

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
AT ALEXANDRIA

2010 MAR -5 P 3:40

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

FINANCIAL INVESTMENTS, INC.

Defendant.

CIVIL ACTION NO. 10 CV 214
GBL/TCB

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND FOR
CIVIL MONETARY PENALTIES UNDER THE COMMODITY EXCHANGE ACT**

The United States Commodity Futures Trading Commission (the "Commission"), by its attorneys, alleges as follows:

I. SUMMARY

1. As more fully set forth below, Defendant Financial Investments, Inc., ("FII" or "Defendant") has engaged in acts and practices that constitute violations of certain of the Commission's Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2009) promulgated under the Commodity Exchange Act (the "Act"), 7 U.S.C. §§ 1 *et seq.* (2006), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008).

2. Beginning in 2004, and until December, 2008 (the "relevant period"), FII, a commodity pool operator ("CPO") operated a commodity pool, Financial Investments, L.P. (the

“pool”). For fiscal years 2004, 2005 and 2006, FII repeatedly violated Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009), by failing to file the pool’s required yearly annual reports within 90 calendar days after the end of the pool’s fiscal year with the National Futures Association (“NFA”), the national self-regulatory organization for the United States futures and options industry.

3. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), the Commission brings this action to enjoin FII from engaging in acts and practices that violate the Regulations, as alleged herein. In addition, the Commission seeks from FII civil monetary penalties and such other equitable and ancillary relief as this Court may deem necessary or appropriate.

4. Unless enjoined by this Court, there is a reasonable and substantial likelihood that Defendant will continue to engage in the acts and practices alleged in this Complaint or in similar acts and practices, as more fully described below.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which 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 any provision of the Act or any rule, regulation or order thereunder.

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

III. THE PARTIES

7. Plaintiff, U.S. Commodity Futures Trading Commission, is an independent federal regulatory agency charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2006), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2009). The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

8. Defendant, Financial Investments, Inc, is incorporated under the laws of Virginia and is located at 462 Herndon Parkway, Suite 205, Herndon, Virginia 20170. FII was registered as a CPO from December 19, 2005 until April 15, 2009. FII registered as a commodity trading advisor on February 4, 2009. FII has been a member of National Futures Association (“NFA”) since July 15, 2003.

IV. FACTS

9. For fiscal years 2004 and 2005, FII was a CPO required to be registered with the NFA. For fiscal year 2006 FII was a registered CPO. FII was the CPO that operated the pool.

10. FII was required to file and distribute annual reports for fiscal years 2004, 2005, and 2006 within 90 days after the end of the pool’s fiscal year (December 31) as required by Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009).

11. For fiscal year 2004, FII was required to distribute to pool participants and to file with the NFA the pool’s annual report no later than March 31, 2005. Despite this requirement, FII did not file the pool’s annual report for fiscal year 2004 until November 8, 2006.

12. For fiscal year 2005, FII was required to distribute to pool participants and to file with the NFA the pool's annual report no later than March 31, 2006. Despite this requirement, FII did not file the annual report for fiscal year 2005 until June 29, 2006.

13. For fiscal year 2006, FII was required to distribute to pool participants and to file with the NFA the pool's annual report no later than April 2, 2007. Despite this requirement, FII did not file the annual report for fiscal year 2006 until August 20, 2007.

14. The following table best demonstrates the facts:

Fiscal Year	Annual Report Date Due	Date Filing Requirements Met	Number of Days Late
2004	March 31, 2005	November 8, 2006	588
2005	March 31, 2006	June 29, 2006	90
2006	April 2, 2007	August 20, 2007	143

V.

VIOLATION OF COMMISSION REGULATIONS

COUNT I

**Violation of Regulation 4.22(c),
17 C.F.R. § 4.22(c) (2009):**

15. The allegations set forth in paragraphs 1 through 14 are re-alleged and incorporated herein.

16. Commission Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009), requires that each commodity pool operator registered or required to be registered under the Act must distribute an annual report to each participant in each pool that it operates, and must electronically submit a copy of the report and key financial balances from the report to the NFA pursuant to the electronic filing procedures of the NFA, within 90 calendar days after the end of the pool's fiscal year or the

permanent cessation of trading, whichever is earlier, but in no event longer than 90 days after funds are returned to pool participants.

17. As alleged in paragraphs 1 through 14, for Fiscal Years 2004, 2005 and 2006, FII failed to comply with the requirements of Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009), by failing to timely file the pool's annual report with the NFA.

18. Each untimely annual report filed with the NFA during the relevant time period is alleged as a separate and distinct violation of Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009).

VI. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to the Court's own equitable powers, enter:

- a. an order finding that Defendant violated Regulation 4.22(c) 17 C.F.R. § 4.22(c) (2009);
- b. a permanent injunction prohibiting Defendant from engaging in conduct in violation of Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009);
- c. an order assessing a civil monetary penalty against Defendant in the amount of not more than the higher of \$130,000 for each violation of Regulation 4.22(c), 17 C.F.R. § 4.22(c) (2009);
- d. an order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and,
- e. such other and further equitable and remedial ancillary relief as the Court may deem appropriate.

Dated: March 5, 2010

Respectfully submitted,



James W. Deacon
VSB No. 43984

Kathleen M. Banar (*pro hac vice pending*)
Ill. Bar No. 6200597

Kim G. Bruno (*pro hac vice pending*)
D.C. Bar No. 389899

Attorneys for U.S. Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street, N.W.
Washington, D.C. 20581
Tel: (202) 418-5326 (Deacon)
Tel: (202) 418-5335 (Banar)
Tel: (202) 418-5368 (Bruno)
Fax: (202) 418-5531
jdeacon@cftc.gov
kbanar@cftc.gov
kbruno@cftc.gov