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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES COMMODITY )  
11 FUTURES TRADING ) Case No. '13CV2887 DMS NLS  
12 COMMISSION, )  
13 )  
14 Plaintiff, ) COMPLAINT FOR INJUNCTIVE  
15 vs. ) AND OTHER EQUITABLE  
16 ) RELIEF AND PENALTIES UNDER  
17 DIRECT INVESTMENT ) THE COMMODITY EXCHANGE  
18 PRODUCTS, INC. and ) ACT, AS AMENDED, 7 U.S.C. §§ 1-  
19 ALEXANDER GLYTENKO, ) et seq.  
20 )  
21 Defendants. )

20 I. SUMMARY

21 1. From approximately 2005 until approximately 2010 (the  
22 “relevant period”), Direct Investment Products, Inc. (“DIP”), by and  
23 through the actions of its employees and agents, including, but not  
24 limited to, Alexander Glytenko (“Glytenko”) (collectively,  
25 “Defendants”), fraudulently solicited approximately \$3.9 million  
26 from approximately 761 individuals residing in Russia and various  
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1 former republics of the former Soviet Union to become participants in  
2 a commodity pool known as DIP Capital Partners (the "Pool") that  
3 traded in futures and options on commodities, indices, currencies,  
4 treasury bonds and notes, and metals.  
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6         2. During the course of soliciting prospective participants for  
7 the Pool, Defendants, either directly or through their agents,  
8 knowingly misrepresented the Pool's performance history by: a)  
9 presenting to prospective participants profitable performance figures  
10 for various of the Pool's funds for years in which they knew the Pool  
11 did not exist; b) presenting to prospective participants hypothetical  
12 trading performance without labeling it as such; and c) presenting to  
13 prospective participants at least two years of profitable performance  
14 results for one of the Pool's funds when, in fact, that fund had  
15 experienced losses during those years.  
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20         3. Defendants, either directly or through their agents, also  
21 knowingly misrepresented the Pool's performance to actual  
22 participants by: a) providing participants with profitable performance  
23 figures the Pool's trading strategy for years in which they knew the  
24 Pool did not exist; b) providing to participants hypothetical trading  
25 performance without labeling it as such; c) providing to participants  
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1 account statements which they knew contained inaccurate or falsified  
2 information.

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4 4. In November 2009, Defendants misappropriated at least  
5 \$464,000 of participants' funds to make a personal loan from the Pool to  
6 Glytenko. This loan has never been repaid.

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8 5. By virtue of this conduct and the conduct further described  
9 herein, Defendants have engaged, are engaging in, or are about to engage in  
10 conduct in violation of Sections 4b(a)(2)(i)-(iii) of the Commodity Exchange  
11 Act ("Act"), 7 U.S.C. §§ 6b(a)(2)(i)-(iii) (2006), with respect to acts  
12 occurring before June 18, 2008, Sections 4b(a)(1)(A)-(C) of the Act, as  
13 amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No.  
14 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§  
15 13101-13204, 122 Stat. 1651(enacted June 18, 2008), 7 U.S.C. §  
16 6b(a)(1)(A)-(C) (Supp. II 2009), for conduct occurring on or after June 18,  
17 2008, and Sections 4b(a)(1)(A)-(C) of the Act, as amended by the Dodd-  
18 Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-  
19 Frank Act"), Pub. L. No. 111-203, Title VII (the Wall Street Transparency  
20 and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (effective July  
21 16, 2011), 7 U.S.C. § 6b(a)(1)(A)-(C) (Supp. IV 2011), for conduct  
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1 occurring on or after July 16, 2011; (ii) Section 4o(1) of the Act, 7 U.S.C. §  
2 6o(1); and (iii) Commission Regulation 4.41(b), 17 C.F.R. §§ 4.41(b)(2013).

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4 6. At all relevant times, the acts and omissions of Glytenko and  
5 others were committed within the scope of their employment, agency, or  
6 office with DIP and, therefore, DIP is liable for Glytenko's violations, as  
7 well as for any other agents' violations of the Act and Regulations pursuant  
8 to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B).

9  
10 7. During the relevant time, Glytenko directly and indirectly  
11 controlled DIP, and did not act in good faith or knowingly induced, directly  
12 or indirectly, the acts constituting DIP's violations described herein.  
13 Glytenko is therefore liable as a controlling person, pursuant to Section  
14 13(b) of the Act, 7 U.S.C. § 13c(b), for DIP's violations.

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

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21 **II. JURISDICTION AND VENUE**

22 9. The Court has jurisdiction over this action pursuant to Section  
23 6c(a) of the Act, as amended, to be codified at 7 U.S.C. §13a-1(a), which  
24 provides that, whenever it shall appear to the Commission that any person  
25 has engaged in, is engaging in, or is about to engage in any act or practice  
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1 that constitutes a violation of any provision of the Act or any rule,  
2 regulation, or order promulgated thereunder, the Commission may bring an  
3 action against such person to enjoin such practice or to enforce compliance  
4 with the Act.  
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6 10. Venue properly lies with this Court pursuant to Section 6c(e) of  
7 the Act, as amended, to be codified at, 7 U.S.C. §13a-1(e), because  
8 Defendants are found in, inhabit, or transact business in this District, or the  
9 acts and practices in violation of the Act occurred, are occurring, or are  
10 about to occur within this District, among other places.  
11

### 12 **III. THE PARTIES**

#### 13 **A. Plaintiff**

14 11. Plaintiff **U.S. Commodity Futures Trading Commission** is an  
15 independent federal regulatory agency charged by Congress with the  
16 responsibility for administering and enforcing the provisions of the Act, as  
17 amended, to be codified at 7 U.S.C. §§ 1 *et seq.*, and the Commission's  
18 Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2012).  
19

#### 20 **B. Defendants**

21 12. Defendant **Direct Investment Products, Inc.** is a California  
22 corporation incorporated in 2005 with its principal place of business in  
23 Carlsbad, California. DIP has been registered with the Commission as a  
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1 Commodity Trading Advisor (“CTA”) and as a Commodity Pool Operator  
2 (“CPO”) since April 2007.

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4 13. Defendant **Alexander Glytenko** is an individual whose last  
5 known address was in Carlsbad, California. Glytenko is the Chief Executive  
6 Officer and a controlling person of DIP. Since March 2007, Glytenko has  
7 been a Principal of DIP, and, since April 2007, he has been registered with  
8 the Commission as an Associated Person (“AP”) of DIP. Since March 2007,  
9 Glytenko has also been a Principal and registered AP of Institutional Capital  
10 Management LLC, a registered CPO.  
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#### 13 **IV. FACTS**

##### 14 **A. Defendants Fraudulently Solicited \$3.9 Million From** 15 **Approximately 761 Individuals**

16 14. From approximately 2005 until approximately 2010, DIP, by  
17 and through the actions of its employees and agents, including, but not  
18 limited to, Glytenko, fraudulently solicited approximately \$3.9 million from  
19 approximately 761 individuals residing in Russia and various former  
20 republics of the former Soviet Union to become participants in a commodity  
21 pool known as DIP Capital Partners, that traded in futures and options on  
22 commodities, indices, currencies, treasury bonds and notes, and metals.  
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26 15. In approximately 2005, Defendant Glytenko created an entity  
27 known as DIP Consulting for the purpose of soliciting individuals to become  
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1 participants in DIP Capital Partners. From approximately 2005 until  
2 approximately mid-2007, Glytenko was a co-director of DIP Consulting.  
3  
4 From approximately mid-2007 until approximately 2010, Glytenko was the  
5 sole director of DIP Consulting.

6       16. DIP Consulting conducted “educational seminars” that were  
7 held in cities throughout the former Soviet Union. During the course of  
8 these seminars, Defendants, either directly or through their agents in DIP  
9 Consulting, presented prospective participants with promotional material  
10 about DIP, the Pool, and the various funds that were being traded on behalf  
11 of the Pool. This promotional material included numerous charts which  
12 were represented to be the trading performance history for the Pool and its  
13 various funds.  
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17       17. At various times during the relevant period, Defendant  
18 Glytenko either directly or through their agents in DIP created, provided  
19 information that was used in the creation of, and/or approved the  
20 promotional material that was used at these seminars. At various times  
21 during the relevant period, Defendant Glytenko also personally attended and  
22 participated in these seminars.  
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25       18. During the course of these seminars, Defendants, either directly  
26 or through their agents in DIP Consulting, misrepresented and omitted  
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1 material facts about the performance record of the Pool in order to induce  
2 individuals to become participants in the Pool. For example, one chart  
3 showed total growth in profits for the Pool of 252% from January 2003  
4 through December 2008. The chart represented that the Pool made yearly  
5 profits in each year during this time period, ranging from 12.60% to 47.20%.  
6 The chart represented that the Pool made a yearly profit of 25.20% in 2003  
7 and a yearly profit of 18.09% in 2004.  
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10 19. A second chart represented the growth in profits for one of the  
11 Pool's funds known as the DI-Growth Fund. This chart represented total  
12 growth in profits for the DI-Growth Fund of 245% from January 2004  
13 through December 2008. The chart represented that the DI-Growth Fund  
14 made yearly profits in each year during this time period, ranging from  
15 12.01% to 41.12%. The chart represented that the DI-Growth Fund made a  
16 yearly profit of 41.12% in 2004.  
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20 20. A third chart represented the growth in profits for another of the  
21 Pool's funds known as the ICF Fund. This chart represented total growth in  
22 profits for the ICF Fund of 322% from January 2004 through December  
23 2008. The chart represented that the ICF Fund made yearly profits in each  
24 year during this time period, ranging from 10.16% to 49.79%. The chart  
25 represented that the ICF Fund made a yearly profit of 47.22% in 2004. The  
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1 chart also represented that ICF made a yearly profit of 18.83% in 2007 and a  
2 yearly profit of 10.16% in 2008.

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4 21. Contrary to the representations made by Defendants, either  
5 directly or through their agents in DIP Consulting, the Pool's DI-Growth  
6 Fund and ICF Fund did not make yearly profits in 2004, nor did the Pool  
7 make overall yearly profits in 2003 and 2004, because the Pool did not exist  
8 until 2005.

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10 22. Also contrary to the representations made by Defendants, either  
11 directly or through their agents in DIP Consulting, the Pool's ICF Fund did  
12 not make yearly profits of 18.83% in 2007 and 10.16% in 2008; in fact,  
13 according to certified financial statements filed with the National Futures  
14 Association, the ICF Fund experienced losses of 4.03% in 2007 and 43.15%  
15 in 2008.

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17 23. Moreover, none of the performance figures represented on the  
18 charts presented to prospective participants is reflective of actual trading that  
19 was done by or on behalf of the Pool; rather, the figures reflect the  
20 theoretical performance of Defendant DIP's proprietary trading strategy  
21 known as DI-Portfolio. Despite this fact, Defendants did not, either directly  
22 or through their agents in DIP Consulting, include any disclaimer on the  
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1 charts informing prospective participants that the performance presented was  
2 theoretical as opposed to actual.

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4 24. Based on the information presented to them at these seminars,  
5 numerous individuals became participants in the Pool. In deciding to  
6 become participants in the Pool, participants relied, among other things,  
7 upon Defendants' misrepresentations and omissions regarding the  
8 performance record of the Pool.  
9

10 25. Defendants, through their own acts and omissions and the acts  
11 and omissions of their agents, knowingly and recklessly made the material  
12 misrepresentations and omitted the material facts alleged above to induce  
13 individuals to become participants in the Pool.  
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16 **B. Defendants Issued False Statements to Participants**

17 26. During the relevant period, Defendants, either directly or  
18 through their agents, maintained an internet website at [www.di-holding.com](http://www.di-holding.com).  
19 Defendants, either directly or through their agents, provided Pool  
20 participants with ongoing daily access to information pertaining to the  
21 performance of the Pool and the Net Asset Value ("NAV") of the Pool  
22 through a password-protected portal on the website. At various times during  
23 the relevant period, Defendant Glytenko either directly created or provided  
24 information that was used in the creation of material that was posted on the  
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1 website. At other times during the relevant time period, Defendant Glytenko  
2 reviewed and/or verified information prior to its posting on the website.  
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4 27. Defendants, either directly or through their agents,  
5 misrepresented and omitted material facts regarding the performance of the  
6 Pool on the password-protected portion of the website in order to induce  
7 Pool participants to maintain their funds in the Pool, to invest additional  
8 funds in the Pool, and to persuade others to become participants in the Pool.  
9 For example, throughout the relevant time period, Defendants, either directly  
10 or through their agents, provided participants with information on the  
11 password-protected portion of the website that purported to represent the  
12 historical returns achieved by the Pool's DI-Portfolio trading strategy. This  
13 information consisted of charts that showed overall profitable returns for the  
14 strategy going back as far as 2002. The charts listed both monthly and  
15 yearly returns and represented that the strategy had achieved yearly returns  
16 of 27.12% in 2002, 25.19% in 2003, and 18.07% in 2004.  
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21 28. Contrary to the representations in these charts, the Pool's  
22 trading strategy did not achieve profits in 2002, 2003, and 2004 because the  
23 Pool did not exist until 2005. Moreover, none of the performance figures  
24 represented on the charts provided to participants is reflective of actual  
25 trading that was done by or on behalf of the Pool; rather, the figures reflect  
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1 the theoretical performance of DI-Portfolio trading strategy. Despite this  
2 fact, Defendants did not, either directly or through their agents, include any  
3 disclaimer on the charts informing prospective participants that the  
4 performance presented was theoretical as opposed to actual.  
5

6       29. Throughout the relevant time period, Defendants, either directly  
7 or through their agents, also provided participants with information on the  
8 password-protected portion of the website as to the Pool's NAV. The Pool's  
9 NAV calculation was based on the net asset values of the various funds in  
10 which the Pool traded. In or about late 2008, Defendants, either directly or  
11 through their agents, received information that one of the funds in which the  
12 Pool was invested had sustained substantial losses. These losses would have  
13 a significant impact on the NAV of that particular fund and, in turn, on the  
14 NAV of the Pool itself. Despite their knowledge of this information, for  
15 several months thereafter Defendants neither updated the the Pool's NAV  
16 calculation to reflect these losses, nor did they inform the Pool's participants  
17 of the losses and their impact on the Pool's NAV. Indeed, for at least  
18 several months, Defendants, either directly or through their agents, provided  
19 participants with NAV calculations that they knew were false or inaccurate.  
20 In addition, during this time period some Pool participants received  
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1 redemptions for their interests in the Pool based on NAV calculations that  
2 Defendants knew were false or inaccurate.

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4 30. Defendants' misrepresentations and omissions on the password-  
5 protected portion of the website caused existing participants to maintain  
6 their funds in the Pool, to invest additional funds in the Pool, and to  
7 persuade others to become participants in the Pool.  
8

9 **C. Defendants Misappropriated \$464,000 of Participants'**  
10 **Funds**

11 31. Defendant DIP, by and through the actions of its employees and  
12 agents, including but not limited to Glytenko, directed Pool participants to  
13 deposit funds into bank accounts held in the name of the Pool and controlled  
14 by Glytenko or agents under the control of Glytenko.  
15

16 32. As a result of the losses incurred by the Pool in late 2008,  
17 Defendants, in or about January 2009, either directly or through their agents,  
18 instituted a freeze on participants' withdrawal of funds from the Pool.  
19

20 33. While the freeze on participants' withdrawals was still in effect,  
21 Defendant Glytenko, in or about November 2009, used participants' funds to  
22 make a loan of \$464,000 from DIP to himself. Under the terms of the loan  
23 agreement, which does not require repayment by Glytenko for five years,  
24 there was no limitation on how Glytenko could use this money.  
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1           34. To the present time, participants have been unable to withdraw  
2 their funds from the Pool.

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4           **D. Glytenko Controlled DIP**

5           35. Glytenko is the Chief Executive Officer, principal, and majority  
6 shareholder of DIP. He exercised control over the day-to-day operations of  
7 DIP. He had authority to hire and fire DIP employees and he oversaw their  
8 activities. He entered into agreements and opened bank and trading  
9 accounts on behalf of DIP. At various times during the relevant period, he  
10 created, reviewed, and/or approved solicitation materials used to solicit  
11 potential participants, as well as information provided to actual participants  
12 on the DIP website.

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16           **V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT**

17                               **COUNT ONE**

18           **VIOLATIONS OF SECTIONS 4b(a)(1)(A) AND (C) OF THE ACT:**  
19           **FRAUD BY FRAUDULENT SOLICITATION**

20           36. Paragraphs 1 through 35 are re-alleged and incorporated herein  
21 by reference.

22  
23           37. Sections 4b(a)(2)(i) and (iii) of the Act make it unlawful:

24                               for any person, in or in connection with any order to  
25                               make, or the making of, any contract of sale of any  
26                               commodity for future delivery, made, or to be made, for  
27                               or on behalf of any other person if such contract for  
28                               future delivery is or may be used for (A) hedging any

1 transaction in interstate commerce in such commodity or  
2 the products or byproducts thereof, or (B) determining  
3 the price basis of any transaction in interstate commerce  
4 in such commodity, or (C) delivering any such  
5 commodity sold, shipped, or received in interstate  
6 commerce for the fulfillment thereof—(i) to cheat or  
7 defraud or attempt to cheat or defraud such other person .  
8 . . . ; or (iii) willfully to deceive or attempt to deceive such  
9 other person by any means whatsoever in regard to any  
10 such order or contract or disposition or execution of any  
11 such order or contract, or in regard to any act of agency  
12 performed with respect to such order or contract for such  
13 person.

14 Similarly, with respect to acts occurring on or after June 18, 2008 and prior  
15 to July 16, 2011, Sections 4b(a)(1)(A) and (C) of the Act, as amended by the  
16 CRA, make it unlawful:

17 for any person, in or in connection with any order to make,  
18 or the making of, any contract of sale of any commodity in  
19 interstate commerce or for future delivery that is made, or to  
20 be made, on or subject to the rules of a designated contract  
21 market, for or on behalf of any other person... (A) to cheat  
22 or defraud or attempt to cheat or defraud the other person...;  
23 [or] (C) willfully to deceive or attempt to deceive the other  
24 person by any means whatsoever in regard to any order or  
25 contract or the disposition or execution of any order or  
26 contract, or in regard to any act of agency performed, with  
27 respect to any order or contract for or, in the case of  
28 paragraph (2), with the other person.

Sections 4b(a)(1)(A) and (C) of the Act, as amended by the Dodd-Frank Act,  
7 U.S.C. § 6b(a)(1)(A) and (C) (Supp. IV 2011), make the same conduct  
unlawful in connection with acts occurring on or after July 16, 2011.

1           38. By, among other things: a) presenting to prospective  
2 participants profitable performance figures for various of the Pool's  
3 funds for years in which they knew the Pool did not exist; b)  
4 presenting to prospective participants hypothetical trading  
5 performance without labeling it as such; and c) presenting to  
6 prospective participants at least two years of profitable performance  
7 results for one of the Pool's funds when, in fact, that fund had  
8 experienced losses during those years, DIP, by and through the actions  
9 of Glytenko, among others, knowingly, willfully, or with reckless disregard  
10 for the truth, violated Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §  
11 6b(a)(2)(i) and (iii) (2006), with respect to acts occurring before June 18,  
12 2008, Sections 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, 7  
13 U.S.C. § 6b(a)(1)(A) and (C) (Supp. II 2009), for conduct occurring on or  
14 after June 18, 2008, and Sections 4b(a)(1)(A) and (C) of the Act, as  
15 amended by the Dodd-Frank Act, Pub. L. No. 111-203, Title VII (the Wall  
16 Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat.  
17 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(A) and (C) (Supp. IV  
18 2011), for conduct occurring on or after July 16, 2011.

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25           39. Glytenko committed the acts alleged herein within the course  
26 and scope of his employment, office, or agency with DIP. DIP is therefore  
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1 liable pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)  
2 (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010), as principal for  
3  
4 Glytenko's violations of the Act.

5 40. Glytenko, directly or indirectly, controlled DIP and did not act  
6 in good faith, or knowingly induced, directly or indirectly, the acts  
7  
8 constituting DIP's violations of the Act. Therefore, pursuant to Section 13(b)  
9 of the Act, 7 U.S.C. § 13c(b) (2006), Glytenko is liable for DIP's violations  
10 of the Act.

11 41. Each act of fraudulent solicitation, misappropriation and false  
12 statement or report, including but not limited to those specifically alleged  
13 herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(i)  
14 and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i) and (iii) (2006), with respect to  
15  
16 acts occurring before June 18, 2008, Sections 4b(a)(1)(A) and (C) of the Act,  
17 as amended by the CRA, 7 U.S.C. § 6b(a)(1)(A) and (C) (Supp. II 2009), for  
18  
19 conduct occurring on or after June 18, 2008, and Sections 4b(a)(1)(A) and  
20  
21 (C) of the Act, as amended by the Dodd-Frank Act, Pub. L. No. 111-203,  
22 Title VII (the Wall Street Transparency and Accountability Act of 2010), §§  
23  
24 701-774, 124 Stat. 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(A)  
25 and (C) (Supp. IV 2011), for conduct occurring on or after July 16, 2011.  
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**COUNT TWO**

**VIOLATIONS OF SECTIONS 4b(a)(1)(A) AND (C) OF THE ACT:  
FRAUD BY MISAPPROPRIATION**

42. Paragraphs 1 through 41 are re-alleged and incorporated herein by reference.

43. By using funds solicited and accepted for the purpose of trading commodity futures to make a personal loan to Glytenko, Defendants knowingly and willfully misappropriated funds in violation of Sections 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(1)(A) and (C) (Supp. II 2009), for conduct occurring on or after June 18, 2008.

44. The foregoing acts of misappropriation by Glytenko occurred within the course and scope of his employment, office, or agency with DIP. DIP is therefore liable pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010), as principal for Glytenko's violations of the Act.

45. Glytenko, directly or indirectly, controlled DIP and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting DIP's violations of the Act. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Glytenko is liable for DIP's violations of the Act.

**COUNT THREE**

**VIOLATIONS OF SECTIONS 4b(a)(1)(B) OF THE ACT:  
FRAUD BY FALSE STATEMENTS**

46. Paragraphs 1 through 45 are re-alleged and incorporated herein  
by reference.

47. Section 4b(a)(2)(ii) of the Act makes it unlawful:

for any person, in or in connection with any order to make,  
or the making of, any contract of sale of any commodity for  
future delivery, made, or to be made, for or on behalf of any  
other person if such contract for future delivery is or may be  
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... [to] (ii) willfully to  
make or cause to be made to such other person any false  
report or statement thereof....

Similarly, with respect to acts occurring on or after June 18, 2008 and prior  
to July 16, 2011, Section 4b(a)(1)(B) of the Act, as amended by the CRA,  
makes it unlawful:

for any person, in or in connection with any order to make,  
or the making of, any contract of sale of any commodity in  
interstate commerce or for future delivery that is made, or to  
be made, on or subject to the rules of a designated contract  
market, for or on behalf of any other person... [to] (B)  
willfully to make or cause to be made to the other person  
any false report or statement or willfully to enter or cause to  
be entered for the other person any false record....

1 Section 4b(a)(1)(B) of the Act, as amended by the Dodd-Frank Act, 7 U.S.C.  
2 § 6b(a)(1)(B) (Supp. IV 2011), makes the same conduct unlawful in  
3  
4 connection with acts occurring on or after July 16, 2011.

5 48. By making, or causing to be made, false statements to  
6 participants in the form of communications on the password-protected  
7  
8 portion of the website that: a) misrepresented and omitted material facts  
9 about the performance history of the Pool's DI-Portfolio trading strategy;  
10 and b) reported false and inaccurate NAV calculations for the Pool, DIP, by  
11 and through the actions of Glytenko, among others, knowingly, willfully, or  
12 with reckless disregard for the truth, violated Section 4b(a)(2)(ii) of the Act,  
13 7 U.S.C. § 6b(a)(2)(ii) (2006), with respect to acts occurring before June 18,  
14 2008, Sections 4b(a)(1)(B) of the Act, as amended by the CRA, 7 U.S.C. §  
15  
16 6b(a)(1)(B) (Supp. II 2009), for conduct occurring on or after June 18, 2008,  
17 and Sections 4b(a)(1)(B) of the Act, as amended by the Dodd-Frank Act,  
18  
19 Pub. L. No. 111-203, Title VII (the Wall Street Transparency and  
20  
21 Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (effective July 16,  
22  
23 2011), 7 U.S.C. § 6b(a)(1)(B) (Supp. IV 2011), for conduct occurring on or  
24  
25 after July 16, 2011.

26 49. Glytenko committed the acts alleged herein within the  
27  
28 course and scope of his employment, office, or agency with DIP. DIP is

1 therefore liable pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. §  
2 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010), as principal  
3  
4 for Glytenko's violations of the Act.

5 50. Glytenko, directly or indirectly, controlled DIP and did not act  
6 in good faith, or knowingly induced, directly or indirectly, the acts  
7  
8 constituting DIP's violations of the Act. Therefore, pursuant to Section 13(b)  
9 of the Act, 7 U.S.C. § 13c(b) (2006), Glytenko is liable for DIP's violations  
10 of the Act.

11  
12 51. Each act of false statement or report, including but not limited  
13 to those specifically alleged herein, is alleged as a separate and distinct  
14 violation of Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii) (2006),  
15 with respect to acts occurring before June 18, 2008, Sections 4b(a)(1)(B) of  
16 the Act, as amended by the CRA, 7 U.S.C. § 6b(a)(1)(B) (Supp. II 2009), for  
17 conduct occurring on or after June 18, 2008, and Sections 4b(a)(1)(B) of the  
18 Act, as amended by the Dodd-Frank Act, Pub. L. No. 111-203, Title VII (the  
19 Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124  
20 Stat. 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(B) (Supp. IV 2011),  
21 for conduct occurring on or after July 16, 2011.  
22  
23  
24  
25  
26  
27  
28

**COUNT FOUR**

**VIOLATIONS OF SECTION 4o(1)(A) AND (B) OF THE ACT:  
FRAUD AS A CPO AND ASSOCIATED PERSON OF A CPO**

52. Paragraphs 1 through 51 are re-alleged and incorporated herein by reference.

53. Sections 4o(1)(A) and (B) of the Act as amended, 7 U.S.C. §§ 6o(1)(A) and (B) make it unlawful:

for commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly— (A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

54. Section 1a(5) of the Act defines a CPO as:

any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market....

As defined by Commission Regulation 1.3(aa)(3), 17 C.F.R. § 1.3(aa)

(2013), an AP of a CPO is a natural person who is associated with a CPO:

1 as a partner, officer, employee, consultant, or agent (or any  
2 natural person occupying a similar status or performing  
3 similar functions), in any capacity which involves (i) the  
4 solicitation of funds, securities, or property for a  
5 participation in a commodity pool or (ii) the supervision of  
6 any person or persons so engaged[.]

6 55. By engaging in a business that is of the nature of an investment  
7 trust, syndicate, or similar form of enterprise and by soliciting, accepting, or  
8 receiving funds from others for the purpose of, among other things, trading  
9 in futures, Defendant DIP acted as the CPO of the DIP Capital Partners Pool.  
10 As a partner, officer, employee, or agent of DIP in a capacity that involved  
11 the solicitation of funds, securities, or property for a participation in a  
12 commodity pool or the supervision of persons so engaged, Defendant  
13 Glytenko acted as an AP of a CPO.  
14  
15  
16

17 56. By the acts of fraudulent solicitation, misappropriation, and  
18 false statements and reports set forth above, DIP, by and through the actions  
19 of Glytenko, among others, and while acting as a CPO, and Glytenko, while  
20 acting as an AP of DIP, violated Sections 4o(1)(A) and (B) of the Act as  
21 amended, 7 U.S.C. §§ 6o(1)(A) and (B).  
22  
23

24 57. Glytenko committed the acts alleged herein within the course  
25 and scope of his employment, office, or agency with DIP. DIP is therefore  
26 liable pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)  
27  
28

1 (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010), as principal for  
2 Glytenko's violations of the Act.

3  
4 58. Glytenko, directly or indirectly, controlled DIP and did not act  
5 in good faith, or knowingly induced, directly or indirectly, the acts  
6 constituting DIP's violations of the Act. Therefore, pursuant to Section 13(b)  
7 of the Act, 7 U.S.C. § 13c(b) (2006), Glytenko is liable for DIP's violations  
8 of the Act.  
9

10 59. Each act of fraudulent solicitation, misappropriation, and false  
11 statement or report, including but not limited to those specifically alleged  
12 herein, is alleged as a separate and distinct violation of Sections 4o(1)(A)  
13 and (B) of the Act as amended, 7 U.S.C. §§ 6o(1)(A) and (B).  
14  
15

16 **COUNT FIVE**

17 **VIOLATIONS OF COMMISSION REGULATION 4.41(b):**  
18 **ADVERTISING BY COMMODITY POOL OPERATORS,**  
19 **COMMODITY TRADING ADVISORS, AND PRINCIPALS**  
20 **THEREOF**

21 60. Commission Regulation 4.41(b), 17 C.F.R. § 4.41(b)(2012),  
22 provides that "[n]o person may present the performance of any simulated or  
23 hypothetical commodity interest account, transaction in a commodity  
24 interest or series of transactions in a commodity interest of a commodity  
25 pool operator, commodity trading advisor, or any principal thereof' unless  
26 such performance is accompanied by a statement that identifies the results as  
27  
28



1 simulated or hypothetical and describes the inherent limitations of simulated  
2 or hypothetical trading.

3  
4 61. By presenting simulated or hypothetical performance results to  
5 prospective participants in its solicitation material and to participants in the  
6 password-protected section of DIP's website without including the required  
7 statement, DIP, by and through the actions of Glytenko, among others,  
8 violated Commission Regulation 4.41(b), 17 C.F.R. § 4.41(b)(2012) .

9  
10 62. Glytenko committed the acts alleged herein within the course  
11 and scope of his employment, office, or agency with DIP. DIP is therefore  
12 liable pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B)  
13 (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2010), as principal for  
14  
15  
16 Glytenko's violations of the Act.

17 63. Glytenko, directly or indirectly, controlled DIP and did not act  
18 in good faith, or knowingly induced, directly or indirectly, the acts  
19 constituting DIP's violations of the Act. Therefore, pursuant to Section 13(b)  
20 of the Act, 7 U.S.C. § 13c(b) (2006), Glytenko is liable for DIP's violations  
21 of the Act.  
22

23  
24 64. Each act of presenting simulated or hypothetical performance  
25 results without including the required statement, including but not limited to  
26  
27  
28

1 those specifically alleged herein, is alleged as a separate and distinct  
2 violation of Commission Regulation 4.41(b), 17 C.F.R. § 4.41(b)(2012).

3  
4 **VI. RELIEF REQUESTED**

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

9 A. An order finding Defendants violated: 1) Sections 4b(a)(2)(i)-  
10 (iii) of the Act, 7 U.S.C. § 6b(a)(2)(i)-(iii) (2006), with respect to acts  
11 occurring before June 18, 2008, Sections 4b(a)(1)(A)-(C) of the Act, as  
12 amended by the CRA, 7 U.S.C. § 6b(a)(1)(A)-(C) (Supp. II 2009), for  
13 conduct occurring on or after June 18, 2008, and Sections 4b(a)(1)(A)-(C) of  
14 the Act, as amended by the Dodd-Frank Act, Pub. L. No. 111-203, Title VII  
15 (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774,  
16 124 Stat. 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(A)-(C) (Supp.  
17 IV 2011), for conduct occurring on or after July 16, 2011; 2) Sections  
18 4o(1)(A) and (B) of the Act as amended, 7 U.S.C. §§ 6o(1)(A) and (B); and  
19 3) Commission Regulation 4.41(b), 17 C.F.R. § 4.41(b)(2012);  
20

21 B. An order of permanent injunction enjoining Defendants and all  
22 persons insofar as they are acting in the capacity of their agents, servants,  
23 employees, successors, assigns, and attorneys, and all persons insofar as they  
24  
25  
26  
27  
28

1 are acting in active concert or participation with Defendants who receive  
2 actual notice of such order by personal service or otherwise, from directly or  
3 indirectly:  
4

5 1. Engaging in conduct in violation of Sections 4b(a)(1)(A)-  
6 (C) of the Act, as amended by the Dodd-Frank Act, Pub. L. No. 111-203,  
7 Title VII (the Wall Street Transparency and Accountability Act of 2010), §§  
8 701-774, 124 Stat. 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(A)-  
9 701-774, 124 Stat. 1376 (effective July 16, 2011), 7 U.S.C. § 6b(a)(1)(A)-  
10 (C) (Supp. IV 2011); 2) Sections 4o(1)(A) and (B) of the Act as amended, 7  
11 U.S.C. §§ 6o(1)(A) and (B); and 3) Commission Regulation 4.41(b), 17  
12 C.F.R. § 4.41(b)(2012);  
13

14 2. Trading on or subject to the rules of any registered entity  
15 (as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29)  
16 (2006));  
17

18 3. Entering into any transactions involving commodity  
19 futures, options on commodity futures, commodity options (as that term is  
20 defined in Regulations 1.3(hh) and 32.1(b)(1), 17 C.F.R. §§ 1.3(hh) and  
21 32.1(b)(1) (2013)) (“commodity options”), security futures products, swaps  
22 (as that term is defined in Section 1a(47) of the Act, as amended, 7 U.S.C. §  
23 1(a)(47) (2012) and as further defined by Commission Regulation 1.3(xxx),  
24 17 C.F.R. § 1.3(xxx) (2013)) (“swaps”) and/or foreign currency (as  
25  
26  
27  
28

1 described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. §§  
2 2(c)(2)(B) and 2(c)(2)(C)(i) (2012)) (“forex contracts”), for their own  
3  
4 personal or proprietary account or for any account in which they have a  
5 direct or indirect interest;

6           4. Having any commodity futures, options on commodity  
7  
8 futures, commodity options, security futures products, swaps, and/or forex  
9 contracts traded on their behalf;

10           5. Controlling or directing the trading for or on behalf of  
11  
12 any other person or entity, whether by power of attorney or otherwise, in any  
13 account involving commodity futures, options on commodity futures,  
14 commodity options, security futures products, swaps, and/or forex contracts;

15           6. Soliciting, receiving, or accepting any funds from any  
16  
17 person for the purpose of purchasing or selling any commodity futures,  
18 options on commodity futures, commodity options, security futures  
19 products, swaps, and/or forex contracts;

20           7. Applying for registration or claiming exemption from  
21  
22 registration with the Commission in any capacity, and engaging in any  
23 activity requiring such registration or exemption from registration with the  
24 Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. §  
25 4.14(a)(9) (2010); and  
26  
27  
28

1           8.     Acting as a principal (as that term is defined in  
2 Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), agent or any other officer or  
3 employee of any person registered, exempted from registration or required to  
4 be registered with the Commission, except as provided for in Regulation  
5 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010).  
6

7  
8           C.     Enter an order directing Defendants, as well as any successors  
9 to any Defendant, to disgorge, pursuant to such procedure as the Court may  
10 order, all ill-gotten gains and/or benefits received from the acts or practices  
11 that constitute violations of the Act and Regulations, as described herein,  
12 and pre- and post-judgment interest thereon from the date of such violations;  
13

14           D.     Enter an order requiring Defendants to make full restitution to  
15 every person or entity whose funds Defendants received or caused another  
16 person or entity to receive as a result of acts and practices that constituted  
17 violations of the Act, as described herein, and pre- and post-judgment  
18 interest thereon from the date of such violations;  
19


20           E.     Enter an order directing each Defendant to each pay civil  
21 monetary penalties of not more than the higher of \$130,000 for each  
22 violation of the Act or Regulations occurring between October 23, 2004 and  
23 October 22, 2008, and \$140,000 for each violation of the Act or Regulations  
24 occurring on or after October 23, 2008, or triple the monetary gain to  
25  
26  
27  
28

1 Defendants, plus post-judgment interest thereon from the date of such  
2 violations;

3  
4 F. Enter an order requiring Defendants to pay costs and fees as  
5 permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and

6 G. Enter any order providing such other and further relief as this  
7  
8 Court may deem necessary and appropriate under the circumstances.

9  
10 Respectfully submitted,

11  
12  
13  
14  12/5/2013

15 James H. Holl, III  
16 Chief Trial Attorney  
17 Alan I. Edelman  
18 Senior Trial Attorney  
19 1155 21<sup>st</sup> Street, NW  
20 Washington, DC 20581  
21 Telephone: (202) 418-5000  
22 Facsimile: (202) 418-5523  
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24 aedelman@cftc.gov  
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26  
27  
28

JS 44 Reverse (Rev. 12/12)

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the six boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
 United States Commodity Futures Trading Commission

**(b) County of Residence of First Listed Plaintiff**  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 James H. Holl, III; Alan I. Edelman  
 United States Commodity Futures Trading Commission  
 1155 21st Street, N.W., Washington, D.C. 20581 202-418-5000

**DEFENDANTS**  
 Direct Investment Products, Inc. and Alexander Glytenko

County of Residence of First Listed Defendant San Diego  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) 13CV2887 DMS NLS

**II. BASIS OF JURISDICTION (Place an "X" in One Box Only)**

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)**

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT (Place an "X" in One Box Only)**

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable Sat TV <input checked="" type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION	FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN (Place an "X" in One Box Only)**

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**  
 Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)  
 7 U.S.C. § 6b(a)(1)(A)-(C); 7 U.S.C. §§ 6o(1)(A) and (B); 17 C.F.R. § 4.41(b)  
 Brief description of cause: fraud, misappropriation

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions)    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE 12/5/2013    SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICIAL USE ONLY    RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING FEE \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG JUDGE \_\_\_\_\_