

3. The only deposits into the SP operating account are customer funds. Nearly half of the customer funds deposited into the operating account are then transferred overseas to the Lateko Bank in Riga, Latvia for the benefit of relief defendants Ocaline, Hesar, Pymont, Commonwealth, and TTS; or to Banco De Fomento Agricola S.A in San Jose, Costa Rica for the benefit of relief defendant Klondike. The funds remaining in SP's operating account are primarily used for payments to defendant Dmanskiy, rent, office supplies, copying services, and ATM withdrawals

4. A small percentage of the funds in the operating account were transferred back to existing customers for the purported liquidation of some or all of their trading accounts. However, no funds are transferred into the SP operating account from any relief defendant, bank, clearinghouse, or other designated contract facility that might indicate the existence of trading. Therefore customers that receive funds from SP's operating account are not being paid from returns on their investments. Rather they are being paid with other customers' funds, an operation that is tantamount to a Ponzi Scheme.

5. Through the conduct described in paragraphs 1 through 4, Dmanskiy has engaged in the fraudulent misappropriation of investor funds and, consequently, violated Section 4b(a)(2)(i) and (iii) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 6b(a)(2)(i) and (iii) (2001), and Commission Regulation 1.1(b)(1) and (3), 17 C.F.R. § 1.1(b)(1) and (3) (2002).

6. Because Dmanskiy engaged in the fraudulent misappropriation of investor funds while acting as Sun Platinum's agent, Sun Platinum is vicariously liable for violations of Section 4b(a)(2)(i) and (iii) of the Act, and Commission Regulation 1.1(b)(1) and (3), pursuant to Section 2a(1)(B) of the Act, 7 U.S.C. § 2a(1)(B) (2001).

7. Because the transactions Sun Platinum purports to offer are not conducted on or subject to the rules of a designated contract market or derivatives transaction execution facility, Sun Platinum is engaged in the sale of illegal off-exchange futures contracts in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a).

8. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), Plaintiff Commodity Futures Trading Commission (“Commission” or “CFTC”) brings this action to enjoin the unlawful acts and practices of defendants Sun Platinum and Dmanskiy and to compel their compliance with the provisions of the Act and Regulations thereunder. In addition, the Commission seeks civil penalties, an accounting and such other equitable relief as the Court may deem necessary or appropriate.

II.

JURISDICTION AND VENUE

9. The Act prohibits fraud in connection with the trading of commodity futures contracts and options and establishes a comprehensive system for regulating the purchase and sale of such contracts and options. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear 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. In addition, Section 2(c)(2)(B) of the Act, 7 U.S.C. § 2(c)(2)(B) (2001) confers upon the Commission jurisdiction over certain retail transactions in foreign currency for future delivery, including the transactions alleged in this complaint.

10. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2001), in that defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

III.

THE PARTIES

A. Plaintiff

11. Plaintiff Commodity Futures Trading Commission 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.* (2001), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2002).

B. Defendants

12. Sun Platinum Group LLC was incorporated on October 8, 1998 in the state of New York. Sun Platinum's official address on state corporate records is 2111 White Plains Road, Bronx, NY 10462. However, Sun Platinum's operating address for conducting business related to this matter is 110 Duane Street, New York, New York 10007. On February 16, 1999, Sun Platinum changed its registered name to Sunshine Management LLC. However, Sun Platinum still uses the Sun Platinum name to conduct all business related to this matter. Neither Sun Platinum nor Sunshine Management LLC has ever been registered with the Commission in any capacity.

13. Eduard Dmanskiy aka Edward Dumansky ("Dmanskiy") resides at 35 South Madison Avenue, Spring Valley, NY 10977. Dmanskiy maintains a Florida driver's license with an address of 17315 Collins Avenue, Apartment 108, North Miami Beach, Florida, 33160.

Dmanskiy opened Sun Platinum's operating account in Brooklyn, NY in October 2002, and serves as the signatory on the account. Dumansky has never been registered with the Commission in any capacity.

C. Relief Defendants

14. Ocaline International Corporation ("Ocaline") is an International Business Company registered in the British Virgin Islands. Ocaline's registered office address is P.O. Box 3321 Road Town, Tortola, BVI, and its registered agent is Commonwealth Trust Limited. Ocaline has never been registered with the Commission in any capacity.

15. Hesar Alliance Incorporated ("Hesar") is an International Business Company registered in the British Virgin Islands. Hesar's registered office address is P.O. Box 3321 Road Town, Tortola, BVI, and its registered agent is Commonwealth Trust Limited. Hesar has never been registered with the Commission in any capacity.

16. Commonwealth Trust Limited ("Commonwealth") is incorporated in the British Virgin Islands. Commonwealth' registered office is Drake Chambers, Road Town, Tortola, BVI. Commonwealth has never been registered with the Commission in any capacity.

17. Pymont Alliance Corporation ("Pymont") is located in Nassau, Bahamas. Pymont's address is Rovers House, Market Street North, Nassau, Bahamas. Pymont has never been registered with the Commission in any capacity.

18. Klondike International Inc. ("Klondike") does not have a known address. Klondike has never been registered with the Commission in any capacity.

19. Total Trading Services Limited ("TTS") does not have a known address. TTS has never been registered with the Commission in any capacity.

IV.

STATUTORY BACKGROUND

20. Section 2(c)(2)(B)(i)-(ii) of the Act, 7 U.S.C. § 2(c)(2)(B)(i)-(ii) (2001), provides that the CFTC shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a sale of a commodity for future delivery, and is “offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is” a regulated entity, as defined therein. Section 2(c)(2)(B)(i)-(ii) of the Act was enacted by Congress as part of the Commodity Futures Modernization Act of 2000 (“CFMA”) in an effort “to clarify the jurisdiction of the Commodity Futures Trading Commission over certain retail foreign exchange transactions and bucket shops that may not be otherwise regulated.” CFMA § 2(5), Pub. L. No. 106-554, 114 Stat. 2763 (2000).

21. Section 1a(12)(A)(v) of the Act, 7 U.S.C. § 1a(12)(A)(v) (2001), defines an “eligible contract participant” as a corporation, partnership, proprietorship, organization, trust, or other entity that: (a) has total assets exceeding \$10 million; (b) the obligations of which under an agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keep-well, support, or other agreement by a financial institution, regulated insurance company, regulated investment company or commodity pool, as defined; or (c) has a net worth exceeding \$1 million and enters the transaction in connection with the conduct of the entity’s business or to manage the risk associated with an asset or liability owned or incurred, or reasonably likely to be owned or incurred by the entity in the conduct of the entity’s business.

22. Section 4(a) of the Act, 7 U.S.C. § 6(a) (2001) provides that unless exempted by the Commission, it shall be unlawful for any person to offer to enter into, execute, confirm the execution of, or conduct an office or business in the United States for the purpose of soliciting,

accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity; and (b) such contracts have not been executed or consummated by or through such contract market.

V.

FACTS

A. Sun Platinum Misappropriates Customer Funds in Furtherance of a Ponzi Scheme

23. Since at least February 2003, Sun Platinum has solicited more than \$7 million from approximately 373 customers for the purported purpose of trading in foreign currency.

24. None of the more than \$7 million dollars was used to engaged in trading. Sun Platinum telemarketers and brochures represent to prospective customers that their entire investment will be placed in a “managed trading account” at the Bank of New York where Sun Platinum will trade foreign currencies on behalf of customers in the “spot” or “forex” market. However, customer funds are not invested as promised. Sun Platinum does not maintain a currency trading account at the Bank of New York. Instead, customer investments are deposited into the operating account in Sun Platinum’s name at a Brooklyn, NY branch of JP Morgan Chase Bank.

25. The only deposits into the Sun Platinum operating account are customer funds. Nearly half of the customer funds deposited into the operating account are then transferred overseas to the Lateko Bank in Riga, Latvia for the benefit of relief defendants Ocaline, Hessar,

Pymont, Commonwealth, and TTS; or to Banco De Fomento Agricola S.A in San Jose, Costa Rica for the benefit of relief defendant Klondike.

26. The funds remaining in Sun Platinum's operating account are primarily used for rent, office supplies, copying services, and ATM withdrawals.

27. Dmanskiy, as the sole signatory on the operating account, is directly responsible for all movements of customer funds.

28. A small percentage of the funds in the operating account were transferred back to existing customers for the purported liquidation of some or all of their trading accounts. However, no funds are transferred into the Sun Platinum operating account from any relief defendant, bank, clearinghouse, or other designated contract facility that might indicate the existence of trading. Therefore, customers that receive funds from Sun Platinum's operating account are not being paid from returns on their investments. Rather, they are being paid with other customers' funds, an operation that is tantamount to a Ponzi Scheme.

B. Defendant Sun Platinum Cheats and Defrauds Its Investors

29. Sun Platinum telephone solicitations and other advertising materials purport to offer investors the opportunity to speculate in the value of foreign currencies. Sun Platinum telemarketers offer to open and manage customer foreign currency accounts, and promise customers steady returns on their investment while downplaying the risk of loss. Sun Platinum brochures represent that profits of more than 300% were obtained in the last three years and that there was not one losing month of trading in that time period.

30. After investing, customers receive bi-weekly statements from Sun Platinum, which typically indicate consistent 2%-10% earnings for each two-week period.

31. After customers receive these statements, telemarketers pressure them to make additional high-dollar investments with the firm. Sun Platinum telemarketers encourage customers to liquidate IRA and other retirement accounts, sell mutual funds and other securities, or mortgage homes to invest with Sun Platinum. One customer was told that the returns he would receive from investing with Sun Platinum would far exceed the penalty for withdrawing his IRA early.

32. Sun Platinum does not disclose to customers that their funds will not be invested or managed as promised, that investments will be used in furtherance of a Ponzi scheme, or that the investments they are promoting are illegal futures contracts.

33. In soliciting prospective customers to trade foreign currency contracts on their behalf, Sun Platinum makes the following misrepresentations of material facts:

- (a) After a customer establishes an account with Sun Platinum, all funds deposited by the customer are immediately placed in Sun Platinum's "client currency trading account;"
- (b) Sun Platinum will deposit customer funds with the Bank of New York, where all customer funds will be maintained;
- (c) All funds deposited by customers are used for trading;
- (d) Sun Platinum has been in the foreign currency trading business for 17 years; and
- (e) Sun Platinum engages in foreign currency transactions with large banks such as HSBC and Commerce 1.

34. These representations are intended to create the impression that Sun Platinum is a legitimate firm. However, these statements are false, in that:

- (a) All customer funds are deposited in Sun Platinum's operating account, where a significant portion of customer funds are transferred to Latvia and/or Costa Rica to accounts controlled by the relief defendants;
- (b) The Bank of New York, including Bank of New York's currency trading desk, has never heard of Sun Platinum, and does not transact any business with Sun Platinum;
- (c) more than half of the customer funds remain in Sun Platinum's operating account;
- (d) Customer funds either remain in Sun Platinum's operating account, or are transferred overseas to accounts controlled by the relief defendants;
- (e) Sun Platinum was registered as a corporation in New York five years ago in 1998, and did not open its operating bank account until October 2002; and
- (f) neither HSBC nor Commerce 1 have heard of Sun Platinum, and neither bank engages in any business, including foreign currency transactions, with Sun Platinum.

35. In order to hide the misappropriation of customer funds, and to discourage customers from liquidating their accounts, Sun Platinum telemarketers make the following misrepresentations:

- (a) Sun Platinum receives distributions from the trading banks only once per month and customers cannot be paid until these distributions are made; and
- (b) customers cannot withdraw funds within the first 90 days after investing.

36. These representations, which are made despite claims in Sun Platinum brochures and telemarketer solicitations that all customer accounts are liquid and can be accessed by the customer upon 48-hour notice, are false in that:

- (a) The Sun Platinum operating account receives no distributions from a designated contract facility or any other entity that indicates trading activity. In fact, the only deposits into the Sun Platinum operating account are customer investments; and
- (b) More than half of the customer funds deposited in the operating account remain there and are readily accessible to be returned to customers.

C. The Defendants Purported Foreign Currency Transactions Are Illegal Off-Exchange Futures Contracts.

37. Since at least February 2003, Sun Platinum has engaged in an elaborate scheme to defraud retail customers. Sun Platinum promotional materials and account opening documents describe an investment opportunity to profit based upon the fluctuations in the relative values of foreign currencies. While the defendants claim that their investments are in spot or forward contracts, the foreign currency contracts that defendants purport to offer and sell are actually contracts for future delivery of foreign currencies that are cash settled in US dollars (“futures contracts”). The prices or pricing formulas are established at the time the contracts are initiated, and may be settled through offset, cancellation, cash settlement or other means to avoid delivery. These contracts are offered to the general public and are not individually negotiated.

38. The customers who invest with Sun Platinum have no commercial need for the foreign currency. Instead, investors enter into these transactions to speculate and profit from anticipated price fluctuations in the markets for these currencies.

39. Investors do not anticipate taking – and do not take – delivery of the foreign currencies they purchase as a consequence of these investments. Sun Platinum does not require their customers to set up banking relationships to facilitate delivery of the foreign currencies. Once the market moves in a favorable direction, an investor expects, based on the representations that have been made to them, Sun Platinum to liquidate his or her investment by authorizing the sale of the contract and taking the profits.

40. Defendants do not conduct their foreign currency futures transactions on or subject to the rules of a board of trade that has been designated by the CFTC as a contract market, nor are defendants' transactions executed or consummated by or through a contract market. Defendants do not conduct transactions on a facility registered as a derivatives transaction execution facility.

VI.

VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS

COUNT I

FRAUD BY MISAPPROPRIATION VIOLATIONS OF SECTIONS 4b(a)(2)(i) and 4b(a)(2)(iii) OF THE ACT AND REGULATIONS 1.1(b)(1) and (3)

41. Paragraphs 1 through 40 are re-alleged and incorporated herein.

42. During the relevant time, Dmanskij violated Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2001), and Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2002), in that he cheated or defrauded or attempted to cheat or defraud investors or prospective investors in the investment program, and willfully deceived or

attempted to deceive investors or prospective investors, by misappropriating funds received from investors.

43. Dmanskiy engaged in the fraudulent misappropriation of investor funds while acting as Sun Platinum's agent. Sun Platinum thereby is liable for Dmanskiy's violations of Sections 4b(a)(2)(i) and (iii) of the Act and Regulations 1.1(b)(1) and (3), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

44. Defendants engaged in this conduct 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 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 products 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.

45. Each misappropriation of investor funds made during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(i) and (iii) of the Act and Regulations 1.1(b)(1) and (3).

COUNT II

VIOLATIONS OF SECTION 4(a) OF THE ACT: SALE OF ILLEGAL OFF EXCHANGE FUTURES CONTRACTS

46. Paragraphs 1 through 40 are re-alleged and incorporated herein.

47. During the relevant time period, Sun Platinum through its telemarketers has offered to enter into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for

future delivery when: (a) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity; and (b) such contracts have not been executed or consummated by or through such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2001).

48. Each foreign currency futures transaction not conducted on a designated contract market or registered derivatives transaction execution facility made during the relevant time period, including but not limited to those conducted by the defendants as specifically alleged herein, is alleged as a separate and distinct violation of Section 4(a) of the Act.

VII.

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 4(a), 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(2)(i) and (iii), and Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2002);
- B. 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 4(a), 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(2)(i) and (iii), and Regulation 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2002);

2. soliciting funds for, 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;
- C. Enter orders of preliminary and permanent injunction restraining and enjoining Defendants and Relief 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 them 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 or Relief 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 Defendants' 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 or Relief Defendants.

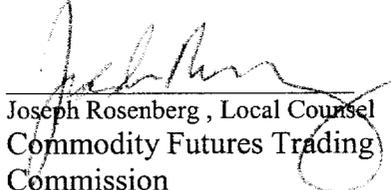
- D. Enter an order directing the Defendants, Relief Defendants, and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act as described herein, including pre-judgment 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 \$120,000 or triple the monetary gain to the Defendant for each violation by the Defendant of the Act or Regulations;
- 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 clients 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 transactions, including salaries, commissions, interest, fees, loans and other disbursements of money and property of any kind, from, but not limited to, February 2003 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
- I. Order such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: 9/12/03

Respectfully submitted,

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