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UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

UNITED STATES COMMODITY
 FUTURES TRADING
 COMMISSION,

Plaintiff,

v.

LINCOLNSHIRE TRADING
 PARTNERS, LLC. AND SCOTT
 GEISINGER,

Defendants.

CV 12-07417 PA (VBKx)

Docket No:

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

1
2 Plaintiff, the United States Commodity Futures Trading Commission
3 (“Commission” or “CFTC”), by its attorneys, alleges as follows:

4 I. **PRELIMINARY STATEMENT OF JURISDICTION**

5 1. As discussed in more detail in Section III, below, this Court has jurisdiction
6 over this matter as alleged herein pursuant to the Commodity Exchange Act, 7 U.S.C. §1
7 *et seq.* (2006 & Supp. IV 2011), as amended by the Food, Conservation, and Energy Act
8 of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008
9 (“Act”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008).
10

11 II. **SUMMARY**

12
13 2. From at least October 18, 2010 through the present (the “relevant period”),
14 Defendant Lincolnshire Trading Partners, LLC (“Lincolnshire”), by and through its
15 agent, Defendant Scott Geisinger (“Geisinger”) (collectively, the “Defendants”), violated
16 Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp.
17 IV 2011), and Commission Regulation (“Regulation”) 5.3(a)(3)(i), 17
18 C.F.R. § 5.3(a)(3)(i) (2012), by exercising discretionary trading authority or obtaining
19 written authorization to exercise written trading authority over forex trading accounts for
20 or on behalf of persons that are not eligible contract participants (“ECP”) in connection
21 with leveraged forex transactions while not being registered as a commodity trading
22 advisor (“CTA”) with the Commission.
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26 3. Similarly, Geisinger violated Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7
27 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp. IV 2011), and Regulation 5.3(a)(3)(ii),
28

1 17 C.F.R. § 5.3(a)(3)(ii) (2012), by soliciting clients or prospective clients to open
2 discretionary accounts in retail, leveraged forex transactions, or supervising any person
3 so engaged, while associated with Lincolnshire as a partner, officer, employee, consultant
4 or similar agent, without being registered with the Commission as an associated person
5 (“AP”) of Lincolnshire.
6

7
8 4. Accordingly, the Commission brings this action pursuant to Section 6c of the
9 Act, 7 U.S.C. § 13a-1 (2006 & Supp. IV 2011), and Section 2(c)(2)(C) of the Act, 7
10 U.S.C. § 2(c)(2)(C) (2006 & Supp. IV 2011), to enjoin Defendants’ unlawful acts and
11 practices and to compel their compliance with the Act and Regulations. In addition, the
12 Commission seeks civil monetary penalties and remedial ancillary relief, including, but
13 not limited to, trading and registration bans, restitution, disgorgement, rescission, pre-
14 and post-judgment interest, and such other relief as the Court may deem necessary and
15 appropriate.
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18 5. Unless restrained and enjoined by this Court, Defendants are likely to
19 continue to engage in the acts and practices alleged in this Complaint and similar acts and
20 practices, as more fully described below.
21

22 **III. JURISDICTION AND VENUE**

23
24 6. The Act establishes a comprehensive system for regulating registrants
25 pursuant to the Act. Section 6c of the Act, 7 U.S.C. § 13a-1 (2006 & Supp. IV 2011),
26 authorizes the Commission to seek injunctive and other relief against any person or entity
27 whenever it shall appear to the Commission that such person or entity has engaged, is
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1 engaging, or is about to engage in any act or practice constituting a violation of any
2 provision of the Act or any Commission rule, regulation, or order.

3
4 7. This Court has jurisdiction over this matter as alleged herein pursuant to
5 Section 6c of the Act, 7 U.S.C. § 13a-1 (2006 & Supp. IV 2011), and Section 2(c)(2)(C)
6 of the Act, 7 U.S.C. § 2(c)(2)(C) (2006 & Supp. IV 2011). Specifically, during the
7 relevant period, Lincolnshire, through its agent Geisinger, exercised discretionary trading
8 authority or obtained written authorization to exercise written trading authority over
9 accounts for or on behalf of persons that were not ECPs in connection with leveraged
10 forex transactions without being registered as a CTA, and without having any valid
11 exemption from the requirement to register. Section 2(c)(2)(C) of the Act,
12 7 U.S.C. § 2(c)(2)(C) (2006 & Supp. IV 2011) applies to the agreements, contracts or
13 transactions that Lincolnshire and Geisinger offered or entered into with Lincolnshire's
14 non-ECP clients.
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18 8. Venue properly lies with the Court pursuant to Section 6c(e) of the Act,
19 7 U.S.C. § 13a-1(e) (2006 & Supp. IV 2011), because Defendants transact or have
20 transacted business, among other places, in this District, and the acts and practices in
21 violation of the Act are occurring or have occurred, among other places, within this
22 District.
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24

25 IV. PARTIES

26 9. Plaintiff United States Commodity Futures Trading Commission is an
27 independent federal regulatory agency that is charged by Congress with the responsibility
28

1 defendant in *CFTC v. City Credit Capital (UK), Ltd.*, Case No.:1:11-cv-06207 (N.D. Ill.
2 filed September 7, 2011).

3
4 **VI. FACTUAL AND STATUTORY BACKGROUND**

5 **A. Registration Requirements**

6 13. On October 18, 2010, the Commission enacted new regulations implementing
7 certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act
8 of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII, §§ 701-774, 124 Stat. 1376
9 (enacted July 21, 2010) and the Act, with respect to off-exchange retail forex
10 transactions.
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12

13 14. Pursuant to Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. §
14 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp. IV 2011), an entity, including a CTA, or an AP of a
15 CTA, must be registered with the Commission in order to exercise discretionary trading
16 authority or obtain written authorization to exercise written trading authority over any
17 account for or on behalf of any person that is not an ECP in connection with retail,
18 leveraged forex transactions.
19
20

21 15. For the purposes of trading forex, a CTA is defined in Regulation 5.1(e)(1), 17
22 C.F.R. § 5.1(e)(1) (2012), as “any person who exercises discretionary trading authority or
23 obtains written authorization to exercise discretionary trading authority over any account
24 for or on behalf of any person that is not an eligible contract participant . . . in connection
25 with retail forex transactions.”
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27
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1 16. Regulation 5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i) (2012), requires any person
2 acting as a CTA, as defined in § 5.1(e)(1), to be registered as such.

3
4 17. For purposes of trading forex, an AP of a CTA is defined in Regulation
5 5.1(e)(2), 17 C.F.R. § 5.1(e)(2) (2012), as “any natural person associated with a
6 commodity trading advisor . . . as a partner, officer, employee, consultant or agent . . . in
7 any capacity which involves: (i) the solicitation of a client’s or prospective client’s
8 discretionary account; or (ii) the supervision of any person or persons so engaged.”
9

10 18. Regulation 5.3(a)(3)(ii), 17 C.F.R. § 5.3(a)(3)(ii) (2012), requires any person
11 acting as an AP of a CTA, defined in § 5.1(e)(2), to be registered as such.
12

13 19. From October 18, 2010 through July 22, 2012, an ECP was defined by the
14 Act, in relevant part, as an individual with total assets in excess of (i) \$10 million, or (ii)
15 \$5 million and who enters the transaction “to manage the risk associated with an asset
16 owned or liability incurred, or reasonably likely to be owned or incurred, by the
17 individual.” *See* Section 1a(12)(xi) of the Act, 7 U.S.C. § 1a(12)(xi) (2006).
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19

20 20. Beginning July 23, 2012, and with passage of the Dodd-Frank Act, an ECP is
21 defined by the Act, in relevant part, as “an individual who has amounts invested on a
22 discretionary basis, the aggregate of which is in excess of - (I) \$10,000,000; or (II)
23 \$5,000,000 and who enters into the agreement, contract, or transaction in order to
24 managed the risk associated with an asset owned or liability incurred, or reasonably likely
25 to be owned or incurred, by the individual...”. *See* Section 1a(18)(xi) of the Act, 7
26 U.S.C. § 1a(18)(xi) (2006 & Supp. IV 2011).
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1 **B. Lincolnshire's Solicitations Through Geisinger**

2 21. During the relevant period, Lincolnshire, through Geisinger, exercised
3 discretionary trading authority or obtained written authorization to exercise written
4 trading authority over forex trading accounts for or on behalf of persons that are not
5 ECPs in connection with leveraged forex transactions while not being registered as a
6 CTA with the Commission.
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8 22. During the relevant period, Geisinger, solicited clients or prospective clients
9 to open discretionary accounts in retail, leveraged forex transactions, or supervised
10 people so engaged, while associated with Lincolnshire as a partner, officer, employee,
11 consultant or similar agent, without being registered with the Commission as an AP of
12 Lincolnshire.
13

14 23. During the relevant period, Lincolnshire was not registered with the
15 Commission as a CTA and Geisinger was not registered with the Commission as an AP
16 of a CTA as required by the Act and Regulations.
17

18 24. Lincolnshire, through Geisinger, solicited actual and prospective clients
19 through, among other things, Lincolnshire's e-mail, its website
20 www.lincolnshirepartners.com, telephone solicitations, and through the U.S. Mail.
21

22 25. As a result of these solicitations, non-ECP clients opened trading accounts
23 during the relevant period. Clients solicited by Lincolnshire completed the account
24 opening documents e-mailed to them by the Defendants or accessed through
25 Lincolnshire's website (which provided a link to the account opening documents on
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1 CCC's website). These documents included a "Limited Power of Attorney Form," which
2 gave Lincolnshire discretionary trading authority over these client accounts, which were
3 carried at CCC, an unregistered clearinghouse located in the United Kingdom. The
4 deposits into these accounts totaled at least two hundred thirty seven thousand five
5 hundred dollars (\$237,500).
6

7
8 26. The fees charged by the Defendants for exercising discretionary trading
9 authority over a client's account varied. For example, some clients were charged three
10 "pips" and a twenty percent "Performance Fee". The Defendants charged at least one
11 other client thirty percent per month on managed account profits.
12

13 27. The Defendants also provided clients with instructions on how to wire funds
14 to a bank account in the name of CCC in London, United Kingdom.
15

16 28. The forex trades conducted, or offered to be conducted, by the Defendants
17 on behalf of the Defendants' clients were entered into on a leveraged or margined basis.
18 Defendants were required to provide as margin only a percentage of the value of the
19 forex contracts that they purchased. Neither of the Defendants is a financial institution,
20 registered broker dealer, insurance company, financial holding company, or investment
21 bank holding company or associated person of financial institutions, registered broker
22 dealer, insurance company, financial holding company, or investment bank holding
23 company.
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25

26 29. The forex transactions conducted by the Defendants, or offered to be
27 conducted by the Defendants, neither resulted in delivery within two (2) days nor created
28

1 an enforceable obligation to deliver between a seller and a buyer that had the ability to
2 deliver and accept delivery, respectively, in connection with their line of business.

3
4 Rather, these contracts remained open from day to day and ultimately were offset or
5 rolled over without anyone making or taking delivery of actual foreign currency or facing
6 an obligation to do so.

7
8 30. Some or all of Defendants' clients were not "eligible contract participants" as
9 that term is defined in Section 1(a)(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12)(A)(xi)
10 (2006), and Section 1a(18)(xi) of the Act, 7 U.S.C. § 1a(18)(xi) (2006 & Supp. IV 2011).

11
12 **VII. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND**
13 **COMMISSION REGULATIONS**

14 **COUNT ONE:**
15 **VIOLATION OF SECTION 2(c)(2)(C)(iii)(I)(bb) OF THE ACT AND**
16 **REGULATION 5.3(a)(3)(i): FAILURE TO REGISTER AS A COMMODITY**
17 **TRADING ADVISOR**

18 31. The allegations of paragraphs 1 through 30 are re-alleged and incorporated
19 herein by reference.

20 32. During the relevant period, Lincolnshire acted as a CTA, as defined in
21 Regulation 5.1(e)(1), 17 C.F.R. § 5.1(e)(1) (2012), related to off-exchange forex
22 transactions, because it exercised discretionary authority over accounts of individuals
23 who were not ECPs, as defined in Section 1a of the Act, 7 U.S.C. § 1a, in connection
24 with retail forex transactions.
25

26 33. During the relevant period, Lincolnshire exercised discretionary trading
27 authority or obtained written authorization to exercise written trading authority over any
28

1 account for or on behalf of persons that were not ECPs in connection with leveraged
2 forex transactions while not being registered as a CTA with the Commission, in violation
3 of Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 &
4 Supp. IV 2011), and Regulation 5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i) (2012).
5

6 34. Throughout the relevant period, Geisinger, individually and as the agent of
7 Lincolnshire, solicited clients for Lincolnshire to exercise discretionary trading authority
8 or obtain written authorization to exercise written trading authority over accounts for or
9 on behalf of persons that were not ECPs in connection with leveraged forex transactions.
10
11

12 35. Each solicitation by Geisinger occurred within the scope of his office as an
13 agent of Lincolnshire, and therefore, Lincolnshire is liable for Geisinger's violations of
14 Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp.
15 IV 2011), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006).
16

17 36. Each instance that Lincolnshire engaged in the conduct described herein and
18 failed to register as a CTA with the Commission is alleged as a separate and distinct
19 violation of Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb)
20 (2006 & Supp. IV 2011), and Regulation 5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i) (2012).
21
22

23 **COUNT TWO:**
24 **VIOLATION OF SECTION 2(c)(2)(C)(iii)(I)(bb) OF THE ACT AND**
25 **REGULATION 5.3(a)(3)(ii): FAILURE TO REGISTER AS AN ASSOCIATED**
26 **PERSON OF A COMMODITY TRADING ADVISOR**

27 37. The allegations of paragraphs 1 through 36 are re-alleged and incorporated
28 herein by reference.

1 **A. An order finding that Lincolnshire violated Section 2(c)(2)(C)(iii)(I)(bb) of the**
2 **Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp. IV 2011), and Regulation**
3 **5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i) (2012);**

4
5 **B. An order finding that Geisinger violated Section 2(c)(2)(C)(iii)(I)(bb) of the**
6 **Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb)(2006 & Supp. IV 2011), and Regulation**
7 **5.3(a)(3)(ii), 17 C.F.R. § 5.3(a)(3)(ii) (2012);**

8
9 **C. An order of permanent injunction prohibiting the Defendants, and any of their**
10 **agents, servants, employees, assigns, attorneys, and persons in active concert or**
11 **participation with the Defendants, including any successors thereof, from**
12 **directly or indirectly:**

13
14 **i) Engaging in conduct in violation of Section 2(c)(2)(C)(iii)(I)(bb) of**
15 **the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb) (2006 & Supp. IV 2011);**

16
17 **ii) Engaging in conduct in violation of Regulations 5.3(a)(3)(i) and (ii),**
18 **17 C.F.R. §§ 5.3(a)(3)(i) and (ii) (2012);**

19
20 **iii) Trading on or subject to the rules of any registered entity (as that term**
21 **is defined in Section 1a of the Act, 7 U.S.C. § 1a (2006 & Supp. IV**
22 **2011));**

23
24 **iv) Entering into any transactions involving commodity futures, options**
25 **on commodity futures, commodity options (as that term is defined in**
26 **Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2012) (“commodity**
27 **options”), security futures products, and/or foreign currency (as**
28

1 described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act ,
2 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (2006 & Supp. IV 2011),
3 (“forex contracts”), for their own personal accounts or for any
4 account in which they have a direct or indirect interest;
5

- 6 v) Having any commodity futures, options on commodity futures,
7 commodity options, security futures products, and/or forex contracts
8 traded on their behalf;
9
- 10 vi) Controlling or directing the trading for or on behalf of any other
11 person or entity, whether by power of attorney or otherwise, in any
12 account involving commodity futures, options on commodity futures,
13 commodity options, security futures products, and/or forex contracts;
14
- 15 vii) Soliciting, receiving, or accepting any funds from any person for the
16 purpose of purchasing or selling any commodity futures, options on
17 commodity futures, commodity options, security futures products,
18 and/or forex contracts;
19
- 20 viii) Applying for registration or claiming exemption from registration
21 with the Commission in any capacity, and engaging in any activity
22 requiring such registration or exemption from registration with the
23 Commission, except as provided for in Regulation 4.14(a)(9), 17
24 C.F.R. § 4.14(a)(9) (2012); and
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1 ix) Acting as a principal (as that term is defined in Regulation 3.1(a),
2 17 C.F.R. § 3.1(a) (2012)), agent, or any other officer or employee of
3 any person registered, exempted from registration or required to be
4 registered with the CFTC except as provided for in Regulation
5 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012).
6

7
8 D. An order requiring the Defendants and any successors thereof, to disgorge to
9 any officer appointed or directed by the Court all benefits received including,
10 but not limited to, salaries, commissions, loans, fees, revenues, and trading
11 profits derived, directly or indirectly, from the acts or practices which constitute
12 violations of the Act, as described herein, and pre- and post-judgment interest
13 thereon from the date of such violations;
14

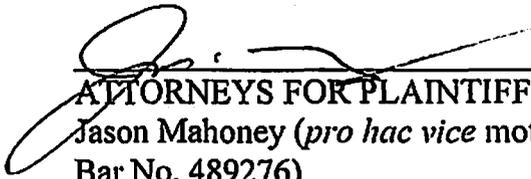
15
16 E. An order requiring the Defendants to make full restitution to every person or
17 entity whose funds they received or caused another person or entity to receive
18 as a result of the acts and practices which constitute violations of the Act, as
19 described herein, and pre- and post-judgment interest thereon from the date of
20 such violations;
21

22 F. An order directing the Defendants and any successors thereof, to rescind,
23 pursuant to such procedures as the Court may order, all contracts and
24 agreements, whether implied or express, entered into between them and any of
25 the clients they solicited or accepted orders from as a result of the acts and
26 practices which constitute violations of the Act, as described herein;
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- 1 G. An order requiring the Defendants to pay civil monetary penalties under the
2 Act, to be assessed by the Court, in amounts of not more than the higher of: (1)
3 \$140,000 for each violation committed on or after October 23, 2008; or (2)
4 triple the monetary gain to Defendants for each violation of the Act, as
5 amended, and the Regulations;
6
7
8 H. An order requiring the Defendants to pay costs and fees as permitted by
9 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and
10
11 I. An order providing such other and further relief as this Court may deem
12 necessary and appropriate under the circumstances.
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20 Dated: August 29, 2012

21 Respectfully submitted,

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**U.S. COMMODITY FUTURES TRADING
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