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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT CALIFORNIA
 SOUTHERN DIVISION

UNITED STATES
 COMMODITY FUTURES
 TRADING COMMISISION

Plaintiff,

vs.

CHRISTOPHER VALOIS,
 CYNTHIA WONG, BERTRAM
 TRADE LLC, and
 CHURCHHILL COMMODITIES

Case No:

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

1 TRADING LLC,)
 2)
 3 Defendants.)
 4 _____)

5 **I.**
 6 **SUMMARY**

7 1. Between October 2011 and the present (the “relevant time period”),
 8 Defendants Christopher Valois (“Valois”) and Cynthia Wong (“Wong”), acting by
 9 and through Defendants Bertram Trade LLC (“Bertram Trade”) and Churchill
 10 Commodities Trading LLC (“Churchill” or “Churchill”) (collectively
 11 “Defendants”), solicited, obtained or managed approximately \$750,000 from six
 12 customers, some of whom were senior citizens. Of those funds, Defendants
 13 fraudulently solicited approximately \$450,000 to purchase precious metals and to
 14 engage in futures trading. In addition, Defendants also managed approximately
 15 \$300,000 in managed futures accounts even though they were not registered to do
 16 so.
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18 2. The precious metals transactions offered by Valois and Wong and
 19 their companies, Bertram Trade LLC and Churchill Commodities Trading LLC,
 20 were illegal off-exchange instruments after July 16, 2011. Moreover, on
 21 information and belief, Valois and Wong misappropriated at least \$300,000 sent
 22 for the purpose of purchasing precious metals or for trading futures for their
 23 customers and instead used those customer funds to pay their personal expenses.
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1 3. Valois and Wong held themselves out as commodity trading advisors
2 (“CTAs”) without being registered with the Commission in any capacity.

3
4 Moreover, Valois was disqualified from registration because he had been banned
5 from the futures industry for cheating and defrauding customers.

6 4. By virtue of this conduct and the conduct further described herein,
7 Defendants have engaged, are engaging, or are about to engage in offering to enter
8 into, entering into, executing, confirming the execution of, illegal off-exchange
9 precious metals transactions, in violation of Section 4(a) of the Act, 7 U.S.C.
10 § 6(a), and fraud in connection with retail commodity transactions by
11 misrepresentation, omission and misappropriation, in violation of Section
12 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A), (C). Further, Defendants
13 Valois and Wong have engaged, are engaging, or are about to engage in fraud in
14 connection with exchange-traded commodity futures contracts, in violation of
15 Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C); acting as
16 CTAs without benefit of registration with the Commission, in violation of Section
17 4m(1) of the Act, 7 U.S.C. § 6m(1); and CTA fraud, in violation of Section 4o(1)
18 of the Act, 7 U.S.C. § 6o(1).
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24 5. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(a),
25 the CFTC brings this action to enjoin Defendants’ unlawful acts and practices,
26 compel their compliance with the Act, and further enjoin them from engaging in
27 any commodity-related activity.
28

1 concert with the offeror or counterparty on a similar basis” (“retail commodity
2 transactions”), subject to certain exceptions not applicable here.

3
4 10. Venue properly lies with this Court pursuant to Section 6c(e) of the
5 Act, 7 U.S.C. §13a-1(e) (2012), because Defendants are found in, inhabit, or
6 transact business in this District, or the acts and practices in violation of the Act
7 occurred, are occurring, or are about to occur within this District, among other
8 places.
9

10 III. 11 PARTIES

12 11. The U.S. Commodity Futures Trading Commission is an independent
13 federal regulatory agency charged by Congress with the responsibility for
14 administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*, and the
15 Commission’s Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2013).
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17

18 12. Christopher Valois resides in Irvine, California. Valois was registered
19 with the Commission intermittently between 1998 and 2009 as a CTA, introducing
20 broker (“IB”) and associated person (“AP”). However, since August 2009, Valois
21 has not been registered with the Commission in any capacity. In August 2010, the
22 National Futures Association (“NFA”), the self-regulatory organization designated
23 by Plaintiff CFTC to register futures industry professionals, permanently barred
24 Valois from NFA membership for making deceptive and misleading sales
25 solicitations, using misleading and deceptive promotional material, and
26 unauthorized trading of customer accounts, among other things. In the NFA’s
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1 decision to permanently bar Valois, it found that “Valois has no regard for the
2 [futures] regulatory structure . . . and poses a threat to customer protection.”
3

4 13. Cynthia Wong resides in Irvine, California. Wong was never been
5 registered with the Commission in any capacity. Wong is married to Valois.
6 Wong formed Bertram Trade and upon information and belief operated it with
7 Valois.
8

9 14. Bertram Trade LLC is a California limited liability company which
10 had a business address of 7 Cobalt Drive, Dana Point, California 92629 from
11 March 2009 to October 2011. Valois and Wong formed Bertram Trade in March
12 2009 and shut it down in approximately October 2011. Bertram Trade maintained
13 a website at www.bertramtrade.com during the same time period. Bertram
14 purportedly offered leveraged investments in precious metals to retail customers.
15 Bertram Trade has never been registered with the Commission in any capacity.
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18 15. Churchhill Commodities Trading LLC is a California limited liability
19 company which has used a business address of 17266 Candleberry, Irvine,
20 California 92612 since March 2012. Valois and Wong formed Churchill in March
21 2012 after shutting Bertram down. Churchill’s website at
22 www.churchillcommoditiestrading.com is identical to Bertram Trade’s former
23 website and is still active. Churchill has never been registered with the
24 Commission in any capacity.
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**IV.
FACTS**

A. Defendants Valois and Wong's Fraudulent Solicitation of Over \$400,000 from Customer A and Misappropriation of Customer A's Funds

16. Until approximately October 2011, Bertram Trade's website claimed that:

- the company "buys and stores gold for customers,"
- customers can "buy up to six times more gold than [their] deposited funds,"
- customers' gold is "insured and stored securely in [Bertram's] bullion vaults," and
- purchases of gold through Bertram Trade will "help safeguard wealth against financial instability."

17. As described in paragraphs 18 to 28 below, defendants Valois and Wong, individually and as employees or agents of Bertram Trade, fraudulently solicited at least \$407,000 from at least one customer between May and November 2011, and thereafter failed to disclose to the customer the status of his investments.

18. Customer A, a retired, 73-year-old resident of Long Beach, California, met an account executive ("AE") who worked for Valois and Wong in 2011.

Customer A and the AE discussed the investments that Customer A maintained in his individual retirement account ("IRA") at Fidelity Investments ("Fidelity"). The AE told Customer A that he worked for Bertram Trade, which he said was an investment firm that purchased gold on behalf of clients. The AE told Customer A

1 that gold was a safe investment and that the price of gold was poised to start rising.
2 The AE also told Customer A that purchasing gold through Bertram Trade was a
3 less risky investment for his retirement funds than keeping them in his IRA at
4 Fidelity.
5

6 19. The AE then introduced Customer A to Valois, whom the AE stated
7 was the owner of Bertram Trade. Valois showed Customer A charts and other
8 documents touting his purported successful futures trading performance and told
9 Customer A that he could also make money if he allowed Valois to trade futures
10 and options for him. Valois also told Customer A that his account at Bertram
11 Trade would operate in the same manner as his Fidelity retirement account. These
12 representations convinced Customer A to transfer \$407,000, representing nearly all
13 of his funds from his retirement account at Fidelity, to Bertram Trade, various
14 futures accounts, and a Wong personal account in a series of transactions between
15 May and October 2011.
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20 20. Customer A made two investments totaling \$175,000 with Bertram
21 Trade to purchase gold in May 2011.
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23 21. Following Customer A's \$175,000 investment, Valois and Bertram
24 Trade sent \$125,000 of Customer A's funds to a purported metals company and
25 Valois and Wong immediately used the remaining \$50,000 for their personal
26 expenses. The customer never took delivery of any gold. Valois and Bertram
27 never returned any portion of the \$175,000 investment to the customer even though
28

1 the purported metals dealer had sent \$100,000 to Valois and Bertram in the
2 following 10 months.

3
4 22. Meanwhile, in approximately June 2011, Valois introduced Customer
5 A to Wong, whom he said worked for Bertram Trade. In June 2011, Customer A
6 authorized the transfer of an additional \$100,000 of his retirement funds to a
7
8 commodity futures trading account that Wong and Valois opened in Customer A's
9 name at a futures commission merchant ("FCM"). Wong had trading authority
10 over the account and was listed as the investment advisor for Customer A's
11 account.
12

13 23. Valois and Wong failed to disclose to Customer A the risks of
14 investing in futures contracts. Between June 2011 and approximately November
15 2011, Valois and Wong lost virtually all of Customer A's funds trading in foreign
16 currency, agricultural and e-mini futures contracts. However, neither Valois nor
17 Wong informed Customer A about the trading losses.
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20 24. In July 2011, Customer A wired yet another \$60,000 to Wong to be
21 used either to purchase precious metals through Bertram Trade or to trade futures
22 in his trading account at the FCM. Wong wired approximately \$10,000 of these
23 funds to a purported metals company. Wong misappropriated the rest of the funds
24 by wiring some of the funds to her personal futures account held at the same FCM,
25 where she used the funds to trade in futures contracts for herself, and used the
26 remaining funds for personal expenses. Wong lost virtually all of Customer A's
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1 funds that Wong traded in her personal futures account by approximately February
2 2012. However, Wong did not inform Customer A about the trading losses.

3
4 25. In or about August 2011, Valois and Wong convinced Customer A to
5 set up a limited liability shell corporation called Customer A Enterprises LLC
6 (“Customer A Enterprises”) to use for his precious metals and futures investments
7 with them. The AE and Wong accompanied Customer A to the bank and assisted
8 Customer A in opening a bank account in the name of Customer A Enterprises. In
9 October 2011, Wong deposited a \$72,000 check drawn on the Customer A
10 Enterprises bank account into a Bertram Trade bank account that she controlled.
11 Customer A did not issue this check from the Customer A Enterprises bank
12 account to Wong, and Wong did not disclose to Customer A that she had received
13 funds from the Customer A Enterprises bank account. Wong misappropriated
14 these funds by trading approximately \$68,000 in her personal futures account and
15 using the rest for personal expenses. Virtually all of Customer A’s funds that
16 Wong traded in her personal futures account were lost in trading.

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21 26. Valois and Wong failed to disclose how they were using Customer
22 A’s funds. When Customer A specifically asked Valois about his funds, Valois
23 failed to provide information showing the amount and status of the customer’s
24 investment. Unknown to Customer A, virtually all of his funds were being
25 dissipated through either trading losses or through personal expenditures by Valois
26 and Wong.
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1 27. Customer A eventually suspected he had been defrauded. Customer
2 A tried to connect to the Bertram Trade website only to find that the website was
3 no longer online. Customer A then tried contacting Valois and the AE by
4 telephone with the contact numbers they had previously given him, only to find
5 that the numbers were disconnected.
6

7
8 28. Customer A's \$407,000 in investments with Valois, Wong, the AE
9 and Bertram Trade as described above represented nearly the entirety of his
10 retirement savings. To date, Valois, Wong and Bertram Trade have not told
11 Customer A what happened to his investments. Customer A now lives in an
12 assisted living facility and survives mainly on social security and proceeds from a
13 small annuity.
14

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16 **B. Defendants Valois and Wong's Fraudulent Solicitation of Over \$35,000**
17 **From Customer B and Misappropriation of Customer B's Funds**

18 29. In or about October 2011, Valois and Wong terminated operation of
19 the Bertram Trade website and shortly thereafter, in March 2012, formed
20 Churchill. Churchill also purports to be a precious metals company and its website
21 is identical to the former Bertram Trade website. The Churchill website is still
22 active.
23

24 30. The Churchill website claims that:
25

- 26 • the company "buys and stores gold for customers,"
27 • customers can "buy up to six times more gold than [their]
28 deposited funds,"

- 1 • customers' gold is "insured and stored securely in [Churchill's]
- 2 bullion vaults," and
- 3 • purchases of gold through Churchill will "help safeguard wealth
- 4 against financial instability."

5 Upon information and belief, Churchill did not buy and store gold for customers
6 and did not possess or maintain any vaults holding precious metals. Moreover,
7 purchases of gold through Churchill were highly risky and did not provide any
8 protection for its customers.
9

10 31. Customer B is a 60 year old man who resides in Springfield, Illinois,
11 and runs a small business that repairs restaurant and convenience store equipment.
12

13 32. As described in paragraphs 33 to 41 below, between March and
14 December 2013, Valois solicited and obtained approximately \$35,500 in four
15 transactions from Customer B for the purpose of purchasing precious metals
16 through Churchill.
17

18 33. In or about March 2013, Valois solicited Customer B to invest in
19 precious metals through Churchill. Valois presented himself to Customer B as the
20 owner of Churchill and told Customer B that gold would be stored on Customer
21 B's behalf and would be available for shipment to Customer B at any time.
22

23 34. Further, Valois told Customer B that Churchill's policies required that
24 customers purchase a minimum of 15 ounces of gold per purchase and that the
25 Churchill gold investment used a 2:1 leverage, meaning that the customer would
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1 only need to put up enough money to purchase 7.5 ounces but would have 15
2 ounces of gold in the customer's account.

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4 35. On or about March 11, 2013, Customer B wired \$15,000 to a bank
5 account held in Churchill's name, controlled by Valois. Upon information and
6 belief, neither Valois nor Churchill purchased or stored precious metals on behalf
7 of Customer B. Instead, Valois misappropriated at least a portion of Customer B's
8 funds by trading the funds in speculative derivatives trading and using a portion of
9 the funds for personal expenses.
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12 36. On the following day, Customer B discovered through an online
13 search that Valois had been permanently barred from NFA membership for
14 deceptive sales practices and other conduct. When Customer B asked Valois about
15 this information, Valois downplayed the significance of the findings by stating that
16 he settled the matter with the NFA because defending himself against the
17 complaint would have been too cost prohibitive. However, Valois did not settle
18 the NFA charges against him. Rather, he refused to attend the hearing prompting
19 the NFA to find that Valois "has no regard for the regulatory structure in [the
20 futures] industry and is a threat to customer protection."
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24 37. Based upon Valois' assurances as to the insignificance of the NFA bar
25 and Valois's continued touting of profits to be made in precious metals, in or about
26 April 2013, Customer B wired another \$15,000 to a bank account held in
27 Churchill's name, controlled by Valois. Upon information and belief, Valois did
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1 not in fact purchase precious metals with these funds. Instead, Valois again
2 misappropriated at least a portion Customer B's funds by using the funds to trade
3 speculative derivative contracts and for personal expenses.
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5 38. Valois also solicited Customer B to open a managed futures and forex
6 trading account. In or about April 2013, Valois told Customer B that he Valois
7 could open a managed futures account through a friend that would allow Valois to
8 manage the futures trading in the account without being disclosed as the manager.
9 Valois told Customer B that Valois would have to operate the account in this way
10 in order to "get around" the prohibition on trading that was currently imposed upon
11 him.
12

13 39. In about November 2013 and then again in about December 2013,
14 Valois told Customer B that his precious metals account needed more funds to
15 meet margin calls. In response, Customer B wired \$2,500 in November 2013 and
16 \$3,000 in December 2013 to the Churchill bank account.
17

18 40. In or about January 2014, Valois told Customer B not to cooperate
19 with the federal government if Customer B should receive any inquiries from the
20 government about Valois' activities.
21

22 41. In April 2014, Customer B sought delivery of the gold he believed he
23 had purchased from Valois and Churchill. Valois did not deliver any gold to
24 Customer B. Instead, Valois told Customer B that gold prices had drastically
25 declined and returned only \$8,100 of Customer B's original \$35,500 investment.
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1 **C. Defendants Valois and Wong Acted As Unregistered CTAs**

2 42. Defendants Valois and Wong acted as CTAs by trading the funds of at
3 least four members of the general public in futures contracts and receiving
4 advisory fees for such futures trading.
5

6 43. For example Wong managed the investment funds of funds of
7 Customer A by trading them in various commodity futures in accounts held in
8 Customer A's name and in the name of Bertram Trade.
9

10 44. Valois solicited another customer, Customer C, a 45 year old man
11 residing in Lansdowne, Virginia. Valois initially solicited the customer through e-
12 mails advising him to purchase precious metals through Bertram Trade. When that
13 was unsuccessful, Valois solicited the customer to manage a futures trading
14 account to hedge Customer C's oil and gas exploration investments. In June 2011,
15 Customer C invested \$10,000 with Valois for this purpose. Wong was listed as the
16 authorized trader on Customer C's futures account held at the same FCM as the
17 others, but Valois traded the customer's account. Valois lost over half of Customer
18 C's funds within two months of trading; upon demand, Customer C received back
19 approximately \$4,000 of his funds.
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24 45. Valois managed the funds of at least two other customers including
25 \$24,500 from a 75 year old retiree and \$250,000 from a commodity pool by
26 trading these funds in managed commodity futures accounts
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1 connection with, a contract for the purchase or sale of a commodity for future
2 delivery unless the transaction is conducted on or subject to the rules of a board of
3 trade that has been designated or registered by the Commission as a contract
4 market.
5

6 51. Section 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and
7 (C), makes it unlawful for any person in or in connection with any order to make or
8 the making of any futures contract, to (A) cheat, defraud or willfully deceive, or
9 attempt to cheat, defraud or (C) willfully deceive, any other person by any means
10 whatsoever.
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13 52. Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and
14 (C), in relevant part, makes it unlawful for any person, in or in connection with any
15 order to make, or the making of, any contract of sale of any commodity for future
16 delivery that is made, or to be made, for or on behalf of, or with any other person,
17 other than on or subject to the rules of a designated contract market: (A) to cheat or
18 defraud or attempt to cheat or defraud the other person; or (C) willfully to deceive
19 or attempt to deceive the other person by any means whatsoever in regard to any
20 order or contract or the disposition or execution of any order or contract, or in
21 regard to any act of agency performed, with respect to any order or contract for, on
22 behalf of, or with the other person.
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27 53. A CTA, as set forth in Section 1a(12) of the Act, 7U.S.C. § 1a(12), is
28 any person who, for compensation or profit, engages in the business of advising

1 others either directly or through publications, writings or electronic media, as to
2 the value or the advisability of trading in any contract of sale of a commodity for
3 future delivery . . . or for compensation or profit, and as part of a regular business,
4 issues or promulgates analyses or reports concerning any of the activities referred
5 to above.
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8 54. Section 4m(1) of the Act, 7 U.S.C. § 6m(1), makes it unlawful for any
9 CTA to make use of the mails or any means of the instrumentalities of interstate
10 commerce in connection with its business as a CTA unless registered under the
11 Act.
12

13 55. Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B),
14 makes it unlawful for a CTA to make use of the mails or any means or
15 instrumentalities of interstate commerce, directly or indirectly to (A) employ any
16 device, scheme, or artifice to defraud any client or prospective client; or (B) to
17 engage in any transaction or course of business which operates as a fraud or deceit
18 upon any client or prospective client.
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21 56. The commodities that are the subjects of the retail commodity
22 transactions herein are commodities as defined by Section 1a(4) of the Act,
23 7 U.S.C. § 1a(4) (2012).
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VI.
VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND
REGULATIONS

COUNT I

Violations of Section 4(a) of the Act, 7 U.S.C. § 6(a):
Off-Exchange Precious Metals Transactions

57. Paragraphs 1 through 56 of this Complaint are realleged and incorporated herein by reference.

58. From July 16, 2011, to the present, Defendants Valois, Wong, Bertram Trade and Churchill by and through its employees and agents violated Section 4(a) of the Act by offering to enter into, entering into, executing, confirming the execution of, or conducting an office or business in the United States for the purpose of soliciting or accepting orders for, or otherwise dealing in, transactions in, or in connection with, retail commodity transactions.

59. The retail commodity transactions described in this Complaint were offered and entered into (a) on a leveraged or margined basis, (b) with persons who are not ECPs or eligible commercial entities as defined by the Commodity Exchange Act, and (c) not made or conducted on, or subject to, the rules of any board of trade, exchange or contract market.

60. Each offer to enter into, entrance into, execution, confirmation, solicitation or acceptance of an order for a retail commodity transaction is alleged as a separate and distinct violation of Section 4(a) of the Act.

1 65. From July 16, 2011 to the present, Defendants Valois, Wong, Bertram
2 Trade and Churchill have cheated or defrauded, or attempted to cheat or defraud
3 and have willfully deceived or attempted to deceive customers in or in connection
4 with retail commodity transactions by misrepresenting and omitting on the Bertram
5 Trade and Churchill websites among other places, facts material to the investment
6 decisions of customers, including but not limited to falsely stating that Bertram
7 Trade and Churchill purchased and stored physical precious metals, falsely
8 representing the safety and security of customer funds invested in precious metals
9 through Bertram Trade and Churchill, by failing to disclose the risks of investing
10 in precious metals through Bertram Trade and Churchill and by misappropriating
11 customer funds intended for the purchase of precious metals and using them for
12 speculative futures and derivatives trading and personal expenses.
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17 66. Defendants made their misrepresentations and omissions of material
18 fact knowingly or with a reckless disregard to their truth or falsity, and knowingly
19 or recklessly misappropriated customer funds.
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21 67. Each material misrepresentation or omission, and each
22 misappropriation of customer funds during the relevant period, including but not
23 limited to those specifically alleged herein, is alleged as a separate and distinct
24 violation of Sections 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and
25 (C).
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1 68. Defendants Valois and Wong directly or indirectly controlled Bertram
2 Trade and did not act in good faith or knowingly induced, directly or indirectly, the
3 acts constituting Bertram Trade's violations of Sections 4b(a)(2)(A) and (C)
4 alleged in this Complaint. Therefore, pursuant to Section 13(b) of the Act,
5 7 U.S.C. § 13(b), Valois and Wong are liable for Bertram Trade's violations of
6 Sections 4b(a)(2)(A) and (C) of the Act.
7
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9 69. Defendant Valois directly or indirectly controlled Churchill and did
10 not act in good faith or knowingly induced, directly or indirectly, the acts
11 constituting Churchill's violations of Sections 4b(a)(2)(A) and (C) alleged in this
12 Complaint. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13(b),
13 Valois is liable for each of Churchill's violations of Sections 4b(a)(2)(A) and (C)
14 of the Act.
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17 70. The acts and omissions of Valois and Wong described in paragraphs 1
18 through 56 of this Complaint were done within the scope of their employment with
19 Bertram Trade and Churchill. Therefore Bertram Trade and Churchill are liable as
20 principals for each of Valois and Wong's acts, omissions or failures constituting
21 violations of Sections 4b(a)(2)(A) and (C) pursuant to Section 2(a)(1)(B) of the
22 Act, 7 U.S.C § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2.
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COUNT III

**Violations of Section 4b(a)(1)(A) and (C) of the Act,
7 U.S.C. § 6b(a)(1)(A) and (C):
Fraud In Connection With Commodity Futures Contracts by
Misrepresentation, Omission and Misappropriation**

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

23. Defendants Valois, and Wong cheated or defrauded, or attempted to cheat or defraud, and willfully deceived or attempted to deceive customers, in violation Sections 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and (C), by among other acts and practices, misrepresenting and omitting material facts, including but not limited to, misrepresenting the likelihood of profits and failing to disclose the risks associated with trading commodity futures contracts, failing to disclose losses incurred in trading commodity futures contracts, and misappropriating customer funds by, among other things, using customer funds for personal trading and expenses.

73. Defendants Valois and Wong made these material misrepresentations and failed to disclose material facts knowingly or with a reckless disregard to their truth or falsity, and knowingly or recklessly misappropriated customer funds.

74. Each material misrepresentation or omission, and each misappropriation of customer funds during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct

1 violation of Sections 4b(a)(1)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(1)(A) and
2 (C).
3

4 **COUNT IV**

5 **Violations of Section 4m(1) OF THE ACT, 7 U.S.C. § 6m(1):**
6 **Operating As Unregistered CTAs**

7 75. The allegations set forth in paragraphs 1 through 56 are re-alleged and
8 incorporated herein.
9

10 76. Defendants Valois and Wong violated Section 4m(1) of the Act,
11 7 U.S.C. § 6m(1), in that, while making use of the mails or any means or
12 instrumentality of interstate commerce, for compensation or profit, they engaged in
13 the business of advising others either directly or through publications, writings or
14 electronic media, as to the value or the advisability of trading in any contract of
15 sale of a commodity for future delivery or for compensation or profit, and as part
16 of a regular business, issued or promulgated analyses or reports concerning any of
17 the activities referred to above by soliciting and managing customer funds through
18 the trading of commodity futures contracts without benefit of Commission
19 registration.
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23 77. Each act of operating as an unregistered CTA during the relevant
24 period, including but not limited to, those specifically alleged herein, is alleged as
25 a separate and distinct violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).
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COUNT V

**Violations of Section 4o(1)(A) and (B)
Of the Act: CTA Fraud**

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

79. Defendants Valois and Wong violated Section 4o(1)(A) and(B) of the Act, 7 U.S.C. § 6o(1)(A) and(B), by, among other acts and practices, while acting as a CTAs, and by use of the mails or any means or instrumentality of interstate commerce, they directly or indirectly employed a device, scheme, or artifice to defraud any client or participant or prospective client or participant, or have engaged in transactions, practices or a course of business which operated as a fraud or deceit upon such persons. The devices, schemes, artifices, transactions, practices or courses of business included, but were not limited to, knowingly or recklessly misrepresenting the likelihood of profits and failing to disclose the risks associated with trading commodity futures contracts, failing to disclose losses incurred in trading commodity futures contracts, and misappropriating customer funds.

80. Each act of directly or indirectly employing a device, scheme, or artifice to defraud any client or participant or prospective client or participant, or engaging in transactions, practices or a course of business which operated as a fraud or deceit upon such persons including, but not limited to, those specifically

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

3
4 **VII.**
5 **RELIEF REQUESTED**

6 WHEREFORE, the Commission respectfully requests that the Court, as
7 authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), and pursuant to its
8 own equitable powers, enter:

9
10 A. A statutory restraining order and an order for preliminary injunction
11 pursuant to Section 6c of the Act, as amended, 7 U.S.C. § 13a-1(a), restraining
12 Defendants and all persons or entities insofar as they are acting in the capacity of
13 agent, servant, employee, successor, assign, and attorney of either of them, and all
14 persons insofar as they are acting in active concert or participation with
15 Defendants, who receive actual notice of such order by personal service or
16
17
18 otherwise, from directly or indirectly:

- 19 1. Destroying, mutilating, concealing, altering, or disposing of any
20 books and records, documents, correspondence, brochures,
21 manuals, electronically stored data, tape records, or other property
22 of Defendants, wherever located, including all such records
concerning Defendants' business operations;
- 23 2. Refusing to permit authorized representatives of the Commission
24 to inspect, when and as requested, any books and records,
25 documents, correspondence, brochures, manuals, electronically
26 stored data, tape records, or other property of Defendants,
27 wherever located, including all such records concerning
Defendants' business operations; and
- 28 3. Withdrawing, transferring, removing, dissipating, concealing, or
disposing of, in any manner, any funds, assets, or other property,

1 wherever situated, including, but not limited to, all funds, personal
2 property, money, or securities held in safes or safety deposit boxes,
3 and all funds on deposit in any financial institution, bank, or
4 savings and loan account, whether domestic or foreign, held by,
 under the control of, or in the name of any of the Defendants.

5 B. An order finding Defendants Valois and Wong violated Sections 4(a),
6 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1) and 4o(1) of the Act, 7 U.S.C.
7 §§ 6(a), 6b(a)(1)(A) and (C), 6b(a)(2)(A) and (C), 6m(1), and 6o(1).
8

9 C. An order finding Defendants Bertram Trade and Churchill violated
10 Sections 4(a) and 4b(a)(2)(A) and (C), of the Act, 7 U.S.C. §§ 6(a) and 6b(a)(2)(A)
11 and (C).
12

13 D. An order of permanent injunction prohibiting Defendants Valois and
14 Wong, and any other persons or entities in active concert with them, from engaging
15 in conduct in violation of Sections 4(a), 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C),
16 4m(1), and 4o(1) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(1)(A) and (C), 6b(a)(2)(A) and
17 (C), 6m(1), and 6o(1).
18

19 E. An order of permanent injunction prohibiting Defendants Bertram
20 Trade and Churchill, and any other persons or entities in active concert with it from
21 engaging in conduct in violation of Sections 4(a), and 4b(a)(2)(A) and (C) of the
22 Act, 7 U.S.C. §§ 6(a) and 6b(a)(2)(A) and (C).
23

24 F. An order of permanent injunction prohibiting Defendants and any of
25 their affiliates, agents, servants, employees, successors, assigns, attorneys and
26 persons in active concert with him, including any successor thereof, who receive
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1 actual notice of such order by personal service or otherwise, from engaging,
2 directly or indirectly, in:
3

- 4 1. trading on or subject to the rules of any registered entity, as that
5 term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40);
6
- 7 2. entering into any transactions involving commodity futures,
8 options on commodity futures, commodity options (as that term is
9 defined in Regulation §1.3(hh), 17 C.F.R. §1.3(hh) (2013))
10 (“commodity options”), security futures products, foreign currency
11 (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act,
12 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (2012)) (“forex
13 contracts”) and/or swaps (as that term is defined in Section 1a(47)
14 of the Act, 7 U.S.C. § 1a(47)) for their own personal account or for
15 any account in which they have a direct or indirect interest;
16
- 17 3. having any commodity futures, options on commodity futures,
18 commodity options, security futures products, forex contracts,
19 and/or swaps traded on their behalf;
20
- 21 4. controlling or directing the trading for or on behalf of any other
22 person or entity, whether by power of attorney or otherwise, in any
23 account involving commodity futures, options on commodity
24 futures, commodity options, security futures products, forex
25 contracts, and/or swaps;
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- 1 5. soliciting, receiving, or accepting any funds from any person for
2 the purpose of purchasing or selling any commodity futures,
3 options on commodity futures, commodity options, security futures
4 products, forex contracts, and/or swaps;
5
- 6 6. applying for registration or claiming exemption from registration
7 with the Commission in any capacity, and engaging in any activity
8 requiring such registration or exemption from registration with the
9 Commission, except as provided for in Regulation 4.14(a)(9),
10 17 C.F.R. § 4.14(a)(9) (2013);
11
- 12 7. acting as a principal (as that term is defined in Regulation 3.1(a),
13 17 C.F.R. § 3.1(a) (2013)), agent or any other officer or employee
14 of any person (as that term is defined in Section 1a of the Act,
15 7 U.S.C. § 1a), or entity registered, exempted from registration or
16 required to be registered with the Commission, except as provided
17 for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9);
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21 G. An order directing that Defendants make an accounting to the Court
22 of all of (i) their assets and liabilities, together with all funds they received from
23 customers in connection retail commodity transactions and futures trading or
24 purported retail commodity transactions or futures trading, including the names,
25 mailing addresses, email addresses, and telephone numbers of any such persons
26 from whom Defendants received such funds from October 2009 to the date of such
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1 accounting, and (ii) all disbursements for any purpose whatsoever of funds
2 received from their clients and other persons, including salaries, commissions,
3 fees, loans, and other disbursements of money and property of any kind, from
4 October 2009 to and including the date of such accounting;
5

6 H. Enter an order requiring Defendants immediately to identify and
7 provide an accounting of all assets and property that they currently maintain
8 outside the United States, including, but not limited to, all funds on deposit in any
9 financial institution, futures commission merchant, bank, or savings and loan
10 accounts held by, under the control of, or in the name of any of the Defendants or
11 in which any such person or entity has a beneficial interest of any kind, whether
12 jointly or otherwise, and requiring Defendants to repatriate all funds held in such
13 accounts by paying them to the Clerk of the Court, or as otherwise ordered by the
14 Court, for further disposition in this case;
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19 I. An order directing Defendants to pay a civil monetary penalty for
20 each violation of the Act and the Regulations described herein, plus post-judgment
21 interest, in the amount of the higher of (1) \$140,000 for each violation of the Act
22 and Regulations or (2) triple the monetary gain to Defendants for each violation of
23 the Act and the Regulations, plus post-judgment interest;
24

25 J. An order directing Defendants, as well as any successors to
26 Defendants, to disgorge, pursuant to such procedure as the Court may order, all
27 benefits received from the acts or practices that constitute violations of the Act and
28

1 Regulations, as described here, and prejudgment interest thereon from the date of
2 such violations;

3
4 K. An order directing Defendants to make restitution by making whole
5 each and every customer whose funds were received or used by them in violation
6 of the provisions of the Act as described herein, including pre-judgment interest;

7
8 L. An order directing Defendants, and any successors thereof, to rescind,
9 pursuant to such procedures as the Court may order, all contracts and agreements,
10 whether implied or express, entered into between them and any customer whose
11 funds were received by them as a result of the acts and practices that constituted
12 violations of the Act, as amended, as described herein;

13
14 M. An order requiring Defendants to pay costs and fees as permitted by
15 28 U.S.C. §§ 1920 and 2412 (2012); and

16
17 N. Such further relief as the Court deems proper.
18
19

20 Dated: _____

Respectfully submitted,

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22 _____
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