

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**ANDREW DUNCAN and
THE AURUM SOCIETY, INC.,**

Defendants.

CIVIL ACTION NO. 01C-6802

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

I. SUMMARY

1. From at least February 1998 and continuing through the present (“relevant period”), Andrew Duncan (“Duncan”), individually and through the Aurum Society, Inc. (“Aurum”) (collectively “Defendants”), operated a classic “Ponzi” scheme in which they collected money from unwitting investors for commodities trading, misused that money, and then used new investors’ funds to pay back old investors. The Commodity Futures Trading Commission (“the Commission” or “CFTC”) has learned to date of in excess of \$3,000,000 that Defendants fraudulently solicited and accepted from investors in the United States and Canada (“investors”) to participate in a commodity pool (“Pool”) and to trade commodity futures contracts and options on futures contracts. During the course of the Pool’s operations, the Defendants misrepresented to Pool participants and prospective Pool participants, both orally and

in writing: (i) the performance record of the Pool; (ii) the Pool's value; and (iii) the value of the individual Pool participants' shares in the Pool. The Defendants misappropriated Pool participants' funds for personal use, prepared false account statements, made oral and written misrepresentations to investors in connection with the trading accounts and made oral and written misrepresentations to conceal trading losses and misappropriation of funds.

2. In addition to fraudulently operating the Pool, between at least August 2000 and the present, Duncan obtained power of attorney over two corporate and one individual commodity futures and options trading accounts owned by other investors who entrusted their money to him. Duncan traded these accounts, and similarly to his deception to Pool investors, misrepresented that trading and the performance and value of the accounts.

3. At all relevant times, Defendant Aurum acted as a commodity pool operator ("CPO") without being registered as such with the Commission and, while acting as a CPO, failed to provide Pool participants with complete periodic account statements. Duncan operated as an associated person ("AP") of the Pool and as a commodity trading advisor ("CTA") for the corporate and individual trading accounts without the benefit of registration with the Commission.

4. Defendants Aurum and Duncan have engaged, are engaging, or are about to engage in acts and practices which violate Sections 4b(a)(i)-(iii), 4c(b), 4k(2), 4m(1), 4n(4) and 4o(1) of the Commodity Exchange Act ("the Act"), 7 U.S.C. §§ 6b(a)(i)-(iii), 6c(b), 6k(2), 6m(1), 6n(4) and 6o(1) (1994), as amended by the Commodity Futures Modernization Act of 2000, Appendix E to Pub. L. No. 106-554, 114 Stat. 2763 (2000), and Commission Regulations 4.21, 4.22, 4.31 and 33.10 thereunder, 17 C.F.R. §§ 4.21, 4.22, 4.31 and 33.10 (2001).

5. Since Duncan directly or indirectly controls Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this Complaint, Duncan is liable for Aurum's violations of the Act and Regulations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

6. The actions and omissions of Duncan described in this Complaint were done within the scope of his employment with Aurum. Therefore, Aurum is liable as a principal for Duncan's violations pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2 a(1)(B).

7. Accordingly, the Commission brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, to enjoin the Defendants' unlawful acts and practices and to compel their compliance with the Act. In addition, the Commission seeks disgorgement of the Defendants' ill-gotten gains, restitution to customers or investors, civil monetary penalties and such other relief as this Court may deem necessary or appropriate.

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

II. JURISDICTION AND VENUE

9. The Act prohibits fraud in connection with the trading of commodity futures contracts and establishes a comprehensive system for regulating the purchase and sale of commodity futures contracts and options on commodity futures contracts. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or

practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

10. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a(e), because the Defendants are found in, inhabit, or transact business, among other places, in this District, or the acts and practices in violation of the Act have occurred, are occurring, or are about to occur, among other places, within this District. Specifically the commodity pool and the individual commodity trade accounts through which the Defendants committed the fraud were maintained at Robbins Trading Company (“Robbins”), a registered Introducing Broker (“IB”) located in Chicago, Illinois, and carried by Robbins Futures, Inc., a registered Futures Commission Merchant (“FCM”) located in Chicago, Illinois. Investor funds were also wired to a Chicago bank for the Robbins accounts.

11. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, and the mails, in connection with the acts, practices and courses of business complained of herein.

III. THE PARTIES

12. Plaintiff CFTC is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2000), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2001).

13. Defendant Aurum Society is a company incorporated in Grand Cayman, B.W.I. Its mailing address is P.O. Box HM95 1, Hamilton, Bermuda I-HMDX. Aurum has never been registered with the Commission in any capacity.

14. Defendant Andrew Duncan is 33 years old and his last known residential address is 91 Rougehaven Way, Toronto, Ontario, Canada. He is the founder, sole director, sole

shareholder, manager and chief investment officer of Aurum. He has never been registered with the Commission in any capacity and his current whereabouts are unknown.

IV. FACTS RELEVANT TO ALL COUNTS

Commodity Pool Fraud

15. From at least 1998, the Defendants solicited money from Pool participants and prospective Pool participants for a commodity pool that would, among other things, trade commodity futures contracts and options on commodity futures contracts. However, Defendants did not open an account to trade commodity future contracts and options on commodity futures contracts until January 29, 1999.

16. In written solicitation materials, Duncan held himself out as a “professional commodities trader.” In those materials he stated, among other things, that the Pool: (1) earned over 2,270% in profits for the period May 1999 to January 2000; (2) created 1,329% profit during May 1999 trading treasury bonds and S&P 500 futures; (3) earned 237% profit during June 1999 trading treasury bonds and S&P 500 futures; (4) enjoyed a 32% gain on May 3, 1999, trading in the bond market; and (5) made a 142% profit for the day on January 4, 2000, trading S&P 500 and silver futures. However, from the inception of the account in January 1999 until the present, the Pool had a net loss from trading. Therefore, all of the above statements are false and/or misleading.

17. The Defendants prepared and provided to Pool participants account statements and correspondence which provided false information about the rate of return experienced by the Pool and the value of a Pool participant’s share of the Pool as of the end of the month. The fraudulent account statements indicated that profitable trading had occurred on behalf of the Pool when, in fact, at no time during its existence did the Pool experience net profits. Instead,

between January 1999 when Duncan opened a trading account at Robbins, and July 2001, he lost over \$1,000,000 trading commodity futures and options. Defendants also withdrew over \$1,000,000 from the account.

18. When contacted by Pool participants, the Defendants made oral misrepresentations repeating and confirming the false information contained within the fraudulent account statements.

19. During the relevant time, based upon their misrepresentations, Defendants collected over \$3,000,000 from at least three investors in the United States and Canada. Defendants directed the investors to wire funds for investment in the Pool to the Bank of Montreal, Bank of Bermuda and Firststar Bank, a Robbins bank account.

20. The Defendants attracted additional Pool participants by “word of mouth,” in large part based upon the misrepresentations communicated to existing investors by Defendants.

21. Upon information and belief, the Defendants misappropriated Pool participants’ funds for, among other things, their personal use.

22. Upon information and belief, Defendants used newly acquired funds from new Pool participants to pay out money to other Pool participants, falsely claiming those funds to be Pool profits.

23. The Defendants misrepresented orally and in writing to Pool participants that their investments were making substantial rates of return and generating substantial profits. The Defendants issued one Pool participant a statement purporting to show an account balance of in excess of \$11 million as of June 6, 2001. In fact, on June 6, 2001, the commodity trading account in Aurum’s name had a zero balance.

Commodity Trading Advisor Fraud

24. Between May 2000 and August 2000, Duncan obtained and exercised power of attorney and discretion to trade commodity futures contracts and options on behalf of at least two corporate clients and one individual client.

25. From at least September 30, 2000 to the present, Duncan misrepresented to at least two of his clients, orally and in writing: (1) the performance record in each of their accounts; and (2) the value of each of the accounts.

26. Duncan prepared and provided to at least two of his clients documents which contained false information about the rate of return experienced in the client's accounts for the month; and the account's total value.

27. When contacted by two of his clients, Duncan made oral misrepresentations repeating and confirming the false information contained within the documents he sent them.

28. In reality, these managed accounts were never as profitable as Duncan represented them to be and each of the investors has lost nearly the entire value of their investments.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS**

COUNT ONE

**FRAUD BY MISAPPROPRIATION AND MISREPRESENTATION
VIOLATIONS OF SECTIONS 4b(a)(i)-(iii) OF THE ACT:**

29. The allegations set forth in paragraphs 1 through 28 are re-alleged and incorporated herein.

30. Sections 4b(a)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(i)-(iii), makes it unlawful for any person to cheat or defraud or attempt to cheat or defraud; or willfully make or cause to be made to other persons false reports or statements, or willfully enter or cause to be entered for other persons false records; or willfully deceive or attempt to deceive by any means whatsoever

other persons in or in connection with orders to make, or the making of, contracts of sale of commodities, for future delivery, made, or to be made, for or on behalf of such other persons where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the produce or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped or received in interstate commerce for the fulfillment thereof.

31. From at least February 1998 to the present, the Defendants cheated or defrauded or attempted to cheat or defraud and willfully deceived or attempted to deceive Pool participants or prospective Pool participants by soliciting participants for the Pool through fraudulent misrepresentations about Duncan's ability as a commodity futures trader, the past performance for the Pool, the profits and losses for the Pool, the amount of money invested in the Pool and the value of the participants' investments in the Pool, and by misappropriating Pool participants' funds.

32. The Defendants cheated or defrauded or attempted to cheat or defraud investors and willfully deceived or attempted to deceive other persons by knowingly making material misrepresentations and omitting material facts, and by willfully making or causing to be made false reports and false statements issued or communicated to Pool participants who invested money with Defendants to trade commodity futures contracts and options.

33. Between September 2000 and the present, Duncan cheated and defrauded or attempted to cheat or defraud and willfully deceived or attempted to deceive his managed account clients by making false representations to their representatives about the profits and losses in their accounts, and the value of their investments in their trading accounts.

34. From at least September 30, 2000 to the present, Duncan willfully cheated, defrauded and deceived, or attempted to cheat, defraud and deceive his managed account clients by knowingly misrepresenting, orally and in writing, the performance record in their accounts and the value of their accounts. Duncan willfully made material misrepresentations and omitted material facts to the representatives of those accounts and provided them with false reports and false statements, in that he provided representatives of the accounts with written account statements that contained false account balances.

35. By using funds solicited to trade commodity futures for Pool participants for Defendants' own personal expenses, the Defendants knowingly misappropriated funds.

36. The actions and omissions of Duncan described in this count were done within the scope of his employment with Aurum. Therefore, Aurum is also liable for Duncan's violations of Section 4b(a)(i)-(iii) of the Act, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2a(1)(B).

37. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this count. Duncan is thereby liable for Aurum's violations of Section 4b(a)(i)-(iii) of the Act, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

38. Each act of misappropriation, each material misrepresentation or omission, and each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(i)-(iii) of the Act.

COUNT TWO

**OPTIONS FRAUD AND MISAPPROPRIATION,
IN VIOLATION OF SECTION 4c(b) OF THE ACT
AND REGULATION 33.10:**

39. The allegations set forth in paragraphs 1 through 38 are re-alleged and incorporated herein.

40. During the relevant time, the Defendants: (i) cheated or defrauded or attempted to cheat or defraud other persons; (ii) willfully made or caused to be made to other persons false reports or statements, or willfully entered or caused to be entered for other persons false records; and/or (iii) willfully deceived or attempted to deceive other persons, in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, commodity option transactions, all in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10, 17 C.F.R. § 33.10.

41. The Defendants knowingly made material misrepresentations and omitted material facts including, but not limited to, the misrepresentations set forth in paragraphs 15 through 28, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c).

42. The Defendants knowingly issued false reports and have made false statements to investors who invested money with them to trade options on commodity futures contracts, as set forth in paragraphs 15 through 28, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c).

43. By using funds solicited to trade options on commodity futures contracts for Pool participants for Defendants' own personal expenses, as set forth in paragraphs 15 through 28, the Defendants knowingly misappropriated Funds, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c).

44. The actions and omissions of Duncan described in this Count were done within the scope of his employment with Aurum. Therefore, Aurum is liable for Duncan's violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c), pursuant to Section 2a(l)(B) of the Act, 7 U.S.C. § 2 a(l)(B).

45. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations of Aurum alleged in this count, and thereby Duncan is liable for Aurum's violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

46. Each act of misappropriation, each material misrepresentation or omission, and each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 33.10(a) and (c), 17 C.F.R. § 33.10(a) and (c).

COUNT THREE

FRAUD BY A COMMODITY POOL OPERATOR AND COMMODITY TRADING ADVISOR, IN VIOLATION OF SECTION 4o(1) OF THE ACT:

47. The allegations set forth in paragraphs 1 through 46 are re-alleged and incorporated herein.

48. Beginning in or about February 1998 and continuing through the present, Duncan, while acting in his capacity as a CTA has violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in that he directly or indirectly employed or is employing a device, scheme, or artifice to defraud investors or prospective investors, or has engaged or are engaging in transactions, practices or a

course of business which operated as a fraud or deceit upon investors or prospective investors, by using the mails or other means or instrumentalities of interstate commerce.

49. Beginning in or about February 1998 and continuing through the present, defendants Aurum, while acting as a CPO, and Duncan, while acting as an AP of Aurum in its capacity as a CPO, have violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1), in that they directly or indirectly employed or are employing a device, scheme or artifice to defraud pool participants or prospective pool participants, or have engaged or are engaging in transactions, practices or a course of business which operated as a fraud or deceit upon pool participants or prospective pool participants by using the mails or other means or instrumentalities of interstate commerce. Their fraudulent acts included, but were not limited to: (i) issuing or showing false documents to prospective pool participants; (ii) misrepresenting and omitting to state material facts to prospective and actual pool participants; (iii) misrepresenting the profits, losses, balances and use of funds or other property they received from pool participants; (iv) misappropriating pool participants' funds; and (v) preparing and mailing or transmitting by facsimile or electronic mail, documents containing false information.

50. The actions and omissions of Duncan described in this Count were done within the scope of his employment with Aurum. Therefore Aurum is liable for Duncan's violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), pursuant to Section 2a(1)(B) of the Act, 7 U.S.C. § 2a(1)(B).

51. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this Count. Duncan is thereby liable for Aurum's violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

52. Each act of misappropriation, each material misrepresentation or omission, and each false report or statement made during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1),

COUNT FOUR

FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR VIOLATION OF SECTION 4m(1) OF THE ACT:

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

54. Beginning in or about February 1998, Aurum has used the mails or instrumentalities of interstate commerce in or in connection with its business as a CPO while failing to register as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

55. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this count. Duncan thereby is liable for Aurum's violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

COUNT FIVE

FAILURE TO REGISTER AS A COMMODITY TRADING ADVISOR, IN VIOLATION OF SECTION 4m(1) OF THE ACT:

56. The allegations set forth in paragraphs 1 through 55 are re-alleged and incorporated herein.

57. Beginning in or about May 2000 and August 2000, Duncan obtained and exercised power of attorney and discretion to trade commodity futures contracts and options on behalf of at least two corporate clients and one individual client. Thereafter, Duncan used the

mails or instrumentalities of interstate commerce in or in connection with his business as a CTA while failing to register as a CTA, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

COUNT SIX

**FAILURE TO REGISTER AS AN ASSOCIATED PERSON,
IN VIOLATION OF SECTION 4k(2) OF THE ACT:**

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

59. Beginning in or about February 1998, Duncan was associated with Aurum, in its capacity as a CPO, and was involved in the solicitation of funds from investors for participation in a commodity pool while failing to register as an AP of the CPO, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2).

60. Aurum permitted Duncan to become and remain associated with Aurum and knew, or should have known that Duncan was not registered as an associated person of Aurum, in violation of Section 4k(2) of the Act.

COUNT SEVEN

**FAILURE TO PROVIDE PERIODIC ACCOUNT STATEMENTS,
IN VIOLATION OF SECTION 4n(4) OF THE ACT AND REGULATION 4.22:**

61. The allegations set forth in paragraphs 1 through 60 are re-alleged and incorporated herein.

62. Beginning in or about February 1998, Aurum was required to furnish annual and monthly account statements to Pool participants. The monthly account statements prepared by Aurum and provided to Pool participants failed to provide the required information accurately. In addition, Aurum did not prepare an accurate annual account statement certified by an independent accountant. Accordingly, Aurum failed to provide the required account statements

to Pool participants, in violation of Section 4n(4) of the Act, 7 U.S.C. § 6n(4), and Regulation 4.22, 17 C.F.R. § 4.22.

63. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this count. Duncan is thereby liable for Aurum's violation of Section 4n(4) of the Act, 7 U.S.C. § 6n(4), and Regulation 4.22, 17 C.F.R. § 4.22, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

64. Each failure to deliver an accurate account statement to Pool participants during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4n(4) of the Act, 7 U.S.C. § 6n(4), and Regulation 4.22, 17 C.F.R. § 4.22.

COUNT EIGHT

FAILURE TO PROVIDE DISCLOSURE DOCUMENTS, IN VIOLATION OF REGULATIONS 4.21 AND 4.31:

65. The allegations set forth in paragraphs 1 through 64 are re-alleged and incorporated herein.

66. Beginning in or about February 1998, while directly or indirectly operating as a CPO, soliciting, accepting, and receiving funds, securities or other property from prospective Pool participants, Aurum failed to deliver to prospective Pool participants a true and accurate Disclosure Document containing the information set forth in Regulation 4.24, in violation of Regulation 4.21, 17 C.F.R. §§ 4.21.

67. Beginning in or about September 2000, Duncan, while acting as a CTA soliciting, accepting and receiving funds, securities or other property from clients and prospective clients,

failed to deliver to them a true and accurate Disclosure Document containing the information set forth in Regulation 4.34, 17 C.F.R. § 4.34, in violation of Regulation 4.31, 17 C.F.R. §§ 4.31.

68. Duncan, directly or indirectly, controlled Aurum and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting Aurum's violations alleged in this count, and thereby Duncan is liable for Aurum's violation of Regulation 4.21, 17 C.F.R. § 4.21, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

69. Each failure to deliver a true and accurate Disclosure Document containing the information set forth in Regulations 4.24 and 4.34 during the relevant time period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Regulations 4.21 and 4.31, 17 C.F.R. §§ 4.21 and 4.31.

VI. RELIEF REQUESTED

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

- A. Find that Defendants violated Sections 4b(a)(i)-(iii), 4c(b), 4k(2), 4m(1), 4n(4) and 4o(1) of Act, 7 U.S.C. §§ 6b(a)(i)-(iii), 6c(b), 6k(2), 6m(1), 6n(4) and 6o(1) (1994), and Commission Regulations 4.21, 4.22, 4.31 and 33.10 thereunder, 17 C.F.R. §§ 4.21, 4.22, 4.31 and 33.10 (2001);
- B. Enter orders of preliminary injunction restraining and enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with him who receive actual notice of such order by personal service or otherwise, from directly or indirectly:
 1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of defendants, wherever located, including all such records concerning defendants' business operations;
 2. Refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape

records or other property of defendants, wherever located, including all such records concerning defendant's business operations; and

3. Withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control, or in the name of Defendants.
- C. Enter orders of preliminary and permanent injunctions prohibiting the Defendants and any other person or entity associated with them, including any successor thereof, from:
1. engaging in conduct, in violation of Sections 4b(a)(i)-(iii), 4c(b), 4k(2), 4m(1), 4n(4) and 4o(1) of Act, 7 U.S.C. §§ 6b(a)(i)-(iii), 6c(b), 6k(2), 6m(1), 6n(4) and 6o(1) (1994), and Commission Regulations 4.21, 4.22, 4.31 and 33.10 thereunder, 17 C.F.R. §§ 4.21, 4.22, 4.31 and 33.10 (2001);
 2. engaging in, controlling, or directing the trading of any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise; and
 3. 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) (2001), or acting as a principal, agent, officer or employee of any person registered, required to be registered, or exempted from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)(2001). This includes, but is not limited to, soliciting, accepting, or receiving any funds, revenue or other property from any other person, giving commodity trading advice for compensation, except as provided in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2001), or soliciting prospective customers related to the purchase or sale of commodity futures or options.
- D. Enter an order directing the Defendants and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act or Regulations, as described herein, and interest thereon from the date of such violations;
- E. Enter an order directing the Defendants to make full restitution to every customer whose funds were received by him as a result of acts and practices which constituted violations of the Act and Regulations, as described herein, and interest thereon from the date of such violations;

- F. Enter an order assessing a civil monetary penalty against each Defendant in the amount of not more than the higher of \$110,000 or triple the monetary gain to the Defendant for each violation by the Defendant of the Act or Regulations occurring after November 27, 1996 and before October 23, 2000, and assessing a civil monetary penalty against each Defendant in the amount of not more than the higher of \$120,000 or triple the monetary gain to the Defendant for each violation by the Defendant of the Act or Regulation after October 23, 2000;
- G. Enter an order directing that the Defendants make an accounting to the court of all their assets and liabilities, together with all funds they received from and paid to investors and other persons in connection with commodity futures transactions or purported commodity futures transactions, and all disbursements for any purpose whatsoever of funds received from commodity investors, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from, but not limited to, January 1998 to and including the date of such accounting;
- H. Enter an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
- H. Order such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: August 30, 2001

Respectfully submitted,

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