

Lara Turcik (New York Attorney Reg. No. 4076758)  
Manal M. Sultan (New York Attorney Reg. No. 2738805)  
U.S. Commodity Futures Trading Commission  
140 Broadway, 19<sup>th</sup> Floor  
New York, NY  
*lturcik@cftc.gov*  
*msultan@cftc.gov*  
(646) 746-9739 (Turcik direct dial)  
(646) 746-9761 (Sultan direct dial)  
(646) 746-9940 (facsimile)

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

U.S. COMMODITY FUTURES TRADING COMMISSION,  Plaintiff,  v.  BRAD L. DEMUZIO, and DEMUZIO CAPITAL MANAGEMENT, LLC,  Defendants.	Case No. _____  COMPLAINT  JURY TRIAL DEMANDED
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**COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTION,  
CIVIL MONETARY PENALTIES AND OTHER EQUITABLE RELIEF**

Plaintiff U.S. Commodity Futures Trading Commission (“Commission”), by its  
attorneys, alleges as follows:

**I. SUMMARY**

1. From at least June 18, 2008 through November 2011 (“the Relevant Period”),  
Brad Lee Demuzio (“Demuzio”), through his company Demuzio Capital Management, LLC

(“DCM”) (collectively, “Defendants”), operated a Ponzi scheme in which they fraudulently solicited nearly \$1.8 million, which was primarily deposited into a pooled investment vehicle, for the purported purpose of trading leveraged or margined off-exchange foreign currency contracts (“Forex”). Less than a third of investors’ money was used to trade Forex, the rest was used for unauthorized purposes including payments to earlier investors and for Demuzio’s personal expenses. Overall, Defendants’ fraud caused investors to lose approximately \$900,000, of which approximately \$700,000 was misappropriated by the Defendants.

2. By August 2011, as the scheme began to unravel, Defendants attempted to conceal their fraud by falsely representing to investors that DCM’s funds had temporarily been frozen due to a purported Commission investigation. Defendants then fabricated several documents, fraudulently using an image of the official seal of the Commission (“Seal”), and attempted to pass these documents off to investors as official Commission documents.

3. On or about January 13, 2012, Demuzio confessed to an agent of the Federal Bureau of Investigations that he had knowingly made false statements to investors and fabricated Commission documents.

4. By virtue of this conduct and the further conduct described herein, Defendants were engaged, are engaging, or are about to engage in fraudulent acts and practices in violation of the Commodity Exchange Act (the “Act”), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 et seq., specifically Section 4b(a)(2)(A)-(C) of the

Act, as amended, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C) and Regulations 5.2(b), 17 C.F.R. § 5.2(b).

5. Additionally, beginning October 18, 2010, Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i), require that a person must be registered as a commodity pool operator (“CPO”) to operate or solicit funds, securities, or property for a pooled investment vehicle that is not an Eligible Contract Participant (“ECP”) as defined in Section 1a(12) of the Act, 7 U.S.C., and that engages in retail forex transactions.

6. Beginning on October 18, 2010 and continuing to the present, Defendants, acting as a CPO, solicited orders from non-ECPs in connection with forex transactions for a pooled investment vehicle that is not an ECP without registering with the CFTC, in violation of Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i).

7. Demuzio committed the acts described herein, within the scope of his employment or office, while acting as an official or agent for DCM. Therefore, DCM is liable under Section 2(a)(1)(B) of the Act, as amended, to be codified at 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2.

8. Demuzio is liable under Section 13(b) of the Act, as amended, to be codified at 7 U.S.C. § 13c(b), as a controlling person of DCM, for DCM’s violations of the Act and Regulations, because he controlled DCM and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting DCM’s violations.

9. Accordingly, pursuant to Sections 2(c)(2)(C) and Section 6c of the Act, as amended, to be codified at 7 U.S.C. §§ 2(c)(2)(C) and 7 U.S.C. §§ 13a-1, the Commission brings this action to enjoin such acts and practices and compel compliance with the Act. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

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

## II. JURISDICTION AND VENUE

11. Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder.

12. The Commission has jurisdiction over the conduct and transactions at issue in this case pursuant to Section 2(c)(2)(C) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C).

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

### III. PARTIES

14. Plaintiff U.S. Commodity Futures Trading Commission is an independent federal regulatory agency that is charged by Congress with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et seq.*, and the Regulations, 17 C.F.R. §§ 1.1 *et seq.*

15. Defendant Brad L. Demuzio is an individual with a last-known address in Chubbuck, Idaho.

16. Demuzio has never been registered with the Commission in any capacity.

17. Defendant Demuzio Capital Management, LLC (“DCM”) is an Idaho, Limited Liability Company formed in or about December, 2007 with a last known place of business in Chubbuck, ID. Demuzio is responsible for the operations of DCM and is the sole member and registered agent for the company.

18. Neither Demuzio nor DCM is a financial institution, registered broker or dealer, insurance company, financial holding company or investment bank holding company, and is not an associated person of such entities.

### IV. STATUTORY BACKGROUND

19. For the purposes of Part 5 of Commission’s Regulations regarding retail foreign currency transactions, 17 C.F.R. §§ 5.1-5.25, a “commodity pool operator” is defined in Regulation 5.1(d)(1), to be codified at 17 C.F.R. § 5.1(d)(1), as any person who operates or solicits funds, securities or property for a pooled investment vehicle that is not an ECP as defined in section 1a of the Act, in connection with forex transactions.

20. For the purposes of Part 5 of Commission’s Regulations regarding retail foreign currency transactions, 17 C.F.R. §§ 5.1-5.25, a “retail foreign exchange dealer” (“RFED”) is defined in Regulation 5.1(h)(1), to be codified at 17 C.F.R. § 5.1(h)(1), as any person that is, or

offers to be, the counterparty to a retail forex transaction, except for a person described in subparagraph (aa), (bb), (cc)(AA), or (dd) of Section 2(c)(2)(B)(i)(II) of the Act.

21. A futures commission merchant (“FCM”) is defined, in relevant part, in Section 1a(20) of the Act, as amended, to be codified at 7 U.S.C. § 1a(20), as an individual, association, partnership, corporation or trust that solicits or accepts orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

22. An ECP, as relevant here, is an entity with total assets exceeding \$10 million or an individual who has total assets in an amount in excess of (i) \$10 million or (ii) \$5 million and who enters into the transaction in order to manage risk. See Section 1a(12) of the Act, as amended, to be codified at 7 U.S.C. § 1a(12).

23. Demuzio, DCM, and most or all of the DCM Investors are not an ECP, as ECP is defined in the Act.

## **V. FACTS ESTABLISHING DEFENDANTS’ VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

### **A. Defendants made false and misleading representations to solicit investors for DCM**

24. During Relevant Period, Demuzio by and through DCM (“Defendants”) obtained approximately \$1.55 million (“the DCM Investments”) from at least 16 investors (“DCM Investors”) for the purpose of trading forex.

25. Demuzio induced several of the DCM Investors to enter into an agreement with DCM, pursuant to which a new partnership company was purportedly formed, with DCM and the individual DCM Investor as the only partners (“DCM Partnership Agreements”).

26. Pursuant to the terms of these DCM Partnership Agreements, each DCM Investor would make a capital contribution to the partnership. Each contribution was deposited into one of several bank account held by DCM during the Relevant Period, where it was pooled with contributions from other DCM Investors. Demuzio was the only signatory on the DCM bank accounts and the only signatory for DCM on the DCM Partnership Agreements.

27. In at least three of the DCM Partnership Agreements, DCM falsely represented to DCM Investors that DCM and the DCM Investor would contribute an equal amount of money to be traded, although when the agreements were signed Demuzio knew or recklessly disregarded that neither he nor DCM intended to contribute an equal amount of money to be traded. Contrary to DCM's representations in the DCM Partnership Agreements, DCM did not invest its own money in an amount equal to the amount contributed by the DCM investor.

28. Defendants represented to the DCM Investors that their contributions to the partnership would be used to engage in Forex transactions, under Demuzio's management, and any that profits would be evenly shared between Demuzio and that individual DCM Investor.

The DCM Partnership Agreements stated:

Purpose of Partnership: The purposes of the partnership are: To generate capital return on investment by trading in the foreign currency markets.

29. Defendants did not disclose to DCM Investors that only a small portion, if any, of the DCM Investor's contributions would be used for trading and that some or all of the contribution would be used to repay other DCM Investors or for Demuzio's own personal benefit.

**B. Defendants Concealed from the DCM Investors that its Limited Trading Activity was Unprofitable**

30. During the Relevant Period, Defendants held trading accounts with two different firms, registered with the CFTC as FCMs and RFEDs; each account was held the name of DCM.

31. Neither of the firms holding DCMs trading accounts is a financial institution, registered broker or dealer registered under section 15(b) or 15C of the Securities Exchange Act of 1934 (*15 U.S.C. 78o(b), 78o-5*), insurance company, financial holding company, investment bank holding company, or the associated person of a registered broker or dealer, registered broker or dealer, insurance company, financial holding company, or investment bank holding company.

32. The forex agreements, contracts or transactions Demuzio entered into on behalf of DCM were entered into on a leveraged or margined basis and were not a security that is not a security futures product; or a contract of sale that results in actual delivery within 2 days; or creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business. Rather, these forex contracts purportedly remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an enforceable obligation to do so).

33. During the Relevant Period, Defendants transferred approximately \$268,000 of the DCM Investments to forex trading accounts. No other funds were transferred into these accounts.

34. Defendants lost approximately \$179,000 of DCM Investments through retail foreign currency transactions, on a margined or leveraged basis, and related fees and expenses.



Defendants' trading included the US Dollar against the Euro, Japanese Yen, Australian Dollar, and Canadian Dollar.

35. Notwithstanding DCM's trading losses, Defendants knowingly or recklessly represented to DCM Investors that their investments were earning a profit. For example, several DCM Investors were paid money represented to them by Defendants as profits, which, in reality, came from new contributions made by other DCM Investors.

36. Based on representations that their initial investments had been profitable, several DCM Investors increased their investments, contributing additional money into the DCM bank accounts. Additionally, based on the misrepresentations about Demuzio's trading performance, in or about May 2011, at least two DCM Investors opened individual forex accounts in their own names with Demuzio as the trading advisor ("Managed Accounts"). In these Managed Accounts, these investors made investments totaling at least \$250,000. Through Demuzio's trading of these accounts, these investors lost at least an additional \$22,000, combined.

37. Defendants sent DCM investors monthly reports in which Defendants falsely reported profitable trading results. For example,

- a. on or about August 3, 2010, Defendants sent an email to at least one DCM Investor with the subject "July Report," stating in part:

Pretty slow ending to the month. We finished with an additional half a percent for a total of 4% for July. 2% for each of us. Not great, but pretty steady for a summer month.

Overall the market is are [sic] trading rather sporadically. This is mostly because of low summer trading volume. We have however found some nice trades that have had low risk. Our risk to reward ratio has been much better than in previous times. This makes me sleep better.

b. on or about Sept. 2, 2010, Defendants sent an email to at least one DCM

Investor with the subject "August Report", stating in part:

We ended the month with a steady 4% total. 2% for each of us. This is a good spot for us. We made many fewer trades than normal, but were able to take larger moves each time.

38. Contrary to Defendants' reports to investors, during July 2010, DCM's trading accounts incurred losses of approximately 77%. Statements from DCM's trading accounts do not reflect any trading activity during August 2010.

#### **C. Defendants Misappropriated DCM Investors' Funds**

39. During the Relevant Period, Defendants used the DCM Investments to make payments back to certain DCM Investors, including payments of fictitious profits. Defendants also used DCM Investor funds for Demuzio's personal use including cash withdrawals, credit card payments, and living expenses such as mortgage payments, groceries, gas, convenience stores, restaurants, and retail shopping.

40. During the Relevant Period, Defendants misappropriated approximately \$700,000 from the DCM Investments for improper and unauthorized

#### **D. Defendants Fabricated Government Documents To Cover Up Their Fraud**

41. During the summer of 2011, certain DCM Investors had requested that DCM return their capital with the purported profits that Defendants had falsely represented to them. .

42. During August 2011, Defendants intentionally concealed from these DCM Investors that there had been no trading profits and their contributions had been depleted through trading losses and misappropriation. Instead, Defendants issued checks to investors in the amounts falsely represented as the value of the investors' accounts; these checks were returned for insufficient funds.

43. In an effort to explain the inability to return these DCM Investors' funds and delay further requests, in August 2011, Defendants falsely informed at least these DCM Investors that the Commission had frozen DCM's funds in the course of an investigation.

44. Defendants fabricated at least three documents to appear as though they had been written on behalf of the Commission (the "Fabricated Documents") and provided these Fabricated Documents to these DCM Investors.

45. On each of the Fabricated Documents, Defendants fraudulently and wrongfully applied the Commission Seal and also fraudulently and wrongfully copied the signature block of a Commission official. For example:

a. a letter bearing the date August 5, 2011, addressed to "Mr. Demuzio" and purporting to have been signed by the CFTC Deputy General Counsel falsely stated, in part: "the CFTC has opened an investigation into your activities. This investigation requires the temporary freezing of your current assets. The investigation along with the freezing of your assets is intended to be temporary";

b. a second letter bearing the date October 6, 2011, addressed to "Mr. Demuzio" and purporting to have been signed by the Commission Deputy General Counsel stated, in part: "This letter is being sent to express our appreciation to you for your cooperation during the investigation . . . . We are also writing to confirm to you that a letter of resolution will be sent to you no later than Friday October 14, 2011";

c. a third document, fashioned as an "Order of Dismissal," bearing the date October 11, 2011 and purporting to have been signed by a Commission Administrative Law Judge falsely stated: "At the parties' request, the complaint is

DISMISSED with prejudice and this proceeding is TERMINATED in its entirety.  
IT IS SO ORDERED.”

46. None of the Fabricated Documents was created or authorized by the Commission and each contained false statements.

**E. Demuzio Failed to Register With The CFTC**

47. By at least October 18, 2010, Demuzio acted as a CPO, in that he operated or solicited funds for a pooled investment vehicle, in the DCM accounts, that is not an ECP and that engaged in retail forex transactions.

48. Although Demuzio was required, as of October 18, 2010, to register with the CFTC to trade forex on behalf of pool participants, Demuzio has not done so.

**F. Demuzio's Admissions**

49. On or about January 13, Demuzio signed a statement (“Signed Statement”), witnessed by an FBI agent, confirming that he had entered into several partnerships to trade forex and, during the course of the partnerships had made false statements to his partners.

50. In his Signed Statement, Demuzio admitted:

“The first and most important mistake that I have made has been to lie to each of these individuals, all of whom are close friends and family. I have lied to them about the money we made and how we made it.”

51. Demuzio further admitted in his Signed Statement that when he was unable to return money to his partners, he:

“engaged in a series of lies that culminated in my making letter [sic] from the cftc showing that I could not return their money because of an investigation.”

**G. Demuzio is a controlling person of DCM**

52. Demuzio had complete control over Defendant DCM. Demuzio formed DCM, was the sole signatory on all relevant accounts and has been responsible for its operations throughout the Relevant Period.

**VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND REGULATIONS**

**COUNT I**

**Fraud**

**Violations of Section 4b(a)(2)(A)-(C)**

53. The allegations set forth in paragraphs 1 through 52 are realleged and incorporated herein by reference.

54. Section 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(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 for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market – (A) to cheat or defraud or attempt to cheat or defraud the other person; (B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record; [or] (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contact for or, in the case of paragraph (2), with the other person.

55. Pursuant to Section 2(c)(2)(C)(iv) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C)(iv), Sections 4b(a)(2)(A)-(C) of the Act, as amended by the CRA apply to Defendants' forex transactions, agreements or contracts.

56. Regulation 5.2(b), 17 C.F.R. 5.2(b) makes it unlawful:

for any person, in or in connection with any retail forex transaction: (1) To cheat or defraud or attempt to cheat or defraud any person; (2) Willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or (3) Willfully to deceive or attempt to deceive any person by any means whatsoever.

57. By the conduct alleged herein, Demuzio, directly and by and through DCM, cheated or 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 margined or leveraged foreign currency transactions alleged herein, for or on behalf of such persons, by fraudulently soliciting prospective and existing investors by, among other things, making material misrepresentations, including but not limited to: (i) misrepresenting that all funds invested by the DCM Investors would be invested for the purpose of forex transactions; (ii) misrepresenting that forex trades executed in connection with the investments were profitable and that the DCM Investors were earning profits from the trading of their funds; and (iii) deceptively failing to disclose that funds deposited with DCM were not being used for trading but instead were being diverted to make payments for the return of capital or false profits to other DCM investors or for the personal expenses of Demuzio and his family.

58. Demuzio directly engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

59. Demuzio committed the acts of misappropriation and the making of false statements or omissions described above, within the scope of his employment or office for DCM. Therefore, DCM is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009), as principal for its agent's violations of Sections 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C) and Regulation 5.2(b), 17 C.F.R. 5.2(b).

60. Demuzio controlled DCM directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, DCM's acts constituting the violations alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Demuzio is liable as a controlling person for DCM's violations of Sections 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C). Each misappropriation, issuance of a false performance report, misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation by Demuzio and DCM of Sections 4b(a)(2)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C) and Regulation 5.2(b), 17 C.F.R. 5.2(b).

**COUNT II**  
**Failure to Register**  
**Violation of Section 2(c)(2)(C)(iii)(I)(cc) and Reg. 5.3**

61. The allegations set forth in paragraphs 1 through 52 are realleged and incorporated herein by reference.

62. Beginning on October 18, 2010 and continuing to the present, Defendants solicited or accepted orders from non-ECPs in connection with forex transactions, and acted as a CPO as defined in Regulation 5.1(d)(1), to be codified at 17 C.F.R. § 5.1(d)(1). Defendants engaged in this conduct without being registered as a CPO, as required by Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i), all in violation of Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i).

63. Each solicitation, acceptance of funds, or other act in furtherance of the operation of a pooled investment vehicle in connection with retail forex transactions since October 18, 2010 is alleged as a separate and distinct violation of Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as

amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i).

64. Demuzio engaged in the solicitation, acceptance of funds, and operation of a pooled investment vehicle as described above, within the scope of his employment or office for DCM. Therefore, DCM is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009), as principal for its agent's violations of Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i).

65. Demuzio controlled DCM directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, DCM's acts constituting the violations alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Demuzio is liable as a controlling person for DCM's violations of violation of Section 2(c)(2)(C)(iii)(I)(cc) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc), and Regulation 5.3(a)(2)(i), to be codified at 17 C.F.R. § 5.3(a)(2)(i).

## **VII. RELIEF REQUESTED**

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

a) An order finding that Defendants violated Sections 4b(a)(2)(A)-(C) and 2(c)(2)(C)(iii)(I)(cc) of the Act as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and 2(c)(2)(C)(iii)(I)(cc) and Regulations = 5.2(b) and 5.3(a)(2)(i), 17 C.F.R. §§ 5.2(b), and 5.3(a)(2)(i).

b) An order of preliminary and permanent injunction prohibiting Defendants and any of their agents, servants, employees, assigns, attorneys, and persons in active



concert or participation with any Defendant, including any successor thereof, from engaging, directly or indirectly in conduct in violation of Sections 4b(a)(2)(A)-(C) and 2(c)(2)(C)(iii)(I)(cc) of the Act as amended, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C) and 2(c)(2)(C)(iii)(I)(cc) and Regulations 5.2(b) and 5.3(a)(2)(i), 17 C.F.R. §§ 5.2(b) and 5.3(a)(2)(i).

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

- i) trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006));
- ii) entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in 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, 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;
- iii) having any commodity futures, options on commodity futures, commodity options, security futures products, and/or forex contracts traded on their behalf;
- iv) 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;

v) 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;

vi) 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 Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9); and

vii) acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9).

d) An order directing Defendants, as well as any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act, as amended, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

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

f) An order directing Defendants and any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between them and any of the customers whose funds were received by them as a result of the acts and practices which constituted violations of the Act, as amended, as described herein;

g) An order directing that Defendants and any successors thereof provide the Commission immediate and continuing access to their books and records, make an accounting to the Court of all of Defendants' assets and liabilities, together with all funds they received from and paid to DCM Investors, and other persons in connection with commodity futures transactions or purported commodity futures transactions, including the names, addresses and telephone numbers of any such persons from whom they received such funds from January 2007 to the date of such accounting, and all disbursements for any purpose whatsoever of funds received from commodity pool participants, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from January 2007 to and including the date of such accounting;

h) An order directing each Defendant and any successors thereof to pay a civil monetary penalty under the Act to be assessed by the Court, in the amount of not more than the higher of (1) triple the monetary gain to Defendant for each violation of the Act, as amended, and/or Regulations or (2) \$130,000 for each violation of the Act, as amended, and/or Regulations from October 23, 2004 through October 22, 2008, and \$140,000 for each violation of the Act, as amended, and/or Regulations on or after October 23, 2008, plus post-judgment interest;

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

Dated: April 11, 2012

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF U.S. COMMODITY  
FUTURES TRADING COMMISSION

Stephen J. Obie  
Associate Director/Regional Counsel



Manal Sultan  
Chief Trial Attorney

Lara Turcik  
Trial Attorney

Attorneys for Plaintiff  
UNITED STATES COMMODITY FUTURES  
TRADING COMMISSION  
Division of Enforcement  
140 Broadway, 19<sup>th</sup> floor  
New York, NY 10005  
Telephone: (646) 746-9700  
Fax: (646) 746-9940