 6k(2), 6m, and 6o(1)(A) and (B) ;

C. An order of permanent injunction prohibiting Defendants and any of their affiliates, agents, servants, employees, successors, assigns, attorneys and persons in active concert with them who receive actual notice of such order by personal service or otherwise, from engaging, directly or indirectly, in:

1. trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, as amended, to be codified at 7 U.S.C. § 1a(29);

2. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Commission Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2010)) (“commodity options”), and/or foreign currency (as described in Sections

2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (“forex contracts”) for their own personal account or for any account in which they have a direct or indirect interest;

3. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf;

4. 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, and/or forex contracts;

5. 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, and/or forex contracts;

6. 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) (2010);

7. acting as a principal (as that term is defined in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), agent or any other officer or

employee of any person or entity 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) (2010);

D. An order directing Defendants to pay civil monetary penalties under Section 6c of the Act, as amended, to be codified at 7 U.S.C. §9a, to be assessed by the Court separately against each of them, in amounts not more than the higher of \$130,000 for each violation occurring from October 24, 2004 through October 21, 2008 and \$140,000 for each violation occurring after October 22, 2008, or triple the monetary gain to Defendants for each violation of the Act;

E. An order directing Defendants to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices that constitute violations of the Act, as described here, and prejudgment interest thereon from the date of such violations;

F. An order directing Defendants to make restitution by making whole each and every participant in Aloha and Paradise whose funds were received or used by them in violation of the provisions of the Act as described herein, including pre-judgment interest;

G. 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 participants

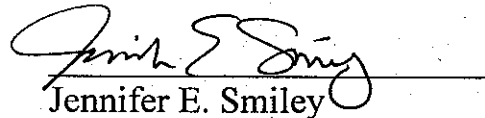
whose funds were received by them as a result of the acts and practices which constituted violations of the Act, as amended, as described herein;

H. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412 (2006); and

I. Such further relief as the Court deems appropriate.

Dated: October 28, 2010

Respectfully submitted,



Jennifer E. Smiley  
Joseph A. Konizeski  
Scott R. Williamson  
Rosemary Hollinger  
U.S. COMMODITY FUTURES  
TRADING COMMISSION  
Division of Enforcement  
525 West Monroe Street, Suite 1100  
Chicago, IL 60661  
(312) 596-0530 (Smiley)  
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[jkonizeski@cftc.gov](mailto:jkonizeski@cftc.gov)

UNITED STATES DISTRICT COURT

for the

District of Hawaii

U.S. COMMODITY FUTURES TRADING COMMISSION

Plaintiff

v.

ALOHA TRADING COMPANY INC.; PERRY JAY GRIGGS; RACHELLE GRIGGS

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Aloha Trading Company, Inc. c/o Nevada Corporate Advantage, LLC 2620 Regatta Drive Suite 102 Las Vegas, NV 89128

Perry Jay Griggs 11286 Winter Cottage Pl. Las Vegas, NV 89135

Rachelle Griggs 11286 Winter Cottage Pl. Las Vegas, NV 89135

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jennifer E. Smiley U.S. Commodity Futures Trading Commission 525 W. Monroe Street, Suite 1100 Chicago, IL 60661

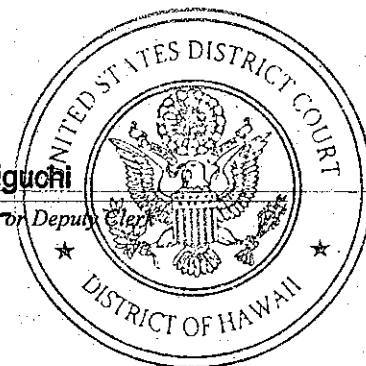
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SUE BEITIA CLERK OF COURT

Date: October 28, 2010

/s/ Erin Taniguchi

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: