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BY _____

1 Jennifer E. Smiley, Illinois ARDC No. 6275940
 2 (jsmiley@cftc.gov)
 3 Carlin R. Metzger, Illinois ARDC No. 6275516
 4 (cmetzger@cftc.gov)
 5 Joseph A. Konizeski, Louisiana Bar No. 25132
 6 (jkonizeski@cftc.gov)
 7 U.S. Commodity Futures Trading Commission
 8 525 W. Monroe Street, Suite 1100
 9 Chicago, IL 60661
 10 Telephone: (312) 596-0530 (Smiley)
 Telephone: (312) 596-0536 (Metzger)
 Telephone: (312) 596-0546 (Konizeski)
 Facsimile: (312) 596-0714
 Attorneys for Plaintiff

11 Kent Kawakami, CA Bar No. 149803
 12 (kent.kawakami@usdoj.gov)
 13 Assistant United States Attorney
 14 United States Attorney's Office
 15 Central District of California – Civil Division
 16 300 North Los Angeles Street Room 7516
 17 Los Angeles, CA 90012
 Telephone: (213) 894-4859
 Facsimile: (213) 894-2380
 Local Counsel

18
 19 THE UNITED STATES DISTRICT COURT
 20 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION

21 U.S. COMMODITY FUTURES)
 22 TRADING COMMISSION,)
 23)
 24 Plaintiff,)
 25)
 26 v.)
 20/20 TRADING COMPANY, INC.,)

Civil Action No:
SACV11-00643 JST (FMOx)
 COMPLAINT FOR
 INJUNCTIVE AND OTHER
 EQUITABLE RELIEF AND

1 20/20 PRECIOUS METALS, INC.,) FOR CIVIL MONETARY
2 BHARAT ADATIA, SHARIEF D.) PENALTIES UNDER
3 McDOWELL, and TODD KREJCI,) THE COMMODITY
4) EXCHANGE ACT
5 Defendants.)

6 I. SUMMARY

7 1. From at least January 1, 2006 through October 2009, 20/20 Trading
8 Company, Inc. (“20/20 Trading”) through its officers, agents and other persons
9 acting for them, including defendants Bharat Adatia (“Adatia”), and Sharief D.
10 McDowell (“McDowell”), and from late 2009 to the present, 20/20 Precious
11 Metals, Inc. (“20/20 Metals”), through its officers, agents and other persons acting
12 for them, including defendants Adatia, McDowell, and Todd Krejci (“Krejci”)
13 (collectively “Defendants”), have cheated and defrauded customers and
14 prospective customers by lying about the likelihood of profiting, and concealing
15 the near certainty of substantial losses, when investing with Defendants. In the
16 course of this scheme, Defendants have defrauded their customers of an amount of
17 at least \$4 million.

18 2. In furtherance of their fraud, Defendants 20/20 Trading, Adatia and
19 McDowell initially made false and misleading sales representations and failed to
20 disclose material facts in the course of their solicitations of customers and
21 prospective customers to trade options on commodity futures contracts
22 (“commodity options”). When the National Futures Association (“NFA”) began
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1 investigating customer complaints relating to 20/20 Trading, Adata and McDowell
2 stopped soliciting customers to invest in commodity options, and began
3 fraudulently soliciting customers to purchase physical metals on a leveraged basis.
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5 Further, Defendants rapidly depleted the majority of customer funds received by
6 Defendants by charging excessive commissions.

7 3. This fraud began at least as early as January 2006, when Adata and
8 McDowell, who were then the principals of 20/20 Trading, began to fraudulently
9 solicit prospective customers by: (a) making false representations, including that a
10 customer could realize large profits from trading commodity options with
11 Defendants; and (b) omitting material information, including failing to disclose that
12 over 98% of 20/20 Trading's customers lost nearly all of the money they invested.
13

14 4. After customers agreed to open accounts with 20/20 Trading, Adata
15 and McDowell then committed further fraud by recommending complex
16 commodity option spreads to their customers that were either guaranteed to result
17 in a loss for the customer or highly unlikely to generate any profit. Instead, these
18 option spreads generated large commissions for Defendants. Moreover, Adata
19 failed to diligently supervise McDowell in her solicitations and other
20 communications with customers.
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1 5. Adatia closed 20/20 Trading in October 2009, shortly after he learned
2 that NFA was investigating the firm and its principals for possible violations of
3 NFA rules.

4 6. After 20/20 Trading ceased operations in October 2009, Adatia and
5 McDowell merely stopped recommending customers purchase options, and instead
6 began recommending customers purchase physical metals on a leveraged basis. In
7 or about late 2009, Adatia caused 20/20 Metals to be formed, with himself as the
8 sole officer and director. At about the same time, McDowell, joined shortly
9 thereafter by Krejci, and under the supervision of Adatia, began to solicit
10 prospective customers to purchase physical metals on a leveraged basis with 20/20
11 Metals.

12 7. In their solicitations and in trade confirmations and other documents
13 sent to customers, 20/20 Metals, Adatia, McDowell, and Krejci fraudulently
14 misrepresent that: (a) 20/20 Metals purchases physical metals, including, gold,
15 silver, platinum, palladium and copper, for its customers; (b) customers receive
16 title to those metals; (c) 20/20 Metals will arrange financing for up to 75% of the
17 purchase price of the metals; (d) 20/20 Metals ensures that its customers' physical
18 metals are stored in a secure depository; and (e) the customer incurs interest,
19 storage fees and other charges in connection with this purchase of physical metals.
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1 8. In fact, 20/20 Metals does not purchase physical metals, pass title to
2 physical metal to any customer, obtain any financing for its customers, or arrange
3 for the storage of metals. Instead, after taking out hefty commissions, 20/20 Metals
4 pools the funds it receives from its customers and uses the funds to enter into
5 transactions with a third party in an account in the name of 20/20 Metals. These
6 transactions have the same basic terms as those 20/20 Metals enters into with its
7 customers, with a down payment of 25%, and financing allegedly arranged by the
8
9 third party.
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11 9. Further, 20/20 Metals' offer and sale of palladium and copper to
12 customers on a leveraged basis is unlawful.
13

14 10. By virtue of this conduct and the conduct further described herein,
15 Defendants have engaged, are engaging, or are about to engage in conduct in
16 violation of the Commodity Exchange Act (the "Act"), 7 U.S.C. §§ 1 *et seq.*
17 (2006), the Act, as amended by the Food, Conservation and Energy Act of 2008,
18 Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")),
19 §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), the Act, as amended by
20 the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L.
21 No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of
22 2010 ("WSTAA")), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), and the
23 Commission Regulations ("Regulations") promulgated thereunder, 17 C.F.R.
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1 §§ 1.1 *et seq.* (2010). Specifically, 20/20 Trading, Adatia and McDowell have
2 violated Sections 4c(b) of the Act, 7 U.S.C. §§ 6c(b) (2006), and Regulation
3 33.10, 17 C.F.R. § 33.10 (2010). 20/20 Metals, Adatia, McDowell and Krejci
4 have violated and continue to violate Sections 19(a) and (b) and Regulation 31.3.
5 Finally, 20/20 Trading and Adatia failed to diligently supervise McDowell in her
6 solicitations and other communications with customers of 20/20 Trading in
7 violation of Regulation 166.3.
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9
10 11. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1
11 (2006), the Commission brings this action to enjoin Defendants' unlawful acts and
12 practices, and to compel their compliance with the Act and the Regulations
13 promulgated thereunder. In addition, the Commission seeks civil monetary
14 penalties and remedial equitable relief including, but not limited to, restitution,
15 disgorgement, pre-judgment and post-judgment interest, appointment of a receiver,
16 and such other relief as this Court may deem just and proper.
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19 **II. JURISDICTION AND VENUE**

20 12. The Court has jurisdiction over this action pursuant to Section 6c of
21 the Act, as amended, to be codified at 7 U.S.C. § 13a-1, which provides that,
22 whenever it shall appear to the Commission that any person has engaged, is
23 engaging, or is about to engage in any act or practice that constitutes a violation of
24 any provision of the Act or any rule, regulation, or order promulgated thereunder,
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1 the Commission may bring an action against such person to enjoin such practice or
2 to enforce compliance with the Act.

3 13. Venue properly lies with this Court pursuant to Section 6c(e) of the
4 Act, as amended, to be codified at 7 U.S.C. § 13a-1(e), because Defendants are
5 found in, inhabit, or transact business in this District, and the acts and practices in
6 violation of the Act occurred, are occurring, or are about to occur within this
7 District, among other places.
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10 14. Unless restrained and enjoined by this Court, Defendants are likely to
11 engage in the acts and practices alleged in this Complaint or in similar acts and
12 practiced, as described more fully below.
13

14 III. THE PARTIES

15 15. The U.S. Commodity Futures Trading Commission (the
16 “Commission”) is an independent federal regulatory agency charged by Congress
17 with the responsibility for administering and enforcing the provisions of the Act, as
18 amended by the CRA and the WSTAA, to be codified at 7 U.S.C. §§ 1 *et seq.*, and
19 the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R.
20 §§ 1.1 *et seq.* (2010).
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22
23 16. 20/20 Trading Company, Inc. is a Nevada corporation that had its
24 principal place of business in Laguna Niguel, California. 20/20 Trading first
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1 registered with the Commission as an introducing broker (“IB”) in 1999. 20/20
2 Trading ceased doing business in or about October 2009.

3 17. 20/20 Precious Metals, Inc. is a Nevada corporation that has its
4 principal place of business in Laguna Niguel, California. 20/20 Metals has never
5 been registered with the Commission in any capacity.
6

7 18. Bharat Adatia, also known as “Brad” Adatia, resides in San Juan
8 Capistrano, California. Adatia registered with the Commission as an associated
9 person (“AP”) of 20/20 Trading in May 1999 and listed as a principal of 20/20
10 Trading in October 2000, and remained continuously registered as an AP and listed
11 as a principal until October 2009. Adatia is the president and director of 20/20
12 Trading and holds a 10% or more financial interest in the firm. Adatia is also the
13 president and director of 20/20 Metals. Adatia was previously registered with the
14 Commission in various capacities with five different firms from 1996 through
15 2001.
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19 19. Sharief D. McDowell, also known as “Sherice” McDowell, resides in
20 Loma Linda, California. McDowell registered with the Commission as an AP of
21 20/20 Trading in December 1999 and was listed as a principal of 20/20 Trading in
22 August 2004. She withdrew that registration in October 2009 and is currently
23 working as a salesperson for 20/20 Metals. McDowell was previously registered as
24 an AP of another firm in 1999.
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1 20. Todd Krejci resides in Trabuco Canyon, California. Krejci is not
2 currently registered with the Commission, but was previously registered in various
3 capacities with six different firms between 1995 and 2010. Krejci is currently
4 working as a salesperson for 20/20 Metals.
5

6 **IV. STATUTORY BACKGROUND AND REGULATIONS**

7 21. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful for any
8 person to offer to enter into, enter into or confirm the execution of, any transaction
9 involving any commodity regulated under the Act which is of the character of, or is
10 commonly known to the trade as, an “option,” “privilege,” “indemnity,” “bid,”
11 “offer,” “put,” “call,” “advance guaranty,” or “decline guaranty,” contrary to any
12 rule, regulation, or order of the Commission prohibiting any such transaction or
13 allowing any such transaction under such terms and conditions as the Commission
14 shall prescribe.
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17 22. Section 1a(23) of the Act, 7 U.S.C. § 1a(23), provides that the term
18 “introducing broker” means any person (except an individual who elects to be and
19 is registered as an associated person of a futures commission merchant) engaged in
20 soliciting or accepting orders for the purchase or sale of any commodity for future
21 delivery on or subject to the rules of any contract market or derivatives transaction
22 execution facility who does not accept any money, securities, or property (or
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1 extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts
2 that result or may result therefrom.

3 23. Regulation 33.10, 17 C.F.R. § 33.10, makes it unlawful for any
4 person directly or indirectly—

5
6 (a) To cheat or defraud or attempt to cheat or defraud any other
7 person;

8 (b) To make or cause to be made to any other person any false
9 report or statement thereof or cause to be entered for any person any
10 false record thereof;

11 (c) To deceive or attempt to deceive any other person by any means
12 whatsoever in or in connection with an offer to enter into, the entry
13 into, the confirmation of the execution of, or the maintenance of, any
14 commodity option transaction.

15 24. Regulation 166.3, 17 C.F.R. § 166.3, provides that each Commission
16 registrant, except an associated person who has no supervisory duties, must
17 diligently supervise the handling by its partners, officers, employees and agents (or
18 persons occupying a similar status or performing a similar function) of all
19 commodity interest accounts carried, operated, advised or introduced by the
20 registrant, and all other activities of its partners, officers, employees and agents (or
21 persons occupying a similar status or performing a similar function) relating to its
22 business as a Commission registrant.

23
24 25. Section 19(a) of the Act, 7 U.S.C. § 23(a), strictly prohibits the
25 offering, entering into, or execution of transactions for the delivery of any
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1 commodity pursuant to standardized contracts commonly known to the trade and/or
2 marketed or managed in substantially the same manner as margin accounts, margin
3 contracts, leverage accounts, or leverage contracts, except as authorized under
4 subsection (b) of that Section.
5

6 26. Subsection (b) of Section 19, 7 U.S.C. § 23(b), in relevant part
7 authorizes the offering, entering into, or execution of transactions only for the
8 delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or
9 platinum pursuant to the standardized contracts described in subsection (a), and
10 then only if done so in compliance with the rules and regulations prescribed by the
11 Commission. Subsection (b) does not authorize transactions for any other
12 commodity in this manner, including transactions for palladium and copper.
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15 27. Pursuant to subsection (b) of Section 19, in 1975, the Commission
16 promulgated Commission Regulation 31.3 (now codified at 17 C.F.R. § 31.3),
17 which makes it unlawful for any person, by use of the mails or any means or
18 instrumentality of interstate commerce, directly or indirectly to: (a) employ any
19 device, scheme, or artifice to defraud; (b) make any untrue statement of a material
20 fact or omit a material fact necessary in order to make statements made not
21 misleading; or (c) engage in any act, practice, or course of business that operates or
22 would operate as a fraud or deceit upon any person “in, or in connection with
23 (1) an offer to make or the making of, any transaction for the purchase, sale or
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1 delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or any
2 other commodity pursuant to a standardized contract commonly known to the trade
3 as a margin account, margin contract, leverage account, or leverage contract, or
4 pursuant to any contract, account, arrangement, scheme, or device that serves the
5 same function or functions as such a standardized contract, or is marketed or
6 managed in substantially the same manner as such a standardized contract, or
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8 (2) the maintenance or carrying of any such contract.”
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10 V. FACTS

11 A. Options Fraud Through 20/20 Trading

12 i. Fraudulent misrepresentations and omissions to prospective customers.

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14 28. Beginning in at least January 2006 and continuing until 20/20 Trading
15 ceased operations in or about October 2009 (the “options trading period”),
16 McDowell, in her capacity as a principal and AP of 20/20 Trading and under the
17 supervision of Adatia, solicited prospective customers by telephone to open
18 commodity options trading accounts through 20/20 Trading.
19

20 29. McDowell’s telephone sales calls to prospective customers included
21 fraudulent and materially misleading sales solicitations. In particular, during some
22 or all of these solicitations, McDowell knowingly misrepresented: (a) the
23 likelihood that a 20/20 Trading customer would realize large profits from trading
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1 commodity options; (b) the risk involved in trading commodity options with 20/20
2 Trading; and (c) the poor performance record of 20/20 Trading's customers.

3 30. Throughout the options trading period, McDowell misled prospective
4 customers about the likelihood of profiting through commodity options trading
5 with 20/20 Trading, misrepresenting that her system would generate consistent
6 profits and that customers would fare better with commodity options through 20/20
7 Trading than they would with other types of investments. McDowell told
8 prospective customers that she was a successful trader and that her customers were
9 making money.
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12 31. These statements were fraudulent because McDowell knew or acted in
13 reckless disregard of the fact that nearly all of 20/20 Trading's customers suffered
14 losses in their accounts and that the trades she recommended to her customers were
15 highly unlikely to, and did not, generate profits for her customers. McDowell
16 further knew or acted in reckless disregard of the fact that a large proportion of her
17 customers' funds were siphoned away by the commissions that 20/20 Trading
18 charged and, therefore, customers would not fare better with commodity options
19 than they would with other types of investments. McDowell's statement that her
20 customers were making money was also fraudulent.
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24 32. Throughout the options trading period, McDowell also failed to
25 disclose adequately to prospective 20/20 Trading customers the risks of loss that
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1 are inherent in trading commodity options. Although customers were provided
2 with written risk disclosures at the time they opened their accounts, those
3 disclosures were undermined by 20/20 Trading's oral misrepresentations regarding
4 the likelihood of profit. McDowell falsely conveyed that, although losses
5 experienced in trading commodity options were theoretically possible, trading with
6 20/20 Trading would be highly profitable and virtually risk-free. She repeatedly
7 told prospective customers that commodity options trading was a good way to
8 "grow" the funds in their IRA accounts. She also told prospective customers that
9 the risk disclosures were mere formalities, and she assured them that the
10 commodity options spreads that she recommended were no more risky than
11 investments in stocks or mutual funds.
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15 33. These and other similar statements were fraudulent because
16 McDowell knew that options trading through 20/20 Trading involved a very high
17 degree of risk and that by following her recommendations, customers were very
18 unlikely to make money. McDowell knew that nearly all of 20/20 Trading's
19 customers lost money, with most of them losing most or all of the funds that they
20 deposited in their accounts.
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23 34. McDowell also fraudulently misrepresented the likelihood of being
24 subject to margin calls as sellers of option contracts, telling some prospective
25 customers that they would never get margin calls, and failing to disclose to others
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1 that the trades she recommended would leave them exposed to massive margin
2 calls if the market moved against them.

3 35. When making these statements, McDowell knew or recklessly
4 disregarded the fact that the sellers of commodity option contracts can be subject to
5 margin calls, which can significantly increase the monetary risk of such trades, and
6 that her customers had, in fact, been subject to margin calls.
7

8 ii. Fraudulent misrepresentations and omissions to customers.
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10 36. As an IB, 20/20 Trading assisted its customers in establishing
11 accounts with a futures commission merchant ("FCM"). 20/20 Trading then acted
12 as an intermediary, placing trades in the FCM accounts on behalf of its customers
13 and earning commissions for each trade placed in those accounts.
14

15 37. Although most of the accounts that customers opened through 20/20
16 Trading were non-discretionary, most of 20/20 Trading's customers relied
17 exclusively on the trading recommendations offered to them by 20/20 Trading and
18 did not develop independent trading strategies. Both Adatia and McDowell were
19 involved in developing trades, with McDowell generally communicating the trade
20 recommendations to customers. McDowell actively discouraged customers from
21 conducting independent research into commodity options and she knew that most
22 of 20/20 Trading's customers relied on her trading recommendations.
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1 38. Once customers opened accounts through 20/20 Trading, McDowell
2 routinely recommended that they purchase complex commodity option spreads that
3 she designed in consultation with Adata. Adata knew that most of their
4 customers relied on McDowell's trade recommendations.
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6 39. The option spreads recommended by 20/20 Trading frequently
7 provided customers with little or no chance of generating profits, but generated
8 large commissions for 20/20 Trading, Adata, and McDowell. McDowell did not
9 disclose these facts to the customers when she recommended these trades.
10

11 40. For example, McDowell recommended that several customers
12 purchase "Iron Condor" commodity option spreads, an esoteric trading strategy
13 that involves placing four different, simultaneous trades in the same commodity.
14 In most instances, the customers who made these trades would have fared better
15 financially by entering a conventional two-trade commodity options spread.
16 Entering into four trades served only to increase the commissions for 20/20
17 Trading, Adata, and McDowell, who received a separate commission for each
18 trade their customers made.
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22 41. At other times, McDowell recommended granting commodity options
23 spreads that were automatically losing trades because the commissions and fees
24 charged by 20/20 Trading exceeded the premiums collected by the customer.
25 McDowell recommended other trades in which the commissions and fees were so
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1 high relative to the premiums collected that the customers would have needed to
2 earn returns on their investments in excess of 30 - 50% just to break even.

3 McDowell never disclosed these facts to customers when she recommended these
4 trades.
5

6 42. McDowell also routinely recommended trades that quickly invested
7 most or all of the funds that customers had deposited into their accounts,
8 sometimes depleting accounts within hours after they were opened, and often
9 disregarding explicit customer instructions. Because the customers relied solely on
10 McDowell's trading recommendations, and because of the complex nature of
11 commodity options trading, customers often did not realize that their instructions
12 had been ignored until after the trades had been placed and their accounts were
13 depleted.
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15

16 43. 20/20 Trading customers lost in excess of \$3.8 million from 2006
17 through 2009. Approximately 63% of those losses were the result of 20/20
18 Trading's commissions. Nearly 50% of 20/20 Trading's customers used IRA
19 funds to open their accounts, and those accounts sustained losses of over \$1.9
20 million from 2006 through 2009.
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23 44. Adatia hired McDowell, ensured that she received her commissions,
24 and supervised her. Adatia also reviewed trade tickets, daily statements and/or
25 equity runs for all 20/20 Trading customers. In that capacity, Adatia knew or acted
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1 in reckless disregard of instances in which recommended commodity option
2 spreads made no financial sense for the customer because the commissions and
3 fees exceeded the maximum possible monetary gains. Adatia did nothing to stop
4 McDowell from making such trading recommendations.
5

6 45. Adatia closed 20/20 Trading in October 2009, shortly after he became
7 aware that the NFA was investigating 20/20 Trading and its principals for possible
8 violations of NFA rules.
9

10 B. Metals Fraud Through 20/20 Metals

11 46. Shortly after 20/20 Trading shut down, Adatia established 20/20
12 Metals as a business that offered, entered into, and confirmed transactions with
13 customers for the purchase, sale, or delivery of gold, silver, platinum and palladium
14 bullion, as well as copper. Most of 20/20 Metals' customers elect to purchase
15 metals on a leveraged basis, meaning that they do not take delivery of the metals,
16 but use the transactions to speculate on the price of the metals. Adatia is the sole
17 officer and director of 20/20 Metals, and he supervises its employees.
18
19

20 47. 20/20 Metals claims to offer its customers investments in actual
21 physical metals based upon the recommendations of what it touts as its highly
22 qualified staff of experts. In fact, 20/20 Metals makes fraudulent and materially
23 misleading representations to customers and prospective customers about nearly
24 every aspect of the investments it purports to offer.
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1 i. What 20/20 Metals Tells its Customers

2 48. 20/20 Metals solicits customers through its website, www.20-
3 20preciousmetals.com, which describes 20/20 Metals as “offer[ing] a team of
4 seasoned professionals” who have “years of experience in the field.” The website
5 promises: “Our experience tells us that now is the perfect time to invest in
6 bullion,” and, “This is as solid as you’re going to get in terms of investment. This
7 is not the high-yield-yet-high-risk stock market.”
8

9
10 49. The 20/20 Metals website claims that its customers can purchase
11 bullion outright and either take delivery of the metals or rely on 20/20 Metals and
12 its “experts who understand the specifics of storing metal bullion” for storage
13 services—“We know how to keep your bullion safe and sound.” The website also
14 mentions that possibility of a customer financing a metals purchase.
15

16 50. Using leads generated from the 20/20 Metals website, as well as from
17 advertisements placed on third-party websites, McDowell began to make telephone
18 calls to prospective customers in late 2009 or early 2010, soliciting investments
19 with 20/20 Metals. Shortly thereafter, Krejci also began to solicit investments with
20 20/20 Metals. Adatia supervises both McDowell and Krejci.
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23 51. In their telephone solicitations, McDowell and Krejci tell prospective
24 customers that: (a) 20/20 Metals purchases physical metals, including, gold, silver,
25 platinum, palladium and copper, for its customers; (b) customers receive title to
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1 those metals; (c) 20/20 Metals will arrange financing for up to 75% of the purchase
2 price of the metals; (d) 20/20 Metals ensures that its customers' physical metals are
3 stored in a secure depository; and (e) the customer incurs interest, storage fees and
4 other charges in connection with this purchase of physical metals.
5

6 52. Once a customer opens an account and authorizes 20/20 Metals to
7 purchase physical metals, 20/20 Metals sends the customer two documents via
8 email: a "Trade Confirmation" and a "Transfer of Commodity."
9

10 53. The "Trade Confirmation" states that the customer has "purchased" a
11 specific quantity of a particular metal. It lists the amount of customer funds
12 applied toward the trade, along with total "purchase price," which indicates the
13 total value of the metals purportedly being purchased, and the leveraged portion of
14 that value. The Trade Confirmation informs the customer of the "Approx Interest
15 Charge" and "Approx Service Fee" the customer will be charged each month. The
16 "Approx Interest Charge" is calculated based on the amount that the customer has
17 purportedly financed, at an annual interest rate of 9.5%. The "Service Fee"
18 includes charges for storing and insuring metals at a depository.
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22 54. The Trade Confirmation also contains information about the
23 commission charged to the customer. McDowell and Krejci each determine their
24 own commission rate; McDowell always charges 15%, while Krejci has charged
25 commissions ranging from 3% to 15%. This percentage, however, is based on the
26

1 total value of the physical metal purportedly purchased on behalf of customers,
2 meaning that 20/20 Metals routinely takes commissions of more than one-third of
3 the funds actually deposited by its customers.
4

5 55. The "Transfer of Commodity" states that a particular amount of metal
6 (corresponding to the amount listed on the "Trade Confirmation") has been
7 "received into [the customer's] account." The "Transfer of Commodity" further
8 states:
9

10 20/20 Precious Metals, Inc. (TTPM) hereby confirms that a
11 depository ("Custodian") . . . has received custody of the goods
12 and/or warehouse receipts therefore ("commodities") identified
above and to which you hold title.

13 ii. What 20/20 Metals Actually Does

14 56. When a customer sends 20/20 Metals funds to purchase physical
15 metals, 20/20 Metals wires those funds to a third party, Hunter Wise Commodities,
16 LLC ("HWC") and uses them to enter into leveraged transactions in the name of
17 20/20 Metals. 20/20 Metals then generates the Trade Confirmation and Transfer of
18 Commodity and sends them to the customer by email.
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21 57. Interest on the financed portion of the transaction accrues monthly and
22 is subtracted from the customer's account equity. When a customer's equity falls
23 below a certain predetermined level, 20/20 Metals will make an "equity call" and
24 require that customers either submit additional funds or "sell" the metals they
25 purportedly purchased.
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1 iii. 20/20 Metals Fraud

2 58. Much of the information conveyed to customers by 20/20 Metals in its
3 website, sales solicitations, and documents is false, misleading and fraudulent.

4 59. For example, 20/20's website claim that it has "seasoned
5 professionals" with "years of experience" is fraudulent and materially misleading,
6 given that none of 20/20 Metals' employees or its principal had prior experience in
7 the field of physical metals before 20/20 Metals began operating.

8 60. Additionally, 20/20 Metals misrepresents how customer funds are
9 being used. Specifically, 20/20 Metals misrepresents that it purchases physical
10 metals, that title has passed to the customer, and that the metal is stored in a secure
11 depository. Since 20/20 Metals only has an account with HWC in which it enters
12 into leveraged transactions in its own name, not the name of the customer, the
13 customer has no right to any metals and title to any metals that might be purchased
14 does not pass to the customer.

15 61. At no time does 20/20 Metals actually arrange for or obtain financing
16 for the leveraged portion of its customers' purchases. Instead, 20/20 Metals'
17 customers are simply told that a loan has been made to them, and the loan is the
18 difference between the total value of the metals they purchased and the funds they
19 have deposited with 20/20 Metals (minus commissions). Since there is no loan, all
20 the interest 20/20 Metals charges to customers is fraudulent for two reasons. First,
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1 the interest charges are misleading because they suggest that a loan has been
2 disbursed when no such loan has occurred. Second, the interest charges are
3 fraudulent because they are simply a vehicle to misappropriate customer funds.
4

5 62. At no time does 20/20 Metals store physical metal bullion, nor does it
6 have an account with any depository or place any metals in any such depository.
7 Thus, 20/20 Metals' claims that it "works with experts" and "know[s] how to keep
8 your bullion safe and sound" are fraudulent and materially misleading. The storage
9 fees it charges its customers for nonexistent metals are also fraudulent and
10 materially misleading.
11

12 63. In summary, 20/20 Metals does not purchase any physical metals for
13 its customers, arrange any financing for the leveraged portions of metals purchases,
14 or store any physical metals for its customers. Instead, it fraudulently
15 misrepresents to customers that they have purchased physical metals and obtained
16 title to such metals, charges them interest on nonexistent loans, and charges them
17 fees to store nonexistent metals.
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20 64. Adatia, McDowell and Krejci knew or acted in reckless disregard of
21 the facts set forth in paragraphs 48 through 63 above, but they have failed to
22 disclose this information to prospective and actual customers.
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1 material facts when soliciting customers to invest in commodity options through
2 20/20 Trading by, among other things, falsely representing the profit potential of
3 trading commodity options and falsely representing the risks associated with
4 trading commodity options.
5

6 69. 20/20 Trading through its agents Adatia and McDowell, and Adatia,
7 and McDowell also violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and
8 Regulation 33.10, 17 C.F.R. § 33.10, by failing to disclose to customers that certain
9 commodity options trades that they recommended were certain to generate large
10 commissions for 20/20 Trading, Adatia, and McDowell, but they gave customers
11 little or no chance of generating profits.
12

13 70. 20/20 Trading through its agents Adatia and McDowell, and Adatia
14 and McDowell engaged in the acts and practices described above willfully,
15 knowingly, or with reckless disregard for the truth.
16

17 71. Adatia and McDowell were acting as agents of 20/20 Trading when
18 they engaged in the acts alleged herein. Therefore, 20/20 Trading is liable for the
19 acts constituting their violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and
20 Regulation 33.10, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B),
21 and Regulation 1.2, 17 C.F.R. § 1.2.
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23 72. Adatia controlled 20/20 Trading and did not act in good faith or
24 knowingly induced, directly or indirectly, the acts constituting 20/20 Trading's
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1 violations alleged in this count. Therefore, Adatia is liable for 20/20 Trading's
2 violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 33.10, 17
3 C.F.R. § 33.10, as a controlling person pursuant to Section 13(b) of the Act, 7
4 U.S.C. § 13c(b).

6 73. Each false, deceptive, or misleading representation of material fact
7 and each failure to disclose material facts, including, but not limited to, those
8 specifically alleged herein, is alleged as a separate and distinct violation of Section
9 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 33.10, 17 C.F.R. § 33.10.

11 COUNT TWO

12 FAILURE TO SUPERVISE (17 C.F.R. § 166.3) 13 (Against 20/20 Trading and Adatia)

14 74. Paragraphs 1 through ___ are realleged and incorporated herein.

16 75. Section 166.3 of the Commission's Regulations, 17 C.F.R. § 166.3,
17 requires, inter alia, that every Commission registrant (except employees who have
18 no supervisory duties) diligently supervise the handling of all commodity interest
19 accounts carried, operated, advised or introduced by the registrant and all other
20 activities of its partners, officers, employees and agents relating to its business as a
21 Commission registrant.

23 76. From at least January 2006 through October 2009, 20/20 Trading
24 violated Regulation 166.3, 17 C.F.R. § 166.3, by failing to maintain an adequate
25 supervisory system to detect and prevent fraudulent conduct by its employees, or to
26

1 diligently supervise its employees, as evidenced by the fact that 20/20 Trading
2 entrusted the supervision of its sales force to Adatia, who not only allowed but
3 participated in the fraudulent conduct described herein.

4 77. Since at least January 2006, Adatia violated Regulation 166.3,
5
6 17 C.F.R. § 166.3, by failing to diligently supervise employees of 20/20 Trading.

7 78. Each act of failing to diligently supervise, including, but not limited
8 to, those specifically alleged herein, is alleged as a separate and distinct violation
9 of Regulation 166.3, 17 C.F.R. § 166.3.

11 **COUNT THREE**

12 **FRAUD IN CONNECTION WITH** 13 **CERTAIN LEVERAGE TRANSACTIONS** 14 **(7 U.S.C. § 23 and 17 C.F.R. § 31.3)** 15 **(Against 20/20 Metals, Adatia, McDowell, and Krejci)**

16 79. Paragraphs 1 through ___ are realleged and incorporated herein.

17 80. Section 19 of the Act, 7 U.S.C. § 23 (2006), and Commission
18 Regulation 31.3, 17 C.F.R. § 31.3 (2010), prohibit the use of the mails or other
19 means or instrumentalities of interstate commerce, directly or indirectly: (a) to
20 employ a device, scheme, or artifice to defraud customers; (b) to make untrue
21 statements of material fact or omit to state a material fact necessary in order to
22 make statements made, in the light of the circumstances under which they were
23 made, not misleading; and (c) to engage in any act, practice, or course of business
24 which operate as a fraud or deceit upon any person, in, or in connection with (1) an
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1 offer to make or the making of, any transaction for the purchase, sale or delivery of
2 silver bullion, gold bullion, bulk silver coins, bulk gold coins, or any other
3 commodity pursuant to a standardized contract commonly known to the trade as a
4 margin account, margin contract, leverage account, or leverage contract, or
5 pursuant to any contract, account, arrangement, scheme, or device that serves the
6 same function or functions as such a standardized contract, or is marketed or
7 managed in substantially the same manner as such a standardized contract, or
8
9 (2) the maintenance or carrying of any such contract.
10

11 81. From at least late 2009 through the present, 20/20 Metals through its
12 Agents Adatia, McDowell and Krejci, and Adatia, McDowell, and Krejci have
13 violated, and are continuing to violate, Section 19 of the Act, 7 U.S.C. § 23, and
14 Regulation 31.3, 17 C.F.R. § 31.3, by fraudulently misrepresenting to prospective
15 and actual customers that: (a) 20/20 Metals actually purchases physical metals,
16 including, gold, silver, platinum, palladium and copper, on behalf of its customers;
17 (b) 20/20 Metals arranges financing for customers who enter transactions to
18 purchase metals on a leveraged basis; (c) customers' physical metals are stored in a
19 secure depository; and (d) interest accrues on the financing purportedly arranged.
20
21

22 82. 20/20 Metals through its Agents Adatia, McDowell and Krejci, and
23 Adatia, McDowell, and Krejci engaged in the acts and practices described above
24 willfully, knowingly, or with reckless disregard for the truth.
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1 83. Adatia, McDowell, and Krejci were acting as agents of 20/20 Metals
2 when engaged in the acts alleged in this complaint. Therefore, 20/20 Metals, as
3 their principal, is liable for their acts constituting violations of Section 19 and
4 Regulation 31.3, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)
5 (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010).
6

7 84. Adatia controlled 20/20 Metals and did not act in good faith or
8 knowingly induced, directly or indirectly, the acts constituting 20/20 Metals'
9 violations alleged in this count. Adatia is therefore liable for 20/20 Metals'
10 violations of Section 19 and Regulation 31.3 as a controlling person pursuant to
11 Section 13(b) of the Act, 7 U.S.C. § 13c(b).
12
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14 85. Each act of employing a device, scheme, or artifice to defraud; making
15 misrepresentations or omitting material facts; or engaging in acts or practices that
16 have defrauded or deceived customers in connection with transactions for the
17 purchase, sale, or delivery of gold, silver, platinum, palladium or copper on a
18 leveraged basis, including, but not limited to, those specifically alleged herein, is
19 alleged as a separate and distinct violation of Section 19 of the Act, 7 U.S.C. § 23
20 (2006), and Regulation 31.3, 17 C.F.R. § 31.3.
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COUNT FOUR

OFFERING, ENTERING INTO, OR CONFIRMING
THE EXECUTION OF CERTAIN LEVERAGE TRANSACTIONS
INVOLVING PALLADIUM AND COPPER

(7 U.S.C. § 23(a))

(Against 20/20 Metals, Adatia, McDowell, and Krejci)

86. Paragraphs 1 through ___ are realleged and incorporated herein.

87. From at least late 2009 through the present, 20/20 Metals through its agents, Adatia, McDowell and Krejci, and Adatia, McDowell and Krejci, have violated and continue to violate Section 19(a) of the Act, 7 U.S.C. § 23, by offering, entering into, and confirming the execution of transactions for the purchase, sale, or delivery of palladium and copper pursuant to standardized contracts commonly known to the trade and/or marketed or managed in substantially the same manner as margin accounts, margin contracts, leverage accounts, or leverage contracts contrary to the terms of Section 19(b)(1), 7 U.S.C. § 23(b)(1), which only authorizes persons to offer, enter into, or confirm the execution of such transactions for the purchase, sale, or delivery of “silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum,” but not palladium or copper.

88. Adatia, McDowell, and Krejci were acting as agents of 20/20 Metals when engaged in the acts alleged herein. Therefore, 20/20 Metals, as their principal, is liable for the acts constituting their violations of Section 19(a) of the

1 Act, 7 U.S.C. § 23(a), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. §
2 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2.

3 89. Adataia controlled 20/20 Metals and did not act in good faith or
4 knowingly induced, directly or indirectly, the acts constituting 20/20 Metals'
5 violations alleged in this count. Adataia is therefore liable for 20/20 Metals'
6 violations of Section 19(a) as a controlling person pursuant to Section 13(b) of the
7 Act, 7 U.S.C. § 13c(b).
8

9
10 90. Each act of offering, entering into, or confirming the execution of
11 transactions for the purchase, sale, or delivery of palladium or copper pursuant to
12 standardized contracts commonly known to the trade and/or marketed or managed
13 in substantially the same manner as margin accounts, margin contracts, leverage
14 accounts, or leverage contracts, including, but not limited to, those specifically
15 alleged herein, is alleged as a separate and distinct violation of Section 19(a) of the
16 Act, 7 U.S.C. § 23(a).
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19 **VII. RELIEF REQUESTED**

20 WHEREFORE, the Commission respectfully requests that this Court, as
21 authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to its own
22 equitable powers, enter:
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1 A. An order finding that Defendants 20/20 Trading, Adatia and
2 McDowell have violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation
3 33.10, 17 C.F.R. § 33.10;

4 B. An order finding that Defendants 20/20 Trading and Adatia have
5 violated Regulation 166.3, 17 C.F.R. § 166.3;

6 C. An order finding that Defendants 20/20 Metals, Adatia, McDowell,
7 and Krejci have violated Sections 19(a) and (b) of the Act, 7 U.S.C. § 23(a) and (b)
8 and Regulation 31.3, 17 C.F.R. § 31.3;

9 D. A statutory restraining order and order of preliminary injunction
10 pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), restraining Defendants
11 and all persons acting in the capacity of Defendants' agents, servants, successors,
12 employees, assigns and attorneys, and all persons acting in active concert or
13 participation with Defendants who receive actual notice of such order by personal
14 service or otherwise, from directly or indirectly:

15 1. destroying, mutilating, concealing, altering or disposing of any
16 books and records, documents, correspondence, brochures, manuals,
17 electronically stored data, tape records or other property of Defendants,
18 wherever located, including all such records concerning Defendants'
19 business operations;

1 2. refusing to permit authorized representatives of the Commission
2 to inspect, when and as requested, any books and records, documents,
3 correspondence, brochures, manuals, electronically stored data, tape records
4 or other property of Defendants, wherever located, including all such records
5 concerning Defendants' business operations; and

6 3. withdrawing, transferring, removing, dissipating, concealing or
7 disposing of, in any manner, any funds, assets or other property, wherever
8 situated, including, but not limited to, all funds, personal property, money or
9 securities held in safes or safety deposit boxes and all funds on deposit in
10 any financial institution, bank or savings and loan account held by, under the
11 actual or constructive control of or in the name of 20/20 Trading, 20/20
12 Metals, Adatia, McDowell, and/or Krejci;

13 E. An order directing that Defendants make an accounting to the Court of
14 all of Defendants' assets and liabilities, together with all funds Defendants received
15 from and paid to customers and other persons in connection with transactions for
16 the purchase or sale of commodity options or of gold, silver, platinum, palladium
17 and/or copper pursuant to standardized contracts commonly known to the trade
18 and/or marketed or managed in substantially the same manner as margin accounts,
19 margin contracts, leverage accounts, or leverage contracts, including the names,
20 mailing addresses, email addresses and telephone numbers of any such persons
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1 from whom they received such funds from January 1, 2006 to the date of such
2 accounting, and all disbursements for any purpose whatsoever of funds received
3 from customers, including salaries, commissions, fees, loans and other
4 disbursements of money and property of any kind, from January 1, 2006 to and
5 including the date of such accounting;
6

7 F. An order requiring Defendants immediately to identify and provide an
8 accounting for all assets and property that they currently maintain outside the
9 United States, including, but not limited to, all funds on deposit in any financial
10 institution, futures commission merchant, bank or savings and loan account held
11 by, under the actual or constructive control of or in the name of Adataia, McDowell,
12 Krejci, 20/20 Trading and/or 20/20 Metals, whether jointly or otherwise, and
13 requiring them to repatriate all funds held in such accounts by paying them to the
14 Registry of the Court, or as otherwise ordered by the Court, for further disposition
15 in this case;
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18 G. Orders of preliminary and permanent injunction prohibiting
19 Defendants and all persons acting in the capacity of their agents, servants,
20 employees, successors, assigns and attorneys, and all persons insofar as they are
21 acting in active concert or participation with Defendants who receive actual notice
22 of such order by personal service or otherwise, from directly or indirectly:
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1 1. engaging in conduct in violation of Sections 4c(b) and 19(a) and
2 (b) of the Act, 7 U.S.C. §§ 6c(b) and 23, and Regulations 31.3, 33.10, and
3 166.3, 17 C.F.R. §§ 31.3, 33.10 and 166.3;

4 2. trading on or subject to the rules of any registered entity (as that
5 term is defined in Section 1a(29) of the Act, as amended, to be codified at
6 7 U.S.C. § 1a(29));

7 3. entering into any transactions involving leverage (as described
8 in Section 19 of the Act, 7 U.S.C. § 23, and Regulation 31.3, 17 C.F.R.
9 § 31.3) (“Section 19 contracts”), commodity futures, options on commodity
10 futures, commodity options (as that term is defined in Commission
11 Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1)) (“commodity options”) and/or
12 foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the
13 Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and
14 2(c)(2)(C)(i)) (“forex contracts”) for any personal or proprietary account or
15 for any account in which they have a direct or indirect interest;

16 4. having any Section 19 contracts, commodity futures, options on
17 commodity futures, commodity options and/or forex contracts traded on
18 their behalf;

19 5. controlling or directing the trading for or on behalf of any other
20 person or entity, whether by power of attorney or otherwise, in any account
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1 involving Section 19 contracts, commodity futures, options on commodity
2 futures, commodity options and/or forex contracts;

3 6. soliciting, receiving or accepting any funds from any person for
4 the purpose of purchasing or selling any Section 19 contracts, commodity
5 futures, options on commodity futures, commodity options and/or forex
6 contracts;
7

8 7. applying for registration or claiming exemption from
9 registration with the Commission in any capacity, and engaging in any
10 activity requiring such registration or exemption from registration with the
11 Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R.
12 § 4.14(a)(9); and
13

14 8. acting as a principal (as that term is defined in Regulation
15 3.1(a), 17 C.F.R. § 3.1(a)), agent or any other officer or employee of any
16 person registered, exempted from registration or required to be registered
17 with the Commission, except as provided for in Regulation 4.14(a)(9),
18 17 C.F.R. § 4.14(a)(9);
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22 H. An order directing Defendants to disgorge, pursuant to such procedure
23 as the Court may order, all benefits received, including, but not limited to, salaries,
24 commissions, loans, fees, revenues, and trading profits derived, directly or
25 indirectly, from the acts or practices which constitute violations of the Act or
26

1 Regulations, as described herein, including pre-judgment and post-judgment
2 interest;

3 I. An order directing Defendants and any successors thereof to rescind,
4 pursuant to such procedures as the Court may order, all contracts and agreements,
5 whether implied or express, entered into between Defendants and any of the
6 customers whose funds were received by Defendants as a result of the acts and
7 practices which constituted violations of the Act as described herein and an order
8 requiring Defendants to restore to each customer the full amount of his or her
9 original investment;
10

11
12 J. An order directing Defendants to pay civil monetary penalties under
13 Section 6c of the Act, 7 U.S.C. § 13a-1, to be assessed by the Court separately
14 against each of them, in amounts not more than the greater of: (1) triple the
15 monetary gain to Defendants for each violation of the Act; or (2) \$130,000 for each
16 violation occurring from January 1, 2006 through October 22, 2008 and \$140,000
17 for each violation occurring after October 22, 2008;
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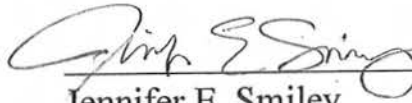
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20 K. An order appointing a receiver with such authority as is necessary to
21 administer the statutory restraining order and order of preliminary injunction;
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23 L. An order requiring Defendants to pay costs and fees as permitted by
24 28 U.S.C. §§ 1920 and 2412(a)(2); and
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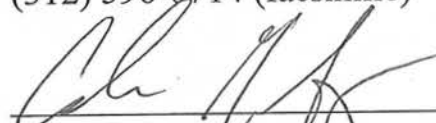
1 M. An order granting such further relief as the Court deems just and
2 proper.

3 Respectfully submitted,

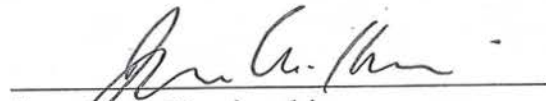
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5 Date: April 26, 2011



6 Jennifer E. Smiley
7 (jsmiley@cftc.gov)
8 U.S. COMMODITY FUTURES
9 TRADING COMMISSION
10 Division of Enforcement
11 525 West Monroe Street, Suite 1100
12 Chicago, Illinois 60661
13 (312) 596-0530
14 (312) 596-0714 (facsimile)

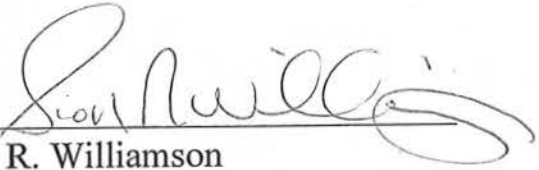


15 Carlin R. Metzger
16 (cmetzger@cftc.gov)
17 U.S. COMMODITY FUTURES
18 TRADING COMMISSION
19 Division of Enforcement
20 525 West Monroe Street, Suite 1100
21 Chicago, Illinois 60661
22 (312) 596-0536
23 (312) 596-0714 (facsimile)

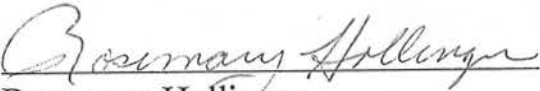


24 Joseph A. Konizeski
25 (jkonizeski@cftc.gov)
26 U.S. COMMODITY FUTURES
TRADING COMMISSION
Division of Enforcement
525 West Monroe Street, Suite 1100
Chicago, Illinois 60661
(312) 596-0546
(312) 596-0714 (facsimile)

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Scott R. Williamson
(swilliamson@cftc.gov)
U.S. COMMODITY FUTURES
TRADING COMMISSION
Division of Enforcement
525 West Monroe Street, Suite 1100
Chicago, Illinois 60661
(312) 596-0560
(312) 596-0714 (facsimile)



Rosemary Hollinger
(rhollinger@cftc.gov)
U.S. COMMODITY FUTURES
TRADING COMMISSION
Division of Enforcement
525 West Monroe Street, Suite 1100
Chicago, Illinois 60661
(312) 596-0530
(312) 596-0714 (facsimile)