

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

APR 19 2012

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

CRABAPPLE CAPITAL GROUP, LLC
and ROBERT A. CHRISTY,

Defendants.

1:12-CV-1346

**COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL MONETARY
PENALTIES, AND OTHER EQUITABLE RELIEF**

Plaintiff U.S. Commodity Futures Trading Commission (Commission) alleges
as follows:

I. SUMMARY

1. Since at least October 2008, and continuing through the present,
defendants Robert A. Christy (Christy) and his company Crabapple Capital Group,
LLC (Crabapple) have defrauded at least twenty individuals who contributed at least
\$1,311,000 to an investment pool operated by Crabapple that trades off-exchange
foreign currency contracts (forex).

2. Defendants have portrayed Christy as a forex expert and successful forex trader. Christy regularly has attended tradeshows aimed at individual investors, where he promotes himself as “one of the country’s leading experts in currency trading” and lectures on how individual investors can use forex to diversify their portfolios beyond bonds and equities. Defendants have portrayed Crabapple as a reputable and well-established investment firm, claiming that Crabapple has traded forex profitably since 2006 and is affiliated with a larger investment firm, the Christy Investment Group Ltd. (Christy Investment Group), which purportedly has over \$50 million in assets under management.

3. This portrait of defendants is a sham. In reality, Crabapple has been used to defraud pool participants and enrich defendants at their expense. Instead of using pool participants’ money to trade forex, defendants used it to pay for, among other things, Christy’s travel, restaurant meals, groceries, and other personal expenses, as well as payments to members of Christy’s family. Defendants told pool participants that Crabapple charged only a 1 percent management fee per year (based on the total value of the pool participants’ assets in the pool) and in some cases, an incentive fee. The amounts defendants used for various business, marketing, and personal expenses far exceed any amount defendants may have been entitled to under

this advertised fee structure. In total, defendants have misappropriated at least \$810,376 of the money contributed by pool participants.

4. During meetings with prospective pool participants, defendants advertised a “conservative” forex investment strategy that targets annual returns of approximately 8 percent with a low risk of loss. Defendants touted their purported successful five-year performance history of trading forex and gave prospective customers marketing literature, including a formal disclosure document and monthly bulletins, which showed from 2006-2011: (a) average annual returns ranging from 15 percent to 20 percent; (b) a total of 55 profitable months compared to only 10 unprofitable ones; and (c) the highest monthly losses reaching only negative .74 percent.

5. Defendants fabricated this performance history. Between 2006 and 2011, defendants’ actual forex trading records show: (a) consistent and significant losses; (b) monthly trading losses in the vast majority of months in which defendants actively traded; and (c) monthly losses that frequently exceeded 20 or 30 percent. Defendants’ claims that Crabapple had been actively trading forex since 2006 and that the Christy Investment Group had over \$50 million in assets under management were likewise false.

6. Defendants have prepared and distributed to pool participants false monthly account statements. These false monthly account statements frequently show pool participants earning monthly profits on their investments, even in months when defendants were losing money in all of their forex trading accounts. These false monthly account statements also show Crabapple retaining only 1 percent of pool participants' investments as a management fee, even though defendants were diverting much larger amounts for their own use.

7. Defendants also attempted to keep their fraud hidden from the National Futures Association (NFA). During an examination that began in November 2011, defendants provided NFA with false accounting records that labeled money received from pool participants as "loan from Christy." Christy also signed a management representation letter to NFA on behalf of Crabapple which falsely certified that "[Crabapple] has not operated, nor does it currently operate any commodity/forex pools, and has not received any money from customers for this purpose." Then, on January 12, 2012, Christy sent a letter to NFA in which he falsely claimed that (a) he did not establish Crabapple until 2011; (b) all of the money deposited with Crabapple represented Christy's own funds; and (c) Crabapple was not currently operating a forex pool, but instead was managing trading accounts for only two clients.

8. On January 23, 2012, NFA instituted a Member Responsibility Action (MRA) against Crabapple and an Associate Responsibility Action (ARA) against Christy (collectively, MRA/ARA). The MRA/ARA, among other things, bars Christy and Crabapple “from soliciting or accepting any funds from customers or investors” and “from disbursing or transferring any funds over which they or any person acting on their behalf exercises control (including bank, trading and other types of accounts), without prior approval from NFA.” Since January 23, 2012, defendants have ignored the MRA/ARA by, among other things, continuing to deposit money received from pool participants into Crabapple’s checking account and expending funds without NFA’s prior approval.

9. By misappropriating pool participant funds; making false written and oral statements to pool participants and prospective pool participants regarding defendants’ past trading performance, customer account balances, and defendants’ history; and making false statements to NFA, defendants have engaged, are engaging, or are about to engage in acts and practices that violate various antifraud provisions of the Commodity Exchange Act (the Act), 7 U.S.C. §§ 1 *et seq.* (2006); the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, title XIII (the CFTC Reauthorization Act (CRA)), § 13102, 122 Stat. 1651 (effective June 18, 2008), 7 U.S.C. §§ 1 *et seq.* (Supp. III 2009); the Act, as amended by 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 (Dodd-Frank)), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. § 1 *et seq.*; and Commission Regulations (Regulations), 17 C.F.R. §§ 1 *et seq.* (2011).

10. When Christy committed the acts described herein, he was acting within the scope of his agency, employment, and office with Crabapple; therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2011).

11. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, the acts of Crabapple described herein; therefore, Christy is liable for the acts of Crabapple described herein pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

12. Accordingly, pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1, the Commission brings this action to permanently enjoin defendants' unlawful acts and practices and to compel their compliance with the Act, as amended, and Regulations and to further enjoin defendants from engaging in any commodity-related activity. In addition, the Commission seeks civil monetary

penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and other such relief as the Court may deem necessary and appropriate.

II. JURISDICTION AND VENUE

13. The Court has jurisdiction over this action, pursuant to Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(a), because it appears to the Commission that defendants have engaged, are engaging, or are about to engage in conduct that constitutes a violation of the Act; the Act, as amended; and the Regulations.

14. 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 at least some of the acts and practices in violation of the Act; the Act, as amended; and the Regulations have occurred within this District.

III. PARTIES

15. 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, as amended, and the Regulations promulgated thereunder. The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

16. Defendant **Crabapple Capital Group LLC** is a Georgia limited liability company formed on August 8, 2008, with its principal place of business at 12600 Deerfield Parkway, Milton, Georgia 30004. Christy is the sole principal and manager of Crabapple. Crabapple has at least two other employees in addition to Christy. Crabapple is engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and, in connection therewith, solicited, accepted, or received from others, funds, securities, or property for the purpose of trading in commodity interests, including agreements, contracts, or transactions in foreign currency as described in Section 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C)(i). Crabapple has been registered as a commodity pool operator and commodity trading advisor since January 2011. Crabapple has been registered with the NFA as a forex firm since August 2011.

17. Defendant **Robert A. Christy** is a resident of Milton, Georgia and is the sole principal and manager of Crabapple. At all times, and with respect to all conduct described in this Complaint, Christy has exercised sole ownership and control over Crabapple. Christy also has managed and directed other employees of Crabapple who acted on Crabapple's behalf. Christy, either himself or through others acting at his direction, has solicited customers for Crabapple; has prepared and distributed or has directed others to prepare and distribute disclosure documents, monthly bulletins,

marketing materials and other literature used to solicit customers for Crabapple; and has executed or directed others to execute forex trades on behalf of Crabapple, all of which occurred within the scope of Christy's agency, employment, or office with Crabapple. Since January 2011, Christy has been registered with NFA as an associated person of Crabapple and as an NFA associate member. Christy is also the CEO and owner of the Christy Investment Group, a Georgia corporation, which Christy describes as "a stand-alone trading and money management firm" with which Crabapple was affiliated.

IV. FACTS

18. Since at least October 2008, defendants have been marketing their forex pool to and have been soliciting and accepting contributions from pool participants. Defendants met many prospective pool participants through referrals. Defendants either met with these individuals in person or spoke with them over the phone about the benefits of forex investing and the specific advantages of investing in a forex pool operated by Crabapple.

19. Since at least 2010, defendants also have marketed their forex pool at financial tradeshows, where Christy promotes himself as "one of the country's leading experts in currency trading, with decades of experience analyzing and investing in the global markets." At these tradeshows, Christy lectured on forex

investing and promoted forex as an alternative asset class investors could use for “true diversification” with “virtually no correlation with stocks, bonds, and mutual funds.” At these tradeshow presentations, defendants pitched interested attendees on investing in a “managed pool account” operated by Crabapple that trades forex.

Defendants Made False Statements Regarding Their History, Profitability, Past Forex Trading Performance, and the Size of the Pool

20. Both at tradeshows and in one-on-one meetings with prospective pool participants, defendants promoted Christy as a steady, stable, experienced hand, focused on generating modest but consistent profits for investors looking to diversify into forex. Christy touted his expertise in various forms of technical analysis and in techniques used to minimize the impact of unprofitable trades. Specifically, he described himself as “nationally recognized as an expert in the Point & Figure method of Technical Analysis.”

21. Both at tradeshows and in one-on-one meetings with prospective pool participants, defendants promoted Crabapple as a firm that employed a “conservative” trading strategy that sought consistent profits, in the range of 8 percent annually, with relatively less risk than other forex investments. Defendants claimed their investment objective was “to generate consistent and relatively low-risk growth with moderate changes on a month-to-month basis. Monthly drawdowns are

strictly limited through risk management.” Defendants claimed that Crabapple was successful and earned annual profits greater than 8 percent from 2006 through 2011.

22. Defendants backed up their sales pitch with a forex trading performance history that purported to summarize Crabapple’s actual monthly and annual trading results from 2006 to 2011. According to this performance history, Crabapple began trading in 2006 and returned average annual profits of 15.47 percent and average monthly profits of 1.29 percent. This performance history also claimed that from 2006-2011, Crabapple enjoyed 55 profitable months, compared to only 10 unprofitable ones, with monthly profits as high as 5.36 percent and monthly losses no worse than negative .74 percent.

23. Defendants included this performance history in several formats. They included it in the disclosure document, required by Regulation §4.21, 17 C.F.R. § 4.21 (2011), that they provided to prospective pool participants. They also included it in monthly bulletins they shared with current and prospective pool participants both in one-on-one meetings and at tradeshows. In addition, defendants discussed this performance history in one-on-one meetings with prospective pool participants, as well as during defendants’ tradeshow presentations. Upon information and belief, each pool participant solicited by defendants received documents that showed Crabapple generating consistent profits and minimal losses trading forex.

24. For example, one eventual pool participant attended a forex investing presentation by Christy at an August 2011 tradeshow in San Francisco. Afterwards, this person met with Christy to discuss the possibility of investing in forex through Crabapple. Christy gave this person a USB drive that included both the disclosure document and a monthly bulletin containing the performance history described above. After reviewing these documents and the performance history, this person decided to participate in the forex pool operated by Crabapple and contributed \$25,000.

25. Between October 2008 and the present, defendants received a total of at least \$1,311,000 from sixteen pool participants for the purpose of investing in forex. Since October 2008, pool participants have collectively withdrawn only \$80,620 of the \$1,311,000 contributed to defendants' forex pool.

26. Defendants' statements to pool participants regarding their forex trading performance were completely false. From 2006-2011, the time period covered by defendants' purported trading performance history, defendants incurred consistent trading losses in the forex trading accounts opened either in the name of Crabapple or in the name of Christy. During this time period, across all of defendants' forex trading accounts, they incurred net forex trading losses totaling \$176,440:

- a. In November 2005, Christy opened an account in his own name at FXCM, Inc. From November 2005 until the account closed in roughly October 2008, this account sustained a \$3,841 net loss;
- b. In December 2008, defendants opened an account in the name of Crabapple at Global Futures & Forex, Ltd. (GFT). From December 2008 until the account closed in September 2011, this account sustained a \$160,885 net loss;
- c. In May 2011, defendants opened an account in the name of Crabapple at CitiFX Pro, a service offered by CitiBank, N.A. Between May 2011 and January 2012, this account sustained a \$11,343 net loss;
- d. In October 2011, defendants opened a second account in the name of Crabapple at CitiFX Pro. Between October 2011 and January 2012, this account sustained a \$459 net loss;
- e. In October 2011, defendants opened a trading account in the name of Crabapple at PFGBest. Between October 2011 and January 2012, this account generated a net profit of \$307.41; and,

f. In January 2012, defendants opened a second trading account in the name of Crabapple at PFGBest. In January 2012, this account generated a net loss of \$220.12.

27. Defendants made other false statements to prospective pool participants and pool participants which suggested that Crabapple operated a legitimate and successful forex investment pool. Defendants falsely stated that Crabapple had been trading forex since January 2006. Defendants also described Crabapple as a “direct spin off” of the Christy Investment Group and falsely stated that the Christy Investment Group was “a stand-alone trading and money management firm” with total assets under management” in excess of \$50,000,000. In addition, defendants told at least one pool participant that the Crabapple pool included an investor who had contributed \$10 million. This statement was likewise false.

28. Defendants made all of these false statements to pool participants and prospective pool participants knowingly or with reckless disregard for the truth.

Defendants Misappropriated Pool Funds

29. Defendants gave their fraudulent scheme the appearance of legitimacy by marketing several different investment pools, including the “CCG2” pool and the “CGG3” pool. Defendants described the CCG2 pool as seeking “consistent and low-risk capital appreciation with moderate monthly variance.” Defendants described the

CCG3 pool as having a “short term trade horizon that seeks aggressive growth with leverage.” Christy sent monthly bulletins to pool participants and prospective pool participants labeled, for example, as the “CCG2 Monthly,” which purported to discuss performance specifically for the CCG2 pool.

30. In reality, there was no CCG2 pool or CCG3 pool that existed independently from Crabapple itself or even as a separate bank account.

31. Instead, defendants pooled contributions from pool participants into a single non-interest bearing checking account at BB&T bank in the name of Crabapple. Defendants typically deposited contributions from pool participants into this account directly. On some occasions, defendants deposited contributions into a non-interest bearing checking account at BB&T in the name of Christy Investment Group. Defendants frequently transferred funds from the Christy Investment Group’s checking account to Crabapple’s checking account.

32. Christy treated Crabapple’s checking account at BB&T not as a true investment pool, but as his personal piggy bank. He transferred his own personal funds into this account and commingled these funds with contributions from pool participants. He then used the money in Crabapple’s checking account at BB&T account, including money contributed by pool participants, for a variety of personal,

business, and marketing expenses, even though defendants told pool participants that these contributions would be used to trade forex.

33. In fact, since October 2008, defendants transferred only \$377,576 of the total \$1,311,000 they received from pool participants to forex trading accounts. Defendants kept the remainder of pool participants' funds in Crabapple's checking account at BB&T and used these funds for a variety of purposes other than trading forex, including:

- a. \$63,598 for air travel and lodging;
- b. \$33,191 for restaurant meals and groceries;
- c. \$14,700 for cash;
- d. \$18,207 paid to a photography business that Christy partially owned; and
- e. \$45,000 to trade equities and equities-based options and derivatives.

34. Furthermore, defendants transferred \$239,843 of pool participants' funds from Crabapple's checking account at BB&T to the Christy Investment Group's checking account at BB&T. Christy used money in Christy Investment Group's checking account to write frequent and regular checks to family members.

35. Defendants also used \$322,281 on various business and marketing expenses incurred by Crabapple. Defendants told pool participants that Crabapple charged an annual “management fee” of 1 percent of total pool assets and an additional “incentive fee” of 20 percent of monthly net new profits for any money invested specifically in the CCG3 pool. Defendants told pool participants that this management fee and the CCG3 incentive fee represented the only compensation defendants received for operating the investment pools. Defendants never told pool participants that either Christy or Crabapple were free to use funds in excess of 1 percent of total pool assets and, where applicable, 20 percent of net new profits earned by the CCG3 pool for business and marketing expenses incurred by Crabapple. However, the \$322,281 defendants used for various business and marketing expenses far exceeds any amount defendants can reasonably claim represents their compensation under their advertised fee structure.

36. From October 2008 through the present, defendants misappropriated at least \$810,376 from pool participants. Defendants misappropriated this money knowingly or with reckless disregard for the truth.

Defendants' Distributed False Account Statements to Pool Participants

37. Defendants disguised their unprofitable forex trading and misappropriation by distributing to pool participants, typically via email, false monthly account statements.

38. These false monthly account statements frequently indicated that pool participants were earning profits on their investments with Crabapple, even though in reality, Crabapple was losing money trading forex.

39. For example, one pool participant received monthly account statements from May 2011 through January 2012 showing overall profits in the range of 11 percent. However, over this time period, defendants experienced substantial net losses across all of their actively-traded forex accounts (save one account at PFGBest that yielded a net profit of only \$307.41). Another pool participant received monthly account statements showing monthly profits as high as 20 percent. However, defendants never achieved monthly profits sufficient to support such results. These and other pool participants relied on the false monthly account statements in deciding to keep their money in Crabapple's forex pool. Some pool participants invested additional money in the forex pool operated by Crabapple because the pool, according to these false monthly account statements, appeared to be profitable.

40. Because these monthly account statements falsely indicated to pool participants that defendants were earning profits trading forex, these account statements created the false impression for pool participants that defendants were entering into profitable forex transactions. The profitable forex transactions implied by these monthly account statements were, in fact, fictitious.

41. These false monthly account statements also did not disclose that defendants used pool participant money for defendants' business and personal expenses, rather than for forex trading. These monthly account statements falsely provided that the only pool participant money defendants withheld from pool participants' accounts was the amount charged for the annual 1 percent management fee and, where applicable, the incentive fee.

42. Defendants provided these false monthly account statements to pool participants knowingly or with reckless disregard for the truth.

Nature of Defendants' Transactions

43. Defendants are not financial institutions, registered broker dealers (or associated persons of a registered broker dealer), insurance companies, bank holding companies, investment bank holding companies, or financial holding companies. From at least October 2008 through July 16, 2011, defendants solicited and received money from pool participants for the purpose of trading forex, and at least some of

the counterparties to the forex transactions entered into by Crabapple and pool participants were not financial institutions, registered broker dealers (or associated persons of a registered broker dealer) insurance companies, bank holding companies, or investment bank holding companies, as enumerated in Section 2(c)(2)(B)(II) of the Act, 7 U.S.C. § 2(c)(2)(B)(II) (Supp III 2009). From July 16, 2011 through the present, defendants solicited and received money from pool participants for the purpose of trading forex, and at least some of the counterparties to the forex transactions entered by Crabapple and pool participants were not U.S. financial institutions, registered broker dealers (or associated persons of a registered broker dealer), or financial holding companies, as enumerated in Section 2(c)(2)(B)(II) of the Act, 7 U.S.C. § 2(c)(2)(B)(II) (Supp III 2009).

44. Neither Christy, Crabapple, nor the pool participants that provided funds to defendants were “eligible contract participants” as that term is defined in Section 1a(12)(A)(v & xi) of the Act, as amended by the CRA, 7 U.S.C. § 1a(12)(A)(v & xi) (Supp. III 2009), and Section 1a(18)(A)(v & xi) of the Act, as amended by Dodd-Frank, to be codified at 7 U.S.C. § 1a(18)(A)(v & xi) (in each definition, providing that an “eligible contract participant” is an individual with total assets in excess of (i) \$10 million; or (ii) \$5 million and who enters the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned

or incurred, by the individual” or a corporation that (i) has total assets exceeding \$10 million; or (ii) a net worth exceeding \$1 million and enters into the transaction “to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the entity in the conduct of the entity’s business”).

45. To the extent defendants offered to or used pool participant funds to trade forex, they offered to or traded contracts for foreign currency on a margined or leveraged basis in the trading accounts containing funds contributed by pool participants. The foreign currency contracts offered to or entered into by defendants neither resulted in delivery within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these foreign currency contracts remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).

Defendants Made False Statements to NFA During NFA’s Examination

46. NFA is registered with the Commission as a futures association pursuant to Section 17 of the Act, as amended, to be codified at 7 U.S.C. § 21. NFA serves as a self-regulatory organization for the U.S. futures industry. Under Commission oversight, NFA is responsible for certain aspects of the regulation of its member

registrants. NFA's responsibilities include conducting audits and examinations of its registrants, like defendants, to ensure compliance with NFA rules.

47. In November 2011, NFA began an examination of defendants, after NFA employees attended one of Christy's tradeshow presentations and obtained defendants' marketing materials, including Crabapple's disclosure document and purported trade performance history.

48. In the course of NFA's examination, defendants made several oral and written knowingly false statements to NFA that concealed the fact that defendants had been operating a forex pool since at least October 2008.

49. For example, defendants provided NFA with false accounting records and related communications that concealed the existence of defendants' forex pool. Specifically, defendants provided NFA with a set of Quickbooks files for 2011 that falsely labeled each of fourteen large deposits into Crabapple's checking account at BB&T as a "loan from Christy." These transactions actually represented money defendants received from pool participants and deposited into Crabapple's checking account at BB&T. When NFA asked defendants to provide backup documentation identifying the source of funds labeled as "loan from Christy," defendants refused. Defendants also told NFA that Crabapple's accountant routinely destroyed the underlying source material used to prepare the Quickbooks entries.

50. Additionally, on January 9, 2012, defendants willfully concealed the existence of their forex pool in a management representation letter sent to NFA. In this letter, which Christy signed on behalf of Crabapple, defendants certified that “[Crabapple] has not operated, nor does it currently operate any commodity/forex pools, and has not received any money from customers for this purpose.” Defendants further certified that “we rendered advisory services to 2 clients with an aggregate equity of approximately \$24,077.” However, by December 15, 2011, defendants had solicited deposits from at least sixteen pool participants. Defendants also willfully omitted the fact that one of the two clients for whom defendants rendered “advisory services” was also a pool participant and had contributed \$25,000 to the forex pool operated by Crabapple.

51. Further, on January 12, 2012, Christy wrote a letter to an NFA employee involved with the examination that contained the following additional false statements intended to mislead NFA and conceal the existence of the forex pool:

- a. Christy represented that he did not establish Crabapple until 2011;
- b. Christy represented that all of the money deposited with Crabapple “is mine from my savings”; and
- c. Christy represented that he was not pursuing clients because NFA had not yet approved Crabapple’s disclosure document.

52. Based on its review of independently obtained trading records, NFA found that defendants had solicited customers using inflated performance results and other materially misleading information. NFA also found that defendants had been soliciting customers using an unapproved disclosure document and that defendants had provided false and misleading information to NFA during the audit. For all these reasons, NFA issued the MRA/ARA against defendants on January 23, 2012.

53. The MRA/ARA, among other things: (1) requires defendants to provide copies of the MRA/ARA to all customers; (2) prohibits defendants from soliciting or accepting any additional funds from pool participants or other customers; and (3) prohibits defendants from disbursing or transferring any funds over which they or any person acting on their behalf exercises control, without prior approval from NFA.

54. Defendants have failed to comply with the MRA/ARA. First, defendants have not provided copies of the MRA/ARA to pool participants. Second, defendants continue to receive and deposit money from pool participants. For example, on January 31, 2012, defendants received \$20,000 from two pool participants and deposited the funds into Crabapple's checking account at BB&T. Third, defendants continue to use money from Crabapple's checking account at BB&T for various expenses without obtaining prior approval from NFA.

V. VIOLATION OF THE ACT AND REGULATIONS

COUNT ONE—FRAUD IN CONNECTION WITH FOREX

Violations of Section 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(2)(A)-(C) (Supp. III 2009), and Section 4b(a)(2)(A)-(C) of the Act, as amended by Dodd-Frank, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C)

55. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

56. For conduct before July 16, 2011, Section 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(2)(A)-(C), (Supp. III 2009), made 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;
- (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person....

57. For conduct on or after July 16, 2011, Section 4b(a)(2)(A)-(C) of the Act, as amended by Dodd-Frank, 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 swap, 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;
- (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person....

58. Pursuant to Section 2(c)(2)(C)(iv) of the Act, as amended by the CRA, 7 U.S.C. § 2(c)(2)(C)(iv) (Supp. III 2009), and Section 2(C)(2)(C)(iv) of the Act, as amended by Dodd-Frank, to be codified at 7 U.S.C. §2(c)(2)(C)(iv), Section 4b of the Act applies to defendants' forex transactions "as if" they were a contract of sale of a commodity for future delivery.

59. As described above, beginning at least in October 2008 and until July 16, 2011, defendants Christy and Crabapple—acting by and through Christy,

among others—violated Section 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 4b(a)(2)(A)-(C) (Supp. III 2009), in or in connection with forex contracts made for, on behalf of, or with other persons, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

60. As described above, since July 16, 2011 and continuing through the present, defendants Christy and Crabapple—acting by and through Christy, among others—have violated Section 4b(a)(2)(A)-(C), as amended by Dodd-Frank, to be codified at 7 U.S.C. § 4b(a)(2)(A)-(C), in or in connection with forex contracts made for, on behalf of, or with other persons, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account

statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

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

62. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple; therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.21 (2011).

63. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(2)(A)-(C) (Supp. III 2009), and Section 4b(a)(2)(A)-(C), as amended by Dodd-Frank, to be codified at 7 U.S. C. § 6b(a)(2)(A)-(C), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

64. Each misappropriation, issuance of a false report or account statement, and 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 4(b)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(2)(A)-(C)

(Supp. III 2009), for conduct before July 16, 2011, and Section 4b(a)(2)(A)-(C) of the Act, as amended by Dodd-Frank, to be codified at 7 U.S. C. § 6b(a)(2)(A)-(C), for conduct on or after July 16, 2011.

**COUNT TWO—FRAUD IN CONNECTION WITH OFF-EXCHANGE
FOREX TRANSACTIONS**

Violations of Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2011)

65. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

66. Since October 18, 2010, Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2011), has made it unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, 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 whatsoever.

67. Since at least October 18, 2010, defendants have solicited and received money from pool participants for the purpose of entering into retail forex transactions as defined in Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2011).

68. In connection with their solicitation and receipt of money from pool participants for the purpose of entering into retail forex transactions, since at least October 18, 2010, defendants Christy and Crabapple—acting by and through Christy, among others—and through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of telephone calls and electronic mail with pool participants and prospective pool participants) have violated Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2011), by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

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

70. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.21 (2011).

71. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2011), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

72. Each misappropriation, issuance of a false report or account statement, and misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 5.2(b)(1)-(3), 17 C.F.R. § 5.2(b)(1)-(3) (2011).

COUNT THREE—FRAUD BY COMMODITY POOL OPERATOR

Violations of Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006)

73. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

74. Section 4o of the Act, 7 U.S.C. § 6o (2006) makes it unlawful “for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator 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 client or participant or prospective client or participant; or
- (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

75. As of July 16, 2011, Section 1a(11)(i) of the Act, as amended, to be codified at 7 U.S.C. § 1a(11)(i), defines a “commodity pool operator” as a person “engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds ... for the purpose of trading in commodity interests, including any... (II) agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i)” of the Act, as amended.

76. Since at least July 16, 2011, Crabapple has been operating as a commodity pool operator in that it engaged in a business that is of the nature of an investment trust, syndicate or similar form of enterprise, and in connection therewith, solicited, accepted, or received funds, securities, or property from others for the purpose of trading in agreements, contracts, or transactions in foreign currency as described in Section 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C. § 2(c)(2)(C)(i). Since at least July 16, 2011, Christy has acted as an AP of Crabapple in that, as an agent of Crabapple, he has solicited and accepted funds, securities, or property for Crabapple.

77. Since at least July 16, 2011, Crabapple acting as a CPO, and acting by and through Christy, among others, and Christy, acting as an AP of Crabapple, through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of telephone calls and electronic mail with pool participants and prospective pool participants), have violated Section 4o of the Act, 7 U.S.C. § 6o (2006), by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

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

79. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.21 (2011).

80. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 4o of the Act, 7 U.S.C. § 6o (2006), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

81. Each misappropriation, issuance of a false report or account statement, and 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 4o of the Act, 7 U.S.C. § 6o (2006).

COUNT FOUR—FRAUD IN ADVERTISING BY A COMMODITY POOL OPERATOR

Violations of Commission Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011)

82. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

83. Regulation 5.1(d), 17 C.F.R. § 5.1(d) (2011), which became effective on October 18, 2010, defines "commodity pool operator" for purposes of Part 5 of the Regulations as "any person who operates or solicits funds, securities, or property for a pooled investment vehicle that is not an eligible contract participant, as defined in Section 1a(12) of the Act, and that engages in retail forex transactions."

84. Regulation 5.4, 17 C.F.R. § 5.4 (2011), makes all Regulations included in Part 4 applicable, as of October 18, 2010, to any person required to register pursuant to Regulation 5.3, 17 C.F.R. § 5.3 (2011)—that is, any person who meets the definition of commodity pool operator in Regulation 5.1(d), 17 C.F.R. § 5.1(d) (2011), including commodity pool operators that engage in retail forex transactions.

85. Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011), provides that:

No commodity pool operator, commodity trading advisor, or any principal thereof, may advertise in a manner which:

- (1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client;
- (2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client.

86. Since at least October 18, 2010, Crabapple has been a commodity pool operator as defined in Regulation 5.1(d), 17 C.F.R. § 5.1(d) (2011), because Crabapple solicited and received money for a pooled investment vehicle that engaged in retail forex transactions as defined by Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2011). Since at least October 18, 2010, Christy has been the principal of Crabapple.

87. Since at least October 18, 2010, Crabapple—acting by and through Christy, among others—and Christy, as principal of Crabapple, have violated Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011), by advertising investing in Crabapple

in a manner that has employed a device, scheme, or artifice to defraud a participant or client or a prospective participant or client, and that has involved transactions, practices or courses of business which operate as a fraud or deceit upon a participant or client or a prospective participant or client, by misappropriating funds contributed by pool participants to the forex pool operated by Crabapple; misrepresenting defendants' history, profitability, and past forex trading performance to prospective pool participants and pool participants; misrepresenting the size of the forex pool operated by Crabapple; and providing pool participants with false monthly account statements that misrepresented Crabapple's profitability and/or the value of pool participants' interests in the pool.

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

89. In making all the foregoing misrepresentations and omissions, Christy was acting within the scope of his agency, employment, and office with Crabapple. Therefore, Crabapple is liable for all these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.21 (2011).

90. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for

Crabapple's violations of Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

91. Each misappropriation, issuance of a false report or account statement, and misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2011).

COUNT FIVE—PROHIBITED ACTIVITIES BY A COMMODITY POOL OPERATOR

Violations of Regulation 4.20(a) and (c), 17 C.F.R. § 4.20(a) & (c) (2011)

92. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

93. Regulation 4.20(a), 17 C.F.R. § 4.20(a) (2011), provides that “a commodity pool operator must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.”

94. Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2011), provides that “[n]o commodity pool operator may commingle the property of any pool that it operates or that it intends to operate with the property of any other person.”

95. Regulation 5.4, 17 C.F.R. § 5.4 (2011), makes all Regulations included in Part 4 applicable, as of October 18, 2010, to any person who meets the definition

of commodity pool operator in Regulation 5.1(d) (2011), including commodity pool operators that engage in retail forex transactions.

96. Since at least October 18, 2010, Crabapple has been a commodity pool operator as defined in Regulation 5.1(d), 17 C.F.R. § 5.1(d) (2011), because Crabapple solicited and received money for a pooled investment vehicle that engaged in retail forex transactions as defined by Regulation 5.1(m), 17 C.F.R. § 5.1(m) (2011).

97. Since at least October, 18, 2010, Crabapple—acting by and through Christy, among others—has violated Regulation 4.20(a), 17 C.F.R. § 4.20(a) (2011), by failing to operate defendant’s investment pool as an entity separate from Crabapple itself. Instead, Crabapple received and pooled money contributed by pool participants and deposited this money in its own bank accounts and trading accounts.

98. Since at least October 18, 2010, Crabapple—acting by and through Christy, among others—has violated Regulation 4.20(c), 17 C.F.R. § 4.20(c), by commingling money received from pool participants with the money and other property of Christy and the Christy Investment Group, a corporation owned and controlled by Christy.

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

100. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Regulations 4.20(a) and 4.20(c), 17 C.F.R. § 4.20(a) & (c) (2011), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

101. Each instance of Crabapple receiving and depositing money from pool participants into its own bank account or trading account, and not the account of a legal entity separate from Crabapple itself, and each instance of Crabapple receiving and depositing money from pool participants into a bank account or trading account containing money or other property of Christy or the Christy Investment Group, is alleged as a separate and distinct violation of Regulations 4.20(a) and 4.20(c), 17 C.F.R. § 4.20(a) & (c) (2011).

COUNT SIX—FRAUD IN DEALINGS WITH NFA

Violations of Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4)

102. The allegations set forth in paragraphs 1 to 54 are re-alleged and incorporated herein by reference.

103. Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4), makes it unlawful for “[a]ny person willfully to falsify, conceal, or cover

up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a registered entity, board of trade, swap data repository, or futures association designated or registered under this Act acting in furtherance of its official duties under this Act.”

104. NFA is a futures association organized and registered with the Commission pursuant to Section 17 of the Act.

105. Defendants knowingly and willfully made misrepresentations to NFA in the course of NFA’s examination of defendants to conceal the existence of the forex pool operated by Crabapple and defendants’ fraud in connection with that pool, including by, among other things, providing NFA with false accounting records that misrepresented the source of funds defendants deposited into Crabapple’s bank account, falsely certifying to NFA in a management representation letter that defendants were not operating any commodity/forex pools and had not received any money from participants for such pools, and by making further false statements in correspondence with NFA regarding Crabapple’s solicitation of pool participants and receipt of money received from pool participants, as described in paragraphs 46-54 above.

106. Christy made these representations to NFA within the scope of his employment or office for Crabapple. Therefore, Crabapple 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 (2011), as principal for its agent's acts, omissions or failures of the Act, as amended.

107. At all times relevant to this Complaint, Christy controlled Crabapple, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, Crabapple's conduct alleged in this count. Therefore, Christy is liable for Crabapple's violations of Section 9(a)(4) of the Act, as amended, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

108. Each misrepresentation, false statement, omission of material fact, or act of concealment made by defendants to NFA, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4).

VI. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the 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' liable for violating Section 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(2)(A)-(C) (Supp. III 2009), with respect to conduct before July 16, 2011; finding defendants liable for violating Section 4b(a)(2)(A)-(C) of the Act, as amended by Dodd-Frank, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C), with respect to conduct on or after July 16, 2011; finding defendants liable for violating Section 4o of the Act, 7. U.S.C. § 6o (2006), with respect to conduct on or after July 16, 2011; finding defendants liable for violating Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4); and finding defendants liable for violating Regulations 5.2(b)(1)-(3), 4.20(a) and (c), and 4.41(a), 17 C.F.R. §§ 5.2(b)(1)-(3), 4.20(a) & (c), & 4.41(a) (2011), with respect to conduct on or after October 18, 2010.

B. An order of permanent injunction prohibiting defendants, and any other person or entity associated with defendants, from engaging in conduct that violates Section 4b(a)(2)(A)-(C) the Act, as amended by Dodd-Frank, to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C); Section 4o of the Act, 7 U.S.C. § 6o (2006); Section 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4); and Regulations 5.2(b)(1)-(3), 4.20(a) and (c), and 4.41(a), 17 C.F.R. §§ 5.2(b)(1)-(3), 4.20(a) & (c), & 4.41(a) (2011).

C. Order of permanent injunction prohibiting defendants and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation, including any successor thereof, from, directly or indirectly,

1. 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);
2. 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 or proprietary 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, security futures products, forex contracts, and/or retail commodity transactions 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, security futures products, forex contracts, and/or retail commodity transactions;
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, security futures products, forex contracts, and/or retail commodity transactions;
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 Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2011);

7. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2011), agent or 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) (2011); and
8. from engaging in any business activities related to commodity futures, options on commodity futures, commodity options, security futures products, forex contracts trading, and/or retail commodity transactions.

D. Enter an order directing defendants, as well as any successors to any defendant, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act; the Act, as amended by the CRA; the Act, as amended by Dodd-Frank; and the Regulations, as described herein, and pre- and post- judgment interest thereon from the date of such violations;

E. Enter an order directing the defendants, as well as any successors to any defendant, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between, with, or among defendants and any of the pool participants whose funds were received by defendants as a result of the acts and practices which constituted violations of the Act; the Act, as amended by the CRA; the Act, as amended by Dodd-Frank; and the Regulations, as described herein;

F. Enter an order requiring defendants to make full restitution to every person or entity whose funds defendants received or caused another person or entity to receive, from the acts or practices that constitute violations of the Act; the Act, as amended by the CRA; the Act, as amended by Dodd-Frank; and the Regulations, as described herein, and pre- and post- judgment interest thereon from the date of such violations;

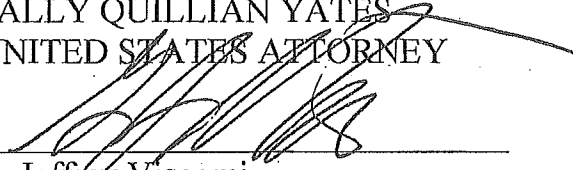
G. Enter an order requiring defendants to pay civil monetary penalties, to be assessed by the Court, in amounts of not more than the higher of: (1) triple the monetary gain to each defendant for each violation of the Act; the Act, as amended by the CRA; the Act, as amended by Dodd-Frank; and the Regulations; or (2) a penalty of \$140,000 for each violation committed;

H. Enter an order requiring defendants to pay costs and fees, as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and

I. Enter an order providing such other and further relief as this Court may deem necessary and appropriate under the circumstances.


Respectfully submitted by,

SALLY QUILLIAN YATES
UNITED STATES ATTORNEY



G. Jeffrey Viscomi
Assistant United States Attorney
United States Attorney's Office for the
Northern District of Georgia
75 Spring St., SW
Suite 600
Atlanta GA 30303
(404) 581-6036
(404) 581-6181
Jeffrey.Viscomi@usdoj.gov
Georgia Bar No. 289074

and



Charles D. Marvine
Missouri Bar No. 44906
Jo Mettenburg
Kansas Bar No. 19423
Thomas L. Simek
District of Columbia Bar No. 490030
U.S. Commodity Futures Trading
Commission
Division of Enforcement
4900 Main Street, Suite 500
Kansas City, MO 64112
816-960-7743 (Marvine)
816-960-7744 (Mettenburg)
816-960-7760 (Simek)
816-960-7754 (fax)
cmarvine@cftc.gov
jmettenburg@cftc.gov
tsimek@cftc.gov