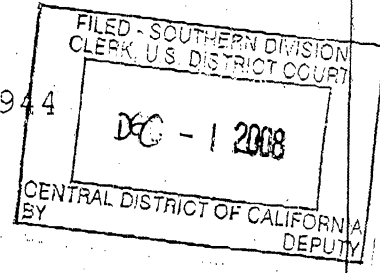


1 Glenn I. Chernigoff, DC Bar No. 488500  
 2 gchernigoff@cftc.gov  
 3 Timothy M. Kirby, Illinois Bar No. 6289944  
 4 Luke B. Marsh, DC Bar No. 475635  
 5 Gretchen L. Lowe, DC Bar No. 421995  
 6 Commodity Futures Trading Commission  
 7 1155 21st Street, N.W.  
 8 Washington, D.C. 20581  
 9 Telephone: (202) 418-5000  
 10 Facsimile: (202) 418-5523



9 Kent Kawakami, CA Bar No. 149803  
 10 United States Attorney's Office  
 11 Civil Division  
 12 300 North Los Angeles Street, Room 7516  
 13 Los Angeles, CA 90012  
 14 Telephone: (213) 894-4858  
 15 Facsimile: (202) 894-2380

14 Attorneys for Plaintiff United States  
 15 Commodity Futures Trading Commission

16  
 17 **United States District Court**  
 18 **Central District of California**  
 19 **Southern Division**

19	U.S. Commodity Futures	)	Civil No.:
20	Trading Commission,	)	
21		)	Complaint For Injunctive
22	Plaintiff,	)	And Other Equitable Relief
23		)	And For Civil Penalties
24	v.	)	Under The Commodity
25		)	Exchange Act, As Amended,
26	Paul Abad, Thirteen Thirty-	)	7 U.S.C. §§ 1 et seq.
27	Two, Inc., and Thirteen	)	
28	Thirty-Two, Inc. dba "MRTS	)	
	Asset Management,"	)	
		)	
	Defendants.	)	

Complaint - 1

1 Plaintiff, the United States Commodity Futures  
2 Trading Commission ("Commission"), by its attorneys,  
3 alleges as follows:  
4

5 **I. Jurisdiction and Venue**  
6

7 1. The Commodity Exchange Act (the "Act"), 7 U.S.C.  
8 §§ 1 *et seq.* (2006), as amended by The Food,  
9 Conservation, and Energy Act of 2008, Pub. L. No. 110-  
10 246, Title XIII (the "CFTC Reauthorization Act of  
11 2008"), §§ 13101-13204, 122 Stat. 1651, establishes a  
12 comprehensive system for regulating the purchase and  
13 sale of commodity futures contracts. This Court has  
14 jurisdiction over this action pursuant to Section 6c of  
15 the Act, 7 U.S.C. § 13a-1, which provides that whenever  
16 it shall appear to the Commission that any person has  
17 engaged, is engaging, or is about to engage in any act  
18 or practice constituting a violation of any provision  
19 of the Act or any rule, regulation, or order  
20 promulgated thereunder, the Commission may bring an  
21 action against such person to enjoin such practice or  
22 to enforce compliance with the Act.  
23  
24  
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1           5. To conceal the misappropriation of funds and  
2 trading losses, Defendants fabricated and issued to  
3 their pool participants and clients account statements  
4 and confirmations, which falsely reflected that  
5 Defendants were profitably trading on their behalf.  
6  
7

8           6. Defendants' misappropriations, fabrications and  
9 repeated issuance of false statements to pool  
10 participants and clients violated, and continues to  
11 violate, Sections 4b(a)(2)(i), (ii) and (iii) and  
12 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6b(a)(2)(i),  
13 (ii) and (iii) and 6o(1)(A) and (B).  
14  
15

16           7. By soliciting and accepting funds from members  
17 of the public in order to pool the funds and trade in  
18 commodity futures contracts, 1332 acted, and continues  
19 to act, as a Commodity Pool Operator ("CPO") without  
20 being registered as required by Section 4m(1) of the  
21 Act, 7 U.S.C. § 6m(1). Abad also acted, and continues  
22 to act, as an Associated Person ("AP") of the CPO  
23 without registering with the Commission as required by  
24 Section 4k(2) of the Act, 7 U.S.C. § 6k(2).  
25  
26  
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1 8. While acting as a CPO required to be registered  
2 under the Act, 1332 failed to operate the commodity  
3 pool as a legal entity separate from itself, received  
4 pool funds in its own name, failed to provide pool  
5 participants with the information required to be in a  
6 pool Disclosure Document, failed to receive signed  
7 acknowledgements of receipt of a Disclosure Document  
8 prior to receiving participants' funds and failed to  
9 send participants account statements in conformity with  
10 the Commission's Regulations. By virtue of these  
11 failures, 1332 violated Commission Regulations 4.20  
12 through 4.22, 17 C.F.R. §§ 4.20-4.22.  
13  
14  
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17

18 9. With respect to individual commodity trading  
19 accounts managed for others, Abad was acting as a  
20 Commodity Trading Advisor ("CTA") by engaging in the  
21 business of advising others, for compensation or  
22 profit, as to the value or advisability of trading  
23 commodity futures contracts made or to be made on or  
24 subject to the rules of a contract market. By  
25 soliciting, accepting or receiving funds from an  
26  
27  
28

1 existing or prospective client in his own name for the  
2 purpose of trading commodity futures contracts, Abad,  
3 as a CTA, violated Commission Regulation 4.30, 17  
4 C.F.R. §4.30.  
5

6  
7 10. Abad controlled 1332 and knowingly induced,  
8 directly or indirectly 1332's violations, or did not  
9 act in good faith with respect to them. Abad,  
10 therefore, is liable for 1332's violations of the Act  
11 and Commission Regulations pursuant to Section 13(b) of  
12 the Act, 7 U.S.C. § 13c(b). Pursuant to Section  
13  
14 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and  
15 Commission Regulation 1.2, 17 C.F.R. § 1.2, 1332 is  
16  
17 liable for the violations of Abad, its agent and  
18  
19 officer.  
20

21 11. Therefore, Defendants have engaged in, are  
22 engaged in, or are about to engage in acts and  
23 practices that violate anti-fraud, registration and  
24 regulatory provisions of the Act and the Commission's  
25 Regulations, as cited above.  
26

27  
28 12. Pursuant to Section 6c of the Act, 7 U.S.C.

1 § 13a-1, the Commission brings this action to enjoin  
2 Defendants' unlawful acts and practices, to obtain an  
3 order freezing Defendants' assets and preserving books  
4 and records, to compel Defendants' compliance with the  
5 Act Commission Regulations and to obtain an order  
6 permitting expedited discovery. The Commission also  
7 seeks a permanent injunction, civil monetary penalties,  
8 restitution to customers for losses proximately caused  
9 by Defendants' frauds, disgorgement of defendants' ill-  
10 gotten gains, and such other ancillary relief as this  
11 Court may deem necessary or appropriate.  
12  
13  
14  
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16

17 13. Unless enjoined by this Court, Defendants are  
18 likely to continue to engage in the acts and practices  
19 alleged in this Complaint, as more fully described  
20 below.  
21

### 22 **III. The Parties**

23 14. The **Commodity Futures Trading Commission** is an  
24 independent federal regulatory agency that is charged  
25 with administering and enforcing the Act and Commission  
26 Regulations.  
27  
28

1 15. **Paul Abad's** last known residential address is  
2 1555 Mesa Verde East, Apartment 53-J, Costa Mesa,  
3 California 92626. Abad has not registered with the  
4 Commission in any capacity.  
5

6  
7 16. **1332, Inc.** is a Nevada corporation. The state  
8 revoked its charter on or before December 1, 2007. The  
9 last known business address of 1332 was 25251 Pasco de  
10 Alicia Parkway, Laguna Hills, CA 92653. With respect  
11 to at least one pool participant, 1332 did business as  
12 "MRTS Asset Management," although that was not a  
13 separate legal entity. 1332 has not registered with  
14 the Commission.  
15  
16  
17

#### 18 **IV. Facts**

##### 19 **A. Defendants Solicited And Accepted Funds For Trading** 20 **Commodity Futures Contracts**

21 17. From at least February 2001 through the present  
22 (the "relevant period"), Abad, through 1332, solicited  
23 and accepted funds from individuals to participate in a  
24 commodity pool that would trade primarily commodity  
25 futures contracts.  
26  
27  
28



1 18. Abad also solicited at least one person to open  
2 an individual commodity futures trading account for  
3 which Abad would conduct the trading.  
4

5 19. Throughout the relevant period, Abad controlled  
6 1332. He is the only officer and director of 1332. He  
7 manages its day-to-day activities, controls its bank  
8 and trading accounts, handles all the solicitations and  
9 conducts any trading that was purportedly done on  
10 behalf of pool participants and individual trading  
11 account clients.  
12  
13  
14

15 20. During the relevant period, Abad told  
16 prospective and existing pool participants that he  
17 would pool their funds with other participants' funds,  
18 and engage in speculative trades in commodity futures  
19 contracts, primarily on the S&P 500 index but also on  
20 other indexes, commodities, and securities.  
21  
22

23 21. Most pool participants signed "Borrower  
24 Agreements" with 1332 in which the company agreed to  
25 pay participants a fifteen percent return on their  
26 investments.  
27  
28

1           22. During the relevant period, Defendants accepted  
2 at least \$400,000 from individuals to trade primarily  
3 commodity futures contracts either through the pool or  
4 individual accounts. Defendants deposited pool  
5 participants' and clients' funds in a commercial bank  
6 account held in the name of 1332 and controlled by  
7 Abad.  
8  
9

10  
11 **B. Defendants Sustained Trading Losses And**  
12 **Misappropriated Funds**

13           23. Throughout the relevant period, Defendants  
14 controlled commodity futures trading accounts opened  
15 and maintained at registered Futures Commission  
16 Merchants ("FCMs"). Abad opened those trading accounts  
17 through a registered Introducing Broker ("IB").  
18  
19

20           24. Defendants transferred funds from the 1332 bank  
21 accounts into commodity futures trading accounts at the  
22 FCMs, and a securities trading account in 1332's name.  
23

24           25. During the relevant period, Defendants' trading  
25 of commodity futures contracts resulted in losses of  
26 approximately \$100,000 and their trading of securities  
27 resulted in losses of approximately \$22,000.  
28

1 26. Defendants did not use the remainder of the  
2 pool participants' and clients' funds, approximately  
3 \$278,000, for trading. Defendants returned some funds  
4 to pool participants and clients, and misappropriated  
5 approximately \$230,000, of the funds.  
6  
7

8 **C. Defendants Concealed Trading Losses And**  
9 **Misappropriated Funds Through False Statements**

10 27. To conceal their trading losses and  
11 misappropriations, Defendants created and issued false  
12 statements to pool participants and clients reflecting  
13 profitable returns from Defendants' trading. Abad  
14 transmitted the four examples of false statements  
15 alleged below through instrumentalities of interstate  
16 commerce, including email.  
17  
18  
19

20 28. First, Abad gave pool participants account  
21 statements on 1332 letterhead that indicated that they  
22 were earning profits when, for the same period, 1332's  
23 trading accounts suffered net losses or no trading  
24 occurred. For example:  
25

26 a. For the period January 2005 to June 2005,  
27 one participant's account statement indicated that he  
28

1 had earned more than \$2,700 (3.5 percent), but 1332's  
2 futures trading lost over \$14,000;  
3

4 b. For the period March 2006 to June 2006,  
5 one pool participant's account statement indicated that  
6 she had earned more than \$2,000 (over 4 percent), but  
7 1332's futures trading lost over \$6,000;  
8

9 c. For the period June 2006 to September  
10 2006, the same pool participant's account statement  
11 indicated that she had earned more than \$2,900 (over  
12 5.5 percent), but 1332's futures trading lost over  
13 \$2,700;  
14  
15

16 d. For the period December 2006 to June 2007,  
17 one pool participant's account statement indicated that  
18 she had earned more than \$3,100 (over 5.5 percent),  
19 even though Abad did not engage in any commodity  
20 futures trades in 1332's accounts during that time  
21 period; and,  
22  
23

24 e. Pool participants and clients received  
25 account statements in 2007 and 2008 reflecting  
26 profitable trading of commodity futures contracts even  
27  
28

1 though Abad did not and has not engaged in commodity  
2 futures trading in 1332's accounts during these years.  
3

4 29. Second, in 2008, as pool participants and  
5 clients demanded that he return their funds, Abad  
6 blamed 1332's IB for causing delays and created  
7 fictitious emails from an employee of the broker that  
8 falsely showed a trading account balance of over  
9 \$180,000 in an account in 1332's name. In reality,  
10 that account had a balance of \$110 and 1332's only  
11 other account had a zero balance.  
12  
13  
14

15 30. Third, Abad transmitted to pool participants  
16 copies of purported daily trading statements from  
17 1332's commodity futures account that falsely reflected  
18 profitable trading. Neither the FCM carrying 1332's  
19 account, nor the IB, prepared or issued the daily  
20 trading statements that Abad sent to pool participants.  
21 The daily trading statements that Abad transmitted to  
22 pool participants appear to be forgeries.  
23  
24  
25  
26  
27  
28

1           31. Fourth, Abad sent similar purported daily  
2 trading statements to at least one managed-account  
3 client that also appear to be forgeries.  
4

5           32. Defendants have not provided any account  
6 statements since February 2008, although they continue  
7 to reassure pool participants and clients that their  
8 funds will be returned.  
9  
10

11           33. As Defendants sustained trading losses and  
12 faced demands from investors for return of their funds,  
13 Defendants continued to solicit funds from other  
14 persons for the purported purpose of trading commodity  
15 futures contracts.  
16  
17

18           34. Despite repeated demands for return of their  
19 funds, Defendants have returned only approximately  
20 \$30,000 to pool participants and clients.  
21

22 **D. Defendants Failed To Register As A CPO And AP And**  
23 **Failed To Comply With the Commission's Regulations**  
24 **Concerning CPOs and CTAs**

25           35. Although acting as a CPO and an AP required  
26 them to be registered as such, 1332 and Abad are not  
27 registered with the Commission.  
28

1           36. 1332 also failed to operate the pool as a legal  
2 entity separate from itself, failed provide a  
3 Disclosure Document to pool participants in conformance  
4 with the Commission's Regulations, failed to receive  
5 signed acknowledgements of receipt of a Disclosure  
6 Document prior to accepting funds, and failed to  
7 provide account statements on a timely basis and in  
8 conformity with the Commission's Regulations.  
9  
10

11  
12           37. Acting as a CTA, Abad accepted funds in his  
13 name from at least one client.  
14

15                   **V. Violations Of The Commodity Exchange Act**  
16                   **And Commission Regulations**

17                                   **COUNT ONE**

18                   **DEFENDANTS' VIOLATIONS OF SECTION 4b(a) OF THE ACT:**  
19                   **MISAPPROPRIATION OF POOL PARTICIPANT AND CLIENT FUNDS**  
20

21           38. The allegations contained in paragraphs 1  
22 through 37 above are re-alleged and incorporated by  
23 reference herein.  
24

25           39. During the relevant period, Defendants cheated  
26 or defrauded or attempted to cheat or defraud other  
27 persons; and willfully deceived or attempted to deceive  
28

1 other persons by misappropriating funds they received  
2 from pool participants and clients.  
3

4 40. Defendants engaged in this conduct in or in  
5 connection with orders to make, or the making of,  
6 contracts of sale of commodities for future delivery,  
7 made, or to be made, (a) on or subject to the rules of  
8 a designated contract market and (b) for or on behalf  
9 of other persons where such contracts for future  
10 delivery were or may have been used for (i) hedging any  
11 transaction in interstate commerce in such commodity,  
12 or the products or by products thereof, or (ii)  
13 determining the price basis of any transaction in  
14 interstate commerce in such commodity, or (iii)  
15 delivering any such commodity sold, shipped, or  
16 received in interstate commerce for the fulfillment  
17 thereof.  
18  
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22

23 41. Defendants therefore: (a) violated Sections  
24 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. §§ 4b(a)(1)(A)  
25 and (C), for conduct occurring on or after June 18,  
26 2008; and (b) violated Sections 4b(a)(2)(i) and (iii)  
27  
28



1 of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2000),  
2 the pre- CFTC Reauthorization Act of 2008 precussors to  
3 Sections 4b(a)(1)(A) and (C) of the Act, for conduct  
4 occurring before June 18, 2008.  
5

6  
7 42. Each act of misappropriation of pool  
8 participants' and clients' funds, including but not  
9 limited to those specifically alleged herein, is  
10 alleged as a separate and distinct violations as set  
11 forth in paragraph 41, above.  
12

13  
14 43. Abad, directly or indirectly, controlled 1332  
15 and did not act in good faith, or knowingly induced,  
16 directly or indirectly, the acts constituting 1332's  
17 violations alleged in this count. Abad is thereby  
18 liable for 1332's violations as set forth in paragraph  
19 41, above, pursuant to Section 13(b) of the Act, 7  
20 U.S.C. § 13c(b).  
21  
22

23  
24 44. The foregoing acts of misappropriation by Abad  
25 occurred within the scope of his employment with 1332  
26 or when Abad acted as 1332's agent. Therefore, 1332 is  
27 liable for Abad's violations as set forth in paragraph  
28

1 41, above., pursuant to Section 2(a)(1)(B) of the Act,  
2 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R.  
3 § 1.2.  
4

5 **COUNT TWO**

6  
7 **DEFENDANTS' VIOLATIONS OF SECTION 4b(a) OF THE ACT:**  
8 **FRAUD BY FALSE STATEMENTS**

9 45. The allegations contained in paragraphs 1  
10 through 44 above are re-alleged and incorporated by  
11 reference herein.  
12

13 46. During the relevant period, Defendants  
14 willfully made or caused to be made false reports or  
15 statements to (1) commodity pool participants regarding  
16 the pool operated by Defendants and the profitability  
17 of the trading conducted on behalf of the pool, and (2)  
18 at least one managed-account client regarding commodity  
19 futures trading conducted by Abad on behalf of that  
20 client.  
21  
22  
23

24 47. Defendants engaged in this conduct in or in  
25 connection with orders to make, or the making of,  
26 contracts of sale of commodities for future delivery,  
27 made, or to be made, (a) on or subject to the rules of  
28

1 a designated contract market and (b) for or on behalf  
2 of other persons where such contracts for future  
3 delivery were or may have been used for (i) hedging any  
4 transaction in interstate commerce in such commodity,  
5 or the products or by products thereof, or (ii)  
6 determining the price basis of any transaction in  
7 interstate commerce in such commodity, or (iii)  
8 delivering any such commodity sold, shipped, or  
9 received in interstate commerce for the fulfillment  
10 thereof.  
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14

15 48. Defendants therefore: (a) violated Section  
16 4b(a)(1)(B) of the Act, 7 U.S.C. § 4b(a)(1)(B), for  
17 conduct occurring on or after June 18, 2008; and (b)  
18 violated Section 4b(a)(2)(ii) of the Act, 7 U.S.C. §  
19 6b(a)(2)(ii) (2000), the pre-CFTC Reauthorization Act  
20 of 2008 precursor to Section 4b(a)(1)(B) of the Act,  
21 for conduct occurring before June 18, 2008.  
22  
23  
24

25 49. Each false report or statement made or caused  
26 to be made by Defendants, including but not limited to  
27  
28

1 those specifically alleged herein, is a separate and  
2 distinct as set forth in paragraph 48, above.  
3

4 50. Abad, directly or indirectly, controlled 1332  
5 and did not act in good faith, or knowingly induced,  
6 directly or indirectly, the acts constituting 1332's  
7 violations alleged in this count. Abad is thereby  
8 liable for 1332's violations as set forth in paragraph  
9 48, above, pursuant to Section 13(b) of the Act, 7  
10 U.S.C. § 13c(b).  
11  
12

13 51. The foregoing false statements by Abad occurred  
14 within the scope of his employment with 1332 or when  
15 Abad acted as 1332's agent. Therefore, 1332 is liable  
16 for Abad's violations as set forth in paragraph 48,  
17 above, pursuant to Section 2(a)(1)(B) of the Act, 7  
18 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. §  
19 1.2.  
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COUNT THREE

**DEFENDANTS' VIOLATIONS OF SECTION 4o(1) OF THE ACT:  
FRAUD BY A CPO, AP OF A CPO AND CTA**

52. The allegations set forth in paragraphs 1 through 51 are re-alleged and incorporated by reference herein.

51. During the relevant period, 1332 acted as a CPO in that it engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and has solicited, accepted, and received funds from others for the purpose of trading in commodities for future delivery on or subject to the rules of a contract market or derivatives transaction execution facility.

52. Abad also acted as a CTA in that, for compensation or profit, he engaged in the business of advising others as to the value or advisability of trading in commodity futures contracts.

53. During the relevant period, Abad acted as an AP of a CPO in that he was associated with 1332 as an officer, employee, and agent in a capacity that

1 involves the solicitation of funds, securities, or  
2 property for participation in a commodity pool.  
3

4 54. During the relevant period, 1332, acting as a  
5 CPO, and Abad, acting as a CTA and as an AP of a CPO,  
6 violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in  
7 that they directly or indirectly employed or are  
8 employing a device, scheme, or artifice to defraud  
9 clients or participants or prospective clients or  
10 participants, or have engaged or are engaging in  
11 transactions, practices or a course of business which  
12 operated or operates as a fraud or deceit upon any  
13 client or participant or prospective client or  
14 participant by using the mails or other means or  
15 instrumentalities of interstate commerce, and by means  
16 of the acts and practices described in paragraphs 1  
17 through 53 above.  
18  
19  
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22

23 55. Each act of engaging in a transaction, practice  
24 or course of business that operated as a fraud or  
25 deceit upon commodity pool participants and managed  
26 account clients, including but limited to the acts and  
27  
28

1 practices specifically alleged herein, is alleged as a  
2 separate and distinct violation of Section 4o(1) of the  
3 Act, 7 U.S.C. § 6o(1).  
4

5         56. Abad, directly or indirectly, controlled 1332  
6 and did not act in good faith, or knowingly induced,  
7 directly or indirectly, the acts constituting 1332's  
8 violations alleged in this count. Abad is thereby  
9 liable for 1332's violations of Section 4o(1) of the  
10 Act, pursuant to Section 13(b) of the Act, 7 U.S.C.  
11 § 13c(b).  
12  
13  
14

15         57. The foregoing acts and failures of Abad  
16 occurred within the scope of his employment with 1332  
17 or when Abad acted as 1332's agent. Therefore, 1332 is  
18 liable for Abad's violations of Section 4o(1) of the  
19 Act, 7 U.S.C. § 6o(1), pursuant to Section 2(a)(1)(B)  
20 of the Act, 7 U.S.C. § 2(a)(1)(B), and Commission  
21 Regulation 1.2, 17 C.F.R. § 1.2.  
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COUNT FOUR

**DEFENDANTS' VIOLATIONS OF  
SECTIONS 4m(1) AND 4k(2) OF THE ACT:  
FAILURE TO REGISTER AS A CPO AND AS AN AP OF A CPO**

58. The allegations set forth in paragraphs 1 through 57 are re-alleged and incorporated by reference herein.

59. During the relevant period, 1332 acted as a CPO in that it engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and has, in connection therewith, solicited, accepted and received from others, funds for the purpose of trading in commodity futures on or subject to the rules of a contract market without registering as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

60. During the relevant period, Abad acted as an AP of 1332 in that he has was an officer and agent of 1332 and solicited funds for participation in a commodity pool. Abad's failure to register as an AP of 1332 violated Section 4k(2) of the Act, 7 U.S.C.



1 § 6k(2).

2  
3 61. Abad, directly or indirectly, controlled 1332  
4 and did not act in good faith, or knowingly induced,  
5 directly or indirectly, the acts constituting 1332's  
6 violation alleged in this count. Abad is thereby  
7 liable for 1332's violations of Section 4m(1) of the  
8 Act, pursuant to Section 13(b) of the Act, 7 U.S.C.  
9  
10 § 13c(b).

11  
12 62. The failure of Abad to register as an AP  
13 occurred within the scope of his employment or office  
14 with 1332. 1332 is therefore liable for Abad's  
15 violation of Section 4k(2) of the Act, 7 U.S.C.

16  
17 § 6k(2), pursuant to Section 2(a)(1)(B) of the Act, 7  
18 U.S.C. § 2(a)(1)(B), and Commission Regulation 1.2, 17  
19 C.F.R.  
20

21 § 1.2.

22  
23 63. Abad's failure to register as an AP of 1332  
24 occurred within the scope of his employment with 1332  
25 or when Abad acted as 1332's agent. Therefore, 1332 is  
26 liable for Abad's violation of Sections 4k(2) of the  
27  
28

1 Act, 7 U.S.C. § 6k(2), pursuant to Section 2(a)(1)(B)  
2 of the Act, 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2,  
3  
4 17 C.F.R. § 1.2.

5  
6 **COUNT FIVE**

7 **DEFENDANT 1332'S VIOLATION OF**  
8 **COMMISSION REGULATIONS 4.20(a)-(b):**  
9 **FAILURE BY A CPO TO TREAT THE COMMODITY POOL**  
10 **AS A SEPARATE ENTITY AND ACCEPTING POOL**  
11 **FUNDS OTHER THAN IN THE NAME OF THE POOL**

12 64. The allegations set forth in paragraphs 1  
13 through 63 are re-alleged and incorporated by reference  
14 herein.

15 65. Commission Regulation 4.20(a), 17 C.F.R.  
16 § 4.20(a), requires a CPO to treat the commodity pool  
17 it operates as a distinct legal entity separate from  
18 itself.

19  
20 66. During the relevant period, 1332 received and  
21 deposited pool participant funds into bank and trading  
22 accounts in the name of 1332, not in the name of the  
23 pool, thereby failing to treat the commodity pool as a  
24 separate legal entity, in violation of Commission  
25 Regulation 4.20(a), 17 C.F.R. § 4.20(a).  
26  
27

28 67. Commission Regulation 4.20(b), 17 C.F.R.

1 § 4.20(b), requires a CPO to accept pool participants'  
2 funds only in an account in the name of the pool.  
3

4 68. During the relevant period, 1332 failed to  
5 accept pool participants' funds in an account in the  
6 name of the pool, and instead accepted funds in its own  
7 name, in violation of Commission Regulation 4.20(b), 17  
8 C.F.R. § 4.20(b).  
9  
10

11 69. Each failure by 1332 to treat its commodity  
12 pool as a separate legal entity, and each failure by  
13 1332 to accept pool participants' funds in an account  
14 in the name of the pool is alleged as a separate and  
15 distinct violation by 1332 of Commission Regulations  
16 4.20(a) and (b).  
17  
18

19 70. During the relevant period, Abad, directly or  
20 indirectly, controlled 1332 and did not act in good  
21 faith, or knowingly induced, directly or indirectly,  
22 the acts constituting 1332's violations alleged in this  
23 count. Abad is thereby liable for 1332's violations of  
24 Commission Regulations 4.20(a) and (b), 17 C.F.R.  
25  
26  
27  
28

1 §§ 4.20(a) and (b), pursuant to Section 13(b) of the  
2 Act, 7 U.S.C. § 13c(b).  
3

4 **COUNT SIX**

5 **DEFENDANT 1332'S VIOLATIONS OF COMMISSION REGULATION**  
6 **4.21: FAILURE TO PROVIDE THE INFORMATION REQUIRED TO BE**  
7 **IN A COMMODITY POOL DISCLOSURE DOCUMENT AND FAILURE TO**  
8 **RECEIVE SIGNED ACKNOWLEDGMENTS FROM POOL PARTICIPANTS**

9 71. The allegations set forth in paragraphs 1  
10 through 70 are re-alleged and incorporated by reference  
11 herein.

12 72. Commission Regulation 4.21, 17 C.F.R. § 4.21,  
13 requires that, prior to soliciting, accepting or  
14 receiving funds, a CPO must furnish the pool  
15 participant with a written Disclosure Document  
16 containing specific language set forth by Commission  
17 Regulations, including Regulations 4.24 and 4.25, 17  
18 C.F.R. §§ 4.24 and 4.25. In addition, prior to  
19 accepting or receiving funds, a CPO is required to  
20 receive from pool participants an acknowledgment signed  
21 and dated by the participants that they received the  
22 Disclosure Document.  
23  
24  
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26  
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1           73. During the relevant period, 1332 failed to  
2 furnish pool participants with a written Disclosure  
3 Document that provided the information required by  
4 Commission Regulations, including Regulations 4.24 and  
5 4.25, 17 C.F.R. §§ 4.24 and 4.25, and failed to receive  
6 signed and dated acknowledgments from the pool  
7 participants stating that they received the Disclosure  
8 Document. By doing so, 1332 violated Commission  
9 Regulation 4.21, 17 C.F.R. § 4.21.  
10  
11  
12  
13

14           74. Each failure by 1332 to furnish pool  
15 participants with a written Disclosure Document, and  
16 each failure by 1332 to receive signed and dated  
17 acknowledgments from pool participants is alleged as a  
18 separate and distinct violation by 1332 of Commission  
19 Regulation 4.21.  
20  
21

22           75. During the relevant period, Abad, directly or  
23 indirectly, controlled 1332 and did not act in good  
24 faith, or knowingly induced, directly or indirectly,  
25 the acts constituting 1332's violations alleged in this  
26 count. Abad is thereby liable for 1332's violations of  
27  
28

1 Commission Regulation 4.21, 17 C.F.R. § 4.21, pursuant  
2 to Section 13(b) of the Act, 7 U.S.C. § 13c(b).  
3

4 **COUNT SEVEN**

5 **DEFENDANT 1332'S VIOLATIONS OF COMMISSION REGULATION**  
6 **4.22: FAILURE TO PROVIDE ACCOUNT STATEMENTS**

7 76. The allegations set forth in paragraphs 1  
8 through 75 are re-alleged and incorporated by reference  
9 herein.  
10

11 77. Commission Regulation 4.22, 17 C.F.R. § 4.22,  
12 requires that a CPO, registered or required to be  
13 registered under the Act, periodically distribute to  
14 each pool participant an account statement containing  
15 the information required by Commission Regulations.  
16  
17

18 78. During the relevant period, 1332 failed to  
19 furnish pool participants with account statements  
20 containing the information required by Commission  
21 Regulations, in violation of Commission Regulation  
22 4.22, 17 C.F.R. § 4.22.  
23  
24

25 79. Each failure by 1332 to accept participants'  
26 funds in an account in the name of the pool, and each  
27 failure to use of the mails or any means or  
28

1 instrumentality of interstate commerce in connection  
2 with its business as a CPO without proper registration,  
3 including but limited to the acts and practices  
4 specifically alleged herein, is alleged as a separate  
5 and distinct violation by 1332 of Commission Regulation  
6  
7 4.22.  
8

9  
10 80. During the relevant period, Abad, directly or  
11 indirectly, controlled 1332 and did not act in good  
12 faith or knowingly induced, directly or indirectly, the  
13 acts constituting 1332's violations alleged in this  
14 count. Abad is thereby liable for 1332's violations of  
15 Commission Regulation 4.22, 17 C.F.R. § 4.22, pursuant  
16 to Section 13(b) of the Act, 7 U.S.C. § 13c(b).  
17  
18

19 **COUNT EIGHT**

20 **DEFENDANT ABAD'S VIOLATIONS OF COMMISSION**  
21 **REGULATION 4.30: RECEIPT OF FUNDS IN CTA'S NAME**

22 81. The allegations set forth in paragraphs 1  
23 through 80 are re-alleged and incorporated by reference  
24 herein.  
25

26 82. Commission Regulation 4.30, 17 C.F.R. § 4.30,  
27 prohibits a CTA from accepting from an existing or  
28

1 prospective client funds in the CTA's name to purchase,  
2 margin, guarantee or secure any commodity interest of  
3 the client.  
4

5 83. During the relevant period, Abad solicited,  
6 accepted and received funds in his name from at least  
7 one client to purchase, margin, guarantee or secure a  
8 commodity interest of the client, in violation of  
9 Commission Regulation 4.30, 17 C.F.R. § 4.30.  
10  
11

12 84. Each instance in which Abad solicited, accepted  
13 or received funds from an existing or prospective  
14 client to purchase, margin, guarantee or secure a  
15 commodity interest of the client is alleged as a  
16 separate and distinct violation by Abad of Commission  
17 Regulation 4.30.  
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1 **VI. Relief Requested**

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

8 (a) a statutory restraining order enjoining  
9 Defendants and all persons insofar as they are acting  
10 in the capacity of their agents, servants, successors,  
11 assigns, and attorneys, and all persons insofar as they  
12 are acting in active concert or participation with them  
13 who receive actual notice of such order by personal  
14 service or otherwise, from directly or indirectly:  
15  
16  
17

18 1. Destroying, mutilating, concealing,  
19 altering, or disposing of any books and records,  
20 documents, correspondence, brochures, manuals,  
21 electronically stored data, tape records or other  
22 property of defendants, wherever located, including all  
23 such records concerning Defendants' business operations  
24 including but not limited to the operations of Abad and  
25 1332;  
26  
27  
28

1           2. Refusing to permit authorized  
2  
3 representatives of the Commission to inspect, when and  
4 as requested, any books and records, documents,  
5 correspondence, brochures, manuals, electronically  
6 stored data, tape records or other property of  
7  
8 Defendants, wherever located, including all such  
9 records concerning Defendants' business operations,  
10 including but not limited to the operations of 1332 and  
11 Abad; and  
12

13  
14           3. Withdrawing, transferring, removing,  
15 dissipating, concealing or disposing of, in any manner,  
16 any funds, assets, or other property, wherever  
17 situated, including but not limited to, all funds,  
18 personal property, money or securities held in safes,  
19 safety deposit boxes and all funds on deposit in any  
20 financial institution, bank or savings and loan account  
21 held by, under the control of, or in the name of  
22 Defendants;  
23  
24

25  
26           (b) orders of preliminary and permanent injunction  
27 prohibiting Defendants from engaging in conduct  
28

1 violative of Sections 4b(a)(2), 4k(2), 4m(1) and 4o(1)  
2 of the Act, 7 U.S.C. §§ 6b(a)(2), 6k(2), 6m(1) and  
3 6o(1), and Commission Regulations 4.20 through 4.22 and  
4 4.30, 17 C.F.R. §§ 4.20-4.22 and 4.30, and from  
5 engaging in any commodity-related activity, including  
6 commodity futures and options trading, soliciting new  
7 customers, giving advice or other information in  
8 connection with the purchase or sale of commodity  
9 futures or commodity options contracts for others, and  
10 introducing customers to any other persons engaged in  
11 the business of commodity futures or options trading;

12 (c) an order directing Defendants to disgorge,  
13 pursuant to such procedure as the Court may order, all  
14 benefits received from the acts or practices which  
15 constitute violations of the Act or Commission  
16 Regulations, and interest thereon from the date of such  
17 violations;

18 (d) an order directing Defendants to make full  
19 restitution, pursuant to such procedure as the Court  
20 may order, to every participant whose funds were  
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1 received by them as a result of acts and practices  
2 which constituted violations of the Act or Commission  
3 Regulations, and interest thereon from the date of such  
4 violations;  
5

6  
7 (e) an order directing Defendants to pay civil  
8 monetary penalties in amounts of not more than the  
9 higher of: (1) triple their monetary gain for each  
10 violation of the Act and Commission Regulations; or (2)  
11 a penalty of \$120,000 for each such violation committed  
12 prior to October 23, 2004 and \$130,000 for each such  
13 violation committed on or after October 23, 2004; and  
14  
15

16 (f) an order requiring Defendants to pay costs and  
17 fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2)  
18 (1994); and  
19

20 (g) such orders and further remedial ancillary  
21 relief as the Court may deem appropriate.  
22

23 Respectfully submitted,  
24

25 PLAINTIFF U.S. COMMODITY FUTURES  
26 TRADING COMMISSION

27 By:   
28

Glenn I. Chernigoff  
gchernigoff@cftc.gov

1 Timothy M. Kirby  
2 Trial Attorneys  
3 Luke B. Marsh  
4 Chief Trial Attorney  
5 Gretchen L. Lowe  
6 Associate Director  
7 Division of Enforcement  
8 U.S. Commodity Futures  
9 Trading Commission  
10 1155 21st Street, N.W.  
11 Washington, D.C. 20581  
12 Tel (202) 418-5305 (Chernigoff)  
13 Fax (202) 418-5523

14 Kent Kawakami  
15 CA Bar No. 149803  
16 U.S. Attorney's Office  
17 Civil Division  
18 300 North Los Angeles Street  
19 Room 7516  
20 Los Angeles, CA 90012  
21 Telephone (213) 894-4858  
22 Facsimile (202) 894-2380

23  
24  
25  
26  
27  
28 Attorneys for Plaintiff