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ATTORNEYS FOR THE PLAINTIFF

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**THOMAS LANZANA, individually and
d/b/a UNIQUE FOREX,
NIKOLAY MASANKO,
BLACKBOX PULSE LLC, and
WHITE CLOUD MOUNTAIN LLC,**

Defendants.

Case No: _____

Hon. _____

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

Plaintiff Commodity Futures Trading Commission (“CFTC” or “Commission”), an independent agency of the United States Government (with its Central Regional Office, at which the undersigned counsel for the CFTC may be reached, located at 525 W. Monroe St., Chicago, IL 60661, and its headquarters located at Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581), for its Complaint against Defendants Thomas Lanzana (“Lanzana”) (who, on information and belief, now resides at 177 Greenfield Rd., Pawleys Island, SC 29585 but recently resided at 109 Dornoch Dr., Pawleys Island, SC 29585); Nikolay Masanko (“Masanko”) (who, on information and belief, resides at 538 Johns Creek Pkwy., Saint Augustine, FL 32092); Blackbox Pulse LLC (“Blackbox Pulse”) (with its registered office and main business address located at 7855 Boulevard East, Apt. 30 E, North Bergen, NJ 07047); and White Cloud Mountain LLC (“White Cloud Mountain”) (with its principal place of business and mailing address located at 538 Johns Creek Pkwy., St. Augustine, FL 32092), alleges as follows:

I. INTRODUCTION

1. This matter involves a scheme by Lanzana, individually and as the controlling person of Blackbox Pulse and doing business as (“d/b/a”) Unique Forex (“Unique Forex”), and Masanko, individually and as the controlling person of White Cloud Mountain, (collectively “Defendants”) to defraud at least thirty pool customers of at least \$700,000 in connection with pooled investments in retail off-exchange foreign currency (“forex”) transactions and other investments.

2. From at least 2013 to the present, through social media, websites, and word of mouth, Lanzana marketed himself as a successful forex trader, and he fraudulently solicited and accepted at least \$450,000 from at least fifteen customers for the purpose of trading forex at Blackbox Pulse or Unique Forex. He kept customers’ trust by emailing them account statements and links to YouTube videos showing forex trades that were never made, sending them tax

documents reporting fake gains, and displaying on his websites monthly statements for Blackbox Pulse and Unique Forex accounts that did not exist. In reality, Lanzana did not use all of the customer funds he accepted to trade forex, but instead misappropriated a portion of those funds to pay other customers who requested the return of their funds, in the manner of a Ponzi scheme, and for Lanzana's own personal use and benefit.

3. In approximately June 2014, Masanko joined Lanzana's scheme. In 2015, he formed White Cloud Mountain and marketed it through social media, a website, and word of mouth as a successful forex trading company, when, in reality, White Cloud Mountain had no forex trading account in its name and directed or transferred customer funds to Unique Forex. Between approximately June 2014 and the present, Masanko fraudulently solicited and accepted at least \$250,000 from at least sixteen customers for the purpose of trading forex at Unique Forex, and Masanko emailed these customers account statements and links to YouTube videos showing forex trades that were never made and tax documents reporting fake gains. Funds from customers that Masanko solicited were not all used to trade forex, but instead were misappropriated by Lanzana to pay other customers who requested the return of their funds, in the manner of a Ponzi scheme, and for Lanzana's own personal use and benefit.

4. By engaging in this conduct and the conduct further described herein, Defendants have engaged, are engaging, or are about to engage in violations of anti-fraud and registration provisions of the Commodity Exchange Act (the "Act"), 7 U.S.C. §§ 1-26 (2012), and Commission Regulations ("Regulations"), 17 C.F.R. pt. 1-190 (2017). Specifically, Defendants violated the anti-fraud provisions contained in Sections 4b(a)(2)(A)-(C), 4o(1)(A)-(B), and 6(c)(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6o(1)(A)-(B), 9(1) (2012), and Regulations 5.2(b) and 180.1(a), 17 C.F.R. §§ 5.2(b), 180.1(a) (2017). Lanzana and Blackbox Pulse violated

registration requirements set forth in Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2017), while Masanko and White Cloud Mountain violated registration requirements set forth in Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012), and Regulations 3.12(a) and 5.3(a)(2)(ii), 17 C.F.R. §§ 3.12(a) and 5.3(a)(2)(ii) (2017). Finally, Lanzana, individually and d/b/a Unique Forex, and Blackbox Pulse engaged in activities prohibited by Regulation 4.20(a)(1) and (c), 17 C.F.R. § 4.20(a)(1), (c) (2017).

5. Unless restrained and enjoined by this Court, Defendants are likely to continue engaging in the acts and practices alleged in this complaint or in similar acts and practices, and funds they fraudulently obtained may be misappropriated or otherwise dissipated. Accordingly, the CFTC brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), to enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act. The CFTC also seeks civil monetary penalties and remedial ancillary relief, including restitution, disgorgement, pre- and post-judgment interest, and such other equitable relief as this Court may deem necessary and appropriate.

II. JURISDICTION AND VENUE

6. This Court possesses jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), which authorizes the Commission to seek injunctive and other relief against any person whenever it appears to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

7. The Commission has jurisdiction over the forex solicitations and transactions at issue in this case pursuant to Section 2(c)(2)(C)(i) and (vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(i), (vii) (2012).

8. Venue lies properly in this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Defendants transacted business in this District, and certain of the acts and practices in violation of the Act and Regulations occurred, are occurring, or are about to occur within this District, among other places.

III. THE PARTIES

9. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with administering and enforcing the Act and Regulations. The CFTC maintains its principal office at 1155 21st Street N.W., Washington, DC 20581.

10. Defendant **Thomas Lanzana** currently resides in Pawleys Island, South Carolina but resided at various times in Midland Park and New Bergen, New Jersey until approximately 2015. Lanzana has never been registered with the CFTC in any capacity. He was registered as a broker with the Financial Industry Regulatory Authority (“FINRA”), a self-regulatory organization responsible for registering securities industry customers, while working at several different firms between approximately December 1994 and July 2011. Lanzana created Blackbox Pulse and controlled all aspects of its operations, and he did business using the name Unique Forex. He solicited and accepted funds from Blackbox Pulse and Unique Forex customers, is the sole signatory on Blackbox Pulse’s and Unique Forex’s bank accounts, and held himself out as the head trader for Blackbox Pulse and Unique Forex. Lanzana is also the registered agent and member and manager of Blackbox Pulse.

11. Defendant **Nikolay Masanko** resides in St. Augustine, Florida. Masanko has never been registered with the Commission in any capacity. He was registered as a broker with FINRA while working at several different firms between approximately February 1995 and March 2009. Masanko created White Cloud Mountain and controlled all aspects of its operation.

He solicited and accepted funds from customers for investment in Unique Forex, and is the sole signatory on White Cloud Mountain's bank accounts. Masanko is also the registered agent and managing member of White Cloud Mountain.

12. Defendant **Blackbox Pulse LLC** is a limited liability company formed in New Jersey on approximately April 8, 2011. According to its Certificate of Formation on file with the New Jersey Secretary of State, North Bergen, New Jersey, is the location of Blackbox Pulse's business address and registered office, and Lanzana is its registered agent, member, and manager. Lanzana solicited and accepted funds from Blackbox Pulse customers, and he is the sole signatory to Blackbox Pulse's bank accounts, including a checking account at Bank of America, N.A. ("Bank of America") ending in 4130, a checking account at Branch Banking and Trust Company ("BB&T") ending in 6754, and a checking account at JPMorgan Chase Bank, N.A. ("Chase Bank") ending in 6517. Although Lanzana held himself out as Blackbox Pulse's head trader, Blackbox Pulse maintained no trading accounts in its name and has never been registered with the Commission in any capacity.

13. **Unique Forex** is a name Lanzana used for a commodity pool beginning in approximately 2013. Lanzana described Unique Forex as a limited liability company in contracts and some customer statements, but it does not appear that Lanzana formally incorporated Unique Forex or formed it as a limited liability company in any state. Lanzana opened a checking account ending in 6762 for Unique Forex at BB&T in the name of "Thomas L. Lanzana DBA Unique Forex." Lanzana was the sole signatory for this bank account, and he solicited and accepted funds from Unique Forex customers. Statements for the BB&T account ending in 6762 list an address in Pawleys Island, South Carolina, while Unique Forex tax documents for at least tax years 2014 and 2015 list an address in North Bergen, New Jersey.

Although Lanzana held himself out as Unique Forex's head trader, Unique Forex maintained no trading accounts in its name and has never been registered with the Commission in any capacity.

14. Defendant **White Cloud Mountain LLC** is a limited liability company formed in Florida on approximately April 20, 2015. According to its Electronic Articles of Organization on file with the Florida Secretary of State, White Cloud Mountain's principal office and mailing address are located in St. Augustine, Florida, and Masanko is its registered agent and sole person authorized to manage it. Masanko was the sole signatory to White Cloud Mountain's bank accounts, including a checking account at Vystar Credit Union ("Vystar") ending in 4334 and a savings account at Vystar ending in 9540. Masanko solicited and accepted funds from Unique Forex customers using the name White Cloud Mountain. White Cloud Mountain maintained no trading accounts in its name and has never been registered with the Commission in any capacity.

IV. OTHER RELEVANT ENTITIES

15. **Remata Trading, LLC** ("Remata Trading") is a limited liability company formed in New York on approximately December 13, 2002, that commenced doing business in New Jersey as of approximately December 29, 2006. According to documents on file with the New Jersey Division of Revenue, Remata Trading's registered agent is Lanzana, who also serves as its president; its business purpose is trading and investing in equities; and its registered office and principal business addresses are in Midland Park, New Jersey and Teaneck, New Jersey, respectively. On information and belief, Remata Trading was one of several entities Lanzana used to solicit funds from the public, purportedly for investment purposes, before ultimately focusing his efforts on Blackbox Pulse and Unique Forex.

16. **Gladiator Holdings LLC** ("Gladiator Holdings") is a limited liability company formed in New Jersey on approximately April 7, 2008. According to its Certificate of Formation on file with the New Jersey Secretary of State, Gladiator Holdings is located in Little Falls, New

Jersey, and its member, manager, and authorized representative is Lanzana. On information and belief, Gladiator Holdings was one of several entities Lanzana used to solicit funds from the public, purportedly for investment purposes, before ultimately focusing his efforts on Blackbox Pulse and Unique Forex.

V. STATUTORY BACKGROUND

17. Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C. § 2(c)(2)(C)(iv) (2012), explicitly makes the anti-fraud provisions contained in Section 4b of the Act, 7 U.S.C. § 6b (2012), applicable to retail off-exchange forex agreements, contracts, and transactions “as if” the agreements, contracts, and transactions were a contract of sale of a commodity for future delivery. Section 2(c)(2)(C)(ii)(I) of the Act, 7 U.S.C. § 2(c)(2)(C)(ii)(I) (2012), further makes the anti-fraud provisions contained in Section 4b of the Act applicable to retail off-exchange forex agreements, contracts, and transactions, including pooled investment vehicles offered for the purpose of trading, or that trade, any retail off-exchange forex agreements, contracts, and transactions.

18. Section 1a(10) of the Act, 7 U.S.C. § 1a(10) (2012), defines a “commodity pool” as any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests, including retail off-exchange forex transactions.

19. Section 1a(11) of the Act, 7 U.S.C. § 1a(11) (2012), defines a commodity pool operator (“CPO”), in relevant part, as any person engaged in a business that is of the nature of a commodity pool, investment syndicate, or similar form of enterprise and who, in connection therewith, solicits, accepts, and receives from others funds, securities, or property for the purpose of trading any commodity interests, including retail off-exchange forex transactions.

20. Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2017), defines a CPO, for purposes of Part 5 of the Regulations, 17 C.F.R. pt. 5 (2017), as any person who operates or solicits funds,

securities, or property for a pooled investment vehicle that is not an eligible contract participant as defined in Section 1a(18) of the Act, 7 U.S.C. § 1a(18) (2012), and that engages in retail forex transactions.

21. Regulation 5.1(d)(2), 17 C.F.R. § 5.1(d)(2) (2017), defines an associated person (“AP”) of a CPO, for purposes of Part 5 of the Regulations, 17 C.F.R. pt. 5 (2017), as any natural person associated with a CPO as a partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in a capacity involving (i) the solicitation of funds, securities, or property for participation in a pooled investment vehicle or (ii) the supervision of any person so engaged.

22. Section 1a(18) of the Act, 7 U.S.C. § 7 U.S.C. § 1a(18) (2012), defines, in relevant part, an “eligible contract participant” (or “ECP”) as a: (iv) a commodity pool that— (I) has total assets exceeding \$5,000,000; . . . or (xi) an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of—(I) \$10,000,000; or (II) \$5,000,000 and who enters into the agreement, contracts, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.

VI. FACTS

A. The origin of Lanzana’s fraud: the Blackbox Pulse pool

23. Beginning in at least April 2012, Lanzana, individually and on behalf of Blackbox Pulse, solicited the public through social media, a website (www.bbpulse.com), and word of mouth to open trading accounts at Blackbox Pulse, initially to trade securities but then to trade forex.

24. At first, Lanzana marketed himself as a successful trader who had built an algorithm that monitored more than 100 highly liquid stocks a day and provided direction on

profitable times to trade, and he held himself out as the micro-manager of that algorithm.

Lanzana led prospective customers to believe their funds would be used to trade securities using this algorithm.

25. Lanzana instructed customers to sign contracts with Blackbox Pulse and write checks or wire funds to Blackbox Pulse bank accounts he controlled, including a Bank of America account ending in 4130, a BB&T account ending in 6754, and a Chase Bank account ending in 6517. Lanzana's own funds were commingled with customer funds in these accounts, and Lanzana used those accounts to pay for his own personal expenses.

26. Lanzana kept customers' trust by emailing them daily account statements showing securities trading and trading profits in their accounts. The statements never showed a losing month. In reality, the trading profits were fabricated.

27. Lanzana also made available to various Blackbox Pulse customers purported statements for a Blackbox Pulse account at Lek Securities Corporation ("Lek Securities"), a broker dealer registered with the U.S. Securities and Exchange Commission ("SEC"); these statements made it appear as though Blackbox Pulse traded an account worth hundreds of thousands of dollars at Lek Securities. For example, Lanzana emailed at least one customer an undated account statement for a Blackbox Pulse account ending in 0272 at Lek Securities that showed a balance of \$536,454.10. And on the Blackbox Pulse website, several customers were able to view similar account statements for a Blackbox Pulse account at Lek Securities, but with the account number appearing as "xxxxxx"; the statements for January 2017 show a balance of \$538,987.36. In reality, neither Blackbox Pulse nor Lanzana has ever had an account at Lek Securities. The statements are all fakes.

28. In approximately 2013, Lanzana's fraud shifted to forex. Individually and on behalf of Blackbox Pulse, Lanzana fraudulently solicited some of his existing Blackbox Pulse customers to open forex trading accounts at Blackbox Pulse, in part by misrepresenting that he was a successful forex trader. Lanzana did not open a new bank account for funds he solicited for the purpose of trading forex, but instead instructed these customers to mail him checks written out to Blackbox Pulse or wire funds to preexisting Blackbox Pulse accounts, primarily the account at BB&T ending in 6754, or allowed customers to transfer the funds in their preexisting equities accounts at Blackbox Pulse over to forex accounts at Blackbox Pulse.

29. Each customer who agreed to open a forex trading account at Blackbox Pulse received a daily statement from Lanzana by email. The statements attached an Excel spreadsheet showing purported forex trades made in the customer's account, profit or loss, the value of the customer's account, and other details. The statements never showed a losing month. Lanzana also emailed these customers a link to a YouTube video in which Lanzana described one or more forex trades he purportedly made that day, highlighting details such as profit or loss, while showing price graphs on his computer screen in the background.

30. Additionally, Lanzana made available to various forex customers purported statements for a Blackbox Pulse account at Forex Capital Markets LLC ("FXCM"), which was registered with the CFTC as a retail foreign exchange dealer until March 2017. These statements made it appear as though Blackbox Pulse traded an account worth hundreds of thousands of dollars at FXCM. For example, Lanzana emailed at least one customer a May 2015 account statement for a Blackbox Pulse, LLC account ending in 6205 at FXCM that showed total equity in excess of \$470,000. On the Blackbox Pulse website, several customers were able to view

similar account statements for a Blackbox Pulse account at FXCM. In reality, no account in the name of “Blackbox Pulse, LLC” exists at FXCM. The statements are all fakes.

31. FXCM records show that Lanzana did, however, maintain two personal forex trading accounts in his own name at FXCM, one of which ended in 6205, the same account number appearing on the fake May 2015 FXCM account statement for Blackbox Pulse. Lanzana opened the real 6205 account in his own name in approximately February 2013; the balance of that account never exceeded \$4,314.57. Lanzana opened his other FXCM account, ending in 6383, in his own name in approximately October 2015; the balance of that account never exceeded \$5,215.23. FXCM terminated both accounts on approximately September 8, 2016.

32. The real and fake FXCM account 6205 statements for May 2015 differ wildly: while the fake May 2015 Blackbox Pulse 6205 account statement shows trading profits of more than \$70,000, a deposit of \$100,000 and an ending balance of more than \$470,000, Lanzana’s real 6205 account statement for May 2015 shows a trading loss, no deposits, and an ending balance of only \$3,474.41.

33. For each tax year between at least 2012 and 2016, Lanzana has sent or caused to be sent annual tax documents to Blackbox Pulse customers, including those whose funds were to be traded in equities and those whose funds were to be traded in forex, showing fake investment gains. Customers typically received Schedule K-1s, but in at least one tax year, some customers received Form 1099s. These tax forms list an address for Blackbox Pulse in North Bergen, New Jersey.

34. At various times since 2012, and particularly starting in 2016, Blackbox Pulse customers have demanded the return of their funds. Lanzana has returned some customer funds, in part by using incoming funds from other customers, but since approximately 2016, Lanzana

has not returned all funds to customers who have requested the withdrawal of their funds, and has instead strung many customers along with a series of misrepresentations and false promises. For example, Lanzana has claimed that Blackbox Pulse funds are being held by a hedge fund, which instituted a cap on withdrawals that prevents Lanzana from returning Blackbox Pulse customer funds. Lanzana told at least one customer that this hedge fund was The Carlyle Group. However, The Carlyle Group holds no Blackbox Pulse customer funds, nor is there any other hedge fund holding such funds; these representations are false.

35. In the midst of growing customer demands for the return of their funds, Lanzana sought to convince Blackbox Pulse customers whose funds were purportedly traded in equities to invest in forex, either by adding new capital or transferring funds from their equities accounts to new forex accounts at Blackbox Pulse. For example, starting in approximately November 2016, Lanzana sent email solicitations to a customer whose funds were purportedly traded in equities in an attempt to convince the customer to start trading in forex. And on approximately December 21, 2016, Lanzana sent out a mass email to Blackbox Pulse customers promoting the forex market as “the largest most liquid market in the world” and assuring customers that “[w]e concentrate on the largest most liquid pairs while running the portfolio on the conservative side.” Blackbox Pulse did not, however, maintain any forex trading accounts, and Lanzana’s personal forex trading accounts at FXCM had been terminated months earlier, in September 2016. Lanzana omitted this information in his solicitations, and he further failed to disclose that he needed additional funds to meet customer withdrawal requests.

B. Lanzana’s fraudulent scheme continued with the Unique Forex pool

36. Perhaps due to the late 2012 appearance of negative comments about Blackbox Pulse on an anonymous forex-related internet forum, Lanzana began using the Unique Forex name with prospective customers instead of Blackbox Pulse. In early 2013, Lanzana created a

website (www.unique4x.com), and in approximately April 2013, he opened a checking account in the name of “Thomas L. Lanzana DBA Unique Forex” ending in 6762 at BB&T. Lanzana was the sole signatory on this account.

37. Between at least April 2013 and the present, Lanzana, individually and d/b/a Unique Forex, solicited prospective and actual customers through social media, the Unique Forex website, and word of mouth to open accounts at Unique Forex. In Lanzana’s solicitations, he continued to misrepresent that he was a successful forex trader, and he led prospective customers to believe he would use their funds to trade forex.

38. Lanzana instructed Unique Forex customers to sign contracts with Unique Forex and to mail him checks written out to Unique Forex or wire funds to the account ending in 6762 at BB&T. Lanzana’s own funds were commingled with customer funds in this account, and Lanzana used this account to pay for his own personal expenses.

39. Lanzana also transferred some of the funds from Blackbox Pulse account at BB&T that he controlled to the “Thomas L. Lanzana DBA Unique Forex” account ending in 6762 at BB&T, where Blackbox Pulse and Unique Forex customer funds were commingled.

40. Lanzana kept customers’ trust by emailing them daily statements that attached an Excel spreadsheet showing purported forex trades made in the customer’s account, profit or loss, the value of the customer’s account, and other details. The statements never showed a losing month. On days he purportedly traded, Lanzana also emailed customers links to YouTube videos on Lanzana’s Unique Forex YouTube channel. In these videos, Lanzana discussed one or more forex trades he purportedly made that day while displaying price graphs on his computer screen in the background.

41. Lanzana also made available to Unique Forex customers purported statements for a Unique Forex account at FXCM. These statements displayed the account number as “xxxxxxx” and an address for Unique Forex in North Bergen, New Jersey. The typical balance and total equity shown on these statements exceeded \$800,000, which made it appear as though Unique Forex traded an account worth hundreds of thousands of dollars at FXCM. For example, the purported January 2017 statement for the Unique Forex account at FXCM shows a balance of \$874,477.07. In reality, no account in the name of either “Unique Forex” or “Unique Forex, LLC” exists at FXCM. The purported FXCM statements are all fakes.

42. For each tax year between approximately 2013 and 2016, Lanzana has sent or caused to be sent annual tax documents, either Form 1099s or Schedule K-1s, to Unique Forex customers showing fake investment gains. The tax forms list an address for Unique Forex in North Bergen, New Jersey.

43. At various times in 2016 and 2017, Unique Forex customers have requested the return of their funds. Lanzana has not returned all funds requested by customers, but has instead strung many customers along with a series of misrepresentations and false promises, in some cases in an attempt to convince customers not to withdraw all of their funds.

44. For example, one Unique Forex customer requested that Lanzana return the balance of his account in approximately December 2016. In response, on approximately December 19, 2016, Lanzana stated in an email to the customer that if the customer kept \$2,000 in his account, he would avoid suffering a trading loss from immediate liquidation. In reality, the customer’s funds were not being traded and had instead been misappropriated, which Lanzana failed to disclose. The same day, the customer agreed to maintain \$2,000 in his

account, and on approximately January 5, 2017, Lanzana promised that he would send the customer's funds to him as "one lump sum." Lanzana has not yet returned the customer's funds.

C. Lanzana's fraudulent scheme branched out with Masanko and White Cloud Mountain

45. By at least 2014, Masanko, who had previously worked with Lanzana as a broker at various firms registered with FINRA in the late 1990s and early 2000s, began referring friends and family members to Unique Forex. For the customers he solicited, Masanko received a portion of the performance fees that Lanzana charged.

46. While Masanko solicited friends and family to invest in Unique Forex between approximately June 2014 and the present, in approximately April 2015, Masanko formed White Cloud Mountain in Florida. Between approximately April 2015 and the present, individually and on behalf of White Cloud Mountain, Masanko solicited friends, family, and the public to invest funds in Unique Forex using the White Cloud Mountain name.

47. Masanko marketed White Cloud Mountain through a website (www.whitecloudmountain.com), social media, and word of mouth as a successful forex trading company. He opened bank accounts in White Cloud Mountain's name and was the sole signatory to these bank accounts. He instructed customers to sign contracts with White Cloud Mountain and represented to prospective customers that their funds would be used to trade forex, but he never opened any trading accounts in White Cloud Mountain's name. Nor did he ever independently access the trading accounts that Unique Forex purportedly maintained or verify Lanzana's purported forex trades.

48. Masanko and Lanzana did not maintain strict separation of White Cloud Mountain and Unique Forex and appeared to treat them interchangeably and as one pool of funds. For example, customers solicited by Masanko received email correspondence from

Masanko, with a signature line referencing White Cloud Mountain, and from Lanzana, with a signature line reflecting Unique Forex. The White Cloud Mountain contract that customers signed reflected both Lanzana at Unique Forex and Masanko at White Cloud Mountain as the “Manager Member.” Customers that Masanko solicited sometimes mailed checks to Masanko, who deposited the funds into a White Cloud Mountain checking account at Vystar ending in 4434 and mailed a check for the same amount to Lanzana, who in turn deposited the funds into the “Thomas L. Lanzana DBA Unique Forex” bank account at BB&T ending in 6762. Other times, customers that Masanko solicited wired their funds directly to the “Thomas L. Lanzana DBA Unique Forex” bank account at BB&T ending in 6762.

49. Masanko’s own funds were commingled with customer funds in the White Cloud Mountain checking account at Vystar ending in 4334, and Masanko used that account to pay for his own personal expenses.

50. In 2015 and 2016, in an attempt to attract customers, Masanko funded \$100 accounts for prospective customers, who then received statements that showed purported profits.

51. Customers that Masanko solicited received daily statements by email. From approximately May 2015 until February 2017, Lanzana sent Masanko details to be included in these daily statements, including purported forex trades made in each customer’s account, profit or loss, and the value of the customer’s account. Masanko never independently verified the information, but until early January 2017, he added this information to White Cloud Mountain letterhead, added a comparison of White Cloud Mountain’s purported year-to-date returns to those of the S&P 500, Dow, and NASDAQ, and emailed the statements to the customers he had solicited. Throughout this time, customers could also access their statements on the White Cloud

Mountain website. In mid-January 2017, Masanko began putting the statement information he received from Lanzana on Unique Forex letterhead instead of White Cloud Mountain letterhead.

52. Masanko routinely created summaries of Lanzana's purported forex trading and added market commentary, charts, and cartoons, and he emailed these summaries to the customers he had solicited on an approximately weekly basis. Many of these summaries contained links to YouTube videos with the same content as those that appeared on Lanzana's Unique Forex YouTube channel, but the videos were titled with the White Cloud Mountain name and appeared on Masanko's personal YouTube channel.

53. Masanko sent, or caused to be sent, Form 1099s for tax year 2015 to the customers he solicited showing fake investment gains from Unique Forex of North Bergen, New Jersey.

54. In approximately March 2016, Masanko's parents requested the return of approximately \$60,000 from their Unique Forex account. Lanzana returned less than \$5,000 in June 2016 and less than \$5,000 in August 2016; he has returned no further funds to Masanko's parents. Masanko knew his parents were unable to obtain the balance of their withdrawal request, because his parents told him, and he corresponded with Lanzana regarding his parents' withdrawal request. In the following months, Lanzana told Masanko that a hedge fund holding the funds was limiting withdrawals, but Masanko did not attempt to learn the hedge fund's name or verify the truth of Lanzana's story, even as his parents continued in their vain attempts to withdraw their funds. Beginning in at least August 2016, Masanko and Lanzana exchanged text messages in which Masanko suggested that Lanzana use new customer funds to pay Masanko's parents. Despite these red flags, Masanko continued to solicit new customers to trade forex at Unique Forex using the White Cloud Mountain name. For example, Masanko solicited and

accepted at least \$10,000 from a customer in August 2016, depositing the funds into the White Cloud Mountain checking account at Vystar ending in 4434 and sending \$10,000 to Lanzana, who transferred less than \$500 to any of his personal trading accounts between August 2016 and February 2017. Masanko did not advise this customer or any of the other customers he had solicited that his parents were unable to withdraw their funds.

55. Additional customers that Masanko solicited have been unsuccessful in obtaining their funds. For example, a Unique Forex customer that Masanko solicited requested to withdraw the balance of his account in approximately December 2016 in an email to Masanko. On approximately January 3, 2017, Masanko responded by email, acknowledging the request and stating that Lanzana was submitting the request that week to FXCM. On approximately January 9, 2017, Masanko sent the customer an email stating “We will unwind any and all positions, clear the account and start the close out procedures. Hopefully, this will not take too long.” On approximately January 12, 2017, Masanko sent the customer another email, copying Lanzana, stating that the “positions/trades to unwind positions were placed on Tuesday for you. After the trades settle, Lanzana will instruct FXCM to start procedures on closing the account.” Masanko never independently verified that the customer’s—or any customer’s—funds were at FXCM, or that Lanzana had placed the trades necessary to close the customer’s account. The customer has not yet received his funds.

D. Lanzana made misrepresentations to customers

56. Throughout his fraudulent scheme, Lanzana made numerous misrepresentations to customers and failed to disclose material information to them. Lanzana knew these representations were false or recklessly disregarded the truth while making them.

57. For example, the Blackbox Pulse and Unique Forex statements that Lanzana emailed to customers reported fake trades and profits, which Lanzana knew or was reckless in

not knowing because he was solely responsible for the operation of Blackbox Pulse and Unique Forex, was the sole signatory on the Blackbox Pulse and Unique Forex bank accounts, and never opened any forex trading accounts for Blackbox Pulse or Unique Forex.

58. Additionally, Lanzana knew or was reckless in not knowing that the purported statements for a Blackbox Pulse account at FXCM were fake, because he never opened a trading account for Blackbox Pulse at FXCM, and the account number on at least one of these fake statements was identical to one of Lanzana's personal forex trading accounts at FXCM.

59. Likewise, Lanzana knew or was reckless in not knowing that the purported FXCM account statements for Unique Forex, which were available to some Unique Forex customers on the Unique Forex website, were fakes, because he never opened a trading account for Unique Forex at FXCM.

60. Lanzana also knew or was reckless in not knowing that he was not a successful forex trader, despite his representations to prospective and actual customers beginning in at least 2013. Lanzana maintained no personal forex trading accounts until February 2013, and between February 2013 and February 2017, he lost more than \$12,000 trading forex in his personal trading accounts. These accounts included his personal accounts at FXCM ending in 6205 and 6383 and his personal accounts at other registered retail foreign exchange dealers, including two trading accounts at Gain Capital Group ending in 0370 and 2389 and two trading accounts at OANDA Corporation ending in 3258 and 6147.

E. Masanko made misrepresentations to customers

61. Masanko also made misrepresentations to customers and failed to disclose material information to them. Masanko knew these representations were false or recklessly disregarded the truth while making them.

62. For example, Masanko knew or was reckless in not knowing that the daily statements he emailed to customers reported fake trades and profits and that FXCM did not hold any Unique Forex or White Cloud Mountain customer funds, contrary to what he told customers, because Masanko never opened a White Cloud Mountain trading account at FXCM, failed to verify that Unique Forex had an FXCM account, and never independently accessed any trading accounts that Unique Forex purportedly maintained, despite his lengthy history as a prior registered broker, and even after his own parents were unsuccessful in withdrawing their funds.

F. Lanzana misappropriated customer funds

63. Between at least 2013 and the present, Lanzana transferred none of the customer funds he accepted into forex trading accounts in the name of Blackbox Pulse, Unique Forex, or White Cloud Mountain. He transferred less than \$69,000 into his own personal forex trading accounts during this time. Lanzana misappropriated approximately \$350,000 of the customer funds to pay other customers who requested the return of their funds, in the manner of a Ponzi scheme, and for his own personal use and benefit, including, but not limited to, more than \$51,000 in purchases on Amazon.com, more than \$14,000 on rent, approximately \$6,000 at Luxury Cars of Charleston, more than \$3,600 on golf-related expenditures, and more than \$1,300 at Tiffany & Co. Lanzana paid Masanko approximately \$52,900, representing a portion of the performance fees that Lanzana charged the customers solicited by Masanko.

VII. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

FRAUD IN CONNECTION WITH FOREX

**Violations of Section 4b(a)(2)(A)-(C) of the Commodity Exchange Act and
CFTC Regulation 5.2(b) by all Defendants**

64. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

65. Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012), 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, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than subject to the rules of a designated contract market: (A) to cheat or defraud or attempt to cheat or defraud such other person; (B) willfully to make or cause to be made to such other person any false report or statement, or willfully to enter or cause to be entered for such other person any false record; or (C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for, on behalf of, or with such other person.

66. Pursuant to Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C. § 2(c)(2)(C)(iv) (2012), Section 4b of the Act applies to Defendants' retail off-exchange forex agreements, contracts, and transactions "as if" they were a contract of sale of a commodity for future delivery.

67. Regulation 5.2(b), 17 C.F.R. § 5.2(b) (2017), makes it unlawful for any person, by use of the mails or other means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any retail forex transaction: (1) to cheat or defraud or attempt to defraud any person; (2) willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or (3) willfully to deceive or attempt to deceive any person by any means whatsoever.

68. Defendants violated Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b) by, among other things, emailing customers account statements and links to YouTube videos showing forex trades that never happened and profits that did not exist and misrepresenting that customer funds were being held in Blackbox Pulse or Unique Forex accounts at FXCM when, in

fact, they were not. Additionally, Lanzana violated Section 4b(a)(2)(A), (C) of the Act and Regulation 5.2(b)(1), (3) by misappropriating customer funds. Defendants engaged in the acts and practices described herein knowingly, willfully, or with reckless disregard for the truth.

69. The foregoing acts, omissions, and failures of Lanzana occurred within the scope of his employment, office, or agency with Blackbox Pulse. Therefore, Blackbox Pulse is liable for Lanzana's violations of Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b) pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

70. Lanzana controlled Blackbox Pulse and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting their violations as alleged in this count. Lanzana is therefore liable for Blackbox Pulse's violations of Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b) as a controlling person pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).

71. The foregoing acts, omissions, and failures of Masanko occurred within the scope of his employment, office, or agency with White Cloud Mountain. Therefore, White Cloud Mountain is liable for Masanko's violations of Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b) pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2.

72. Masanko controlled White Cloud Mountain and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting its violations as alleged in this count. Masanko is therefore liable for White Cloud Mountain's violations of Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b) as a controlling person pursuant to Section 13(b) of the Act.

73. Each act of misrepresenting and omitting material facts related to trading activity, profits, and the location of customer funds, issuing false statements, and misappropriation, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2)(A)-(C) of the Act and Regulation 5.2(b).

COUNT II

MANIPULATIVE OR DECEPTIVE DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD Violations of Section 6(c)(1) of the Commodity Exchange Act and CFTC Regulation 180.1(a) by all Defendants

74. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

75. Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), makes it “unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of” the Regulations.

76. Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2017), which the CFTC issued in 2011 pursuant to Section 6(c)(1) of the Act, makes it “unlawful for any person, directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly: (1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud.”

77. Defendants violated Section 6(c)(1) of the Act and Regulation 180.1(a) by, among other things, emailing customers account statements and links to YouTube videos showing forex trades that never happened and profits that did not exist and misrepresenting that customer funds were being held in Blackbox Pulse or Unique Forex accounts at FXCM when, in fact, they were

not. Additionally, Lanzana violated Section 6(c)(1) of the Act and Regulation 180.1(a) by misappropriating customer funds. Defendants engaged in the acts and practices described herein knowingly, willfully, or with reckless disregard for the truth.

78. The foregoing acts, omissions, and failures of Lanzana occurred within the scope of his employment, office, or agency with Blackbox Pulse. Therefore, Blackbox Pulse is liable for Lanzana's violations of Section 6(c)(1) of the Act and Regulation 180.1(a) pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

79. Lanzana controlled Blackbox Pulse and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting its violations as alleged in this count. Lanzana is therefore liable for Blackbox Pulse's violations of Section 6(c)(1) of the Act and Regulation 180.1(a) as a controlling person pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).

80. The foregoing acts, omissions, and failures of Masanko occurred within the scope of his employment, office, or agency with White Cloud Mountain. Therefore, White Cloud Mountain is liable for Masanko's violations of Section 6(c)(1) of the Act and Regulation 180.1(a) pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2.

81. Masanko controlled White Cloud Mountain and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting its violations as alleged in this count. Masanko is therefore liable for White Cloud Mountain's violations of Section 6(c)(1) of the Act and Regulation 180.1(a) as a controlling person pursuant to Section 13(b) of the Act.

82. Each act of misrepresenting and omitting material facts related to trading activity, profits, and the location of customer funds, issuing false statements, and misappropriation,

including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 6(c)(1) of the Act and Regulation 180.1(a).

COUNT III

FRAUD BY A COMMODITY POOL OPERATOR AND ASSOCIATED PERSON OF A COMMODITY POOL OPERATOR Violations of Section 4o(1)(A) and (B) of the Commodity Exchange Act by all Defendants

83. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

84. Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A), (B) (2012), in relevant part, make it unlawful for a CPO or an AP of a CPO, 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.

85. Blackbox Pulse and Unique Forex functioned as commodity pools, as defined in Section 1a(10) of the Act, 7 U.S.C. § 1a(10) (2012), in that they were an investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests, specifically retail off-exchange forex transactions.

86. Lanzana acted as a CPO, as defined in Section 1a(11) of the Act, 7 U.S.C. § 1a(11) (2012), of Blackbox Pulse and Unique Forex in that he was a person engaged in a business that is of the nature of a commodity pool, investment syndicate, or similar form of enterprise and, in connection therewith, solicited, accepted, and received funds from others for the purpose of trading commodity interests, specifically retail off-exchange forex transactions. Lanzana further acted as a CPO, as defined in Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2017),

in that he was a person who operated or solicited funds for a pooled investment vehicle that did not qualify as an eligible contract participant, as described in Section 1a(18) of the Act, 7 U.S.C. § 1a(18) (2012).

87. Masanko acted as an AP of a CPO, as described in Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012), and as defined in Regulation 5.1(d)(2), 17 C.F.R. § 5.1(d)(2)(2017), in that he was a natural person associated with a CPO, Lanzana, as a partner, officer, employee, consultant, or agent in a capacity involving the solicitation of funds for participation in a pooled investment vehicle.

88. Lanzana violated Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A), (B) (2012), by, among other things, emailing customers account statements and links to YouTube videos showing forex trades that never happened and profits that did not exist, misrepresenting that customer funds were being held in Blackbox Pulse or Unique Forex accounts at FXCM when, in fact, they were not, and misappropriating customer funds.

89. Masanko violated Section 4o(1)(A) and (B) of the Act by, among other things, emailing customers account statements and links to YouTube videos showing forex trades that never happened and profits that did not exist and misrepresenting that customer funds were being held in a Unique Forex account at FXCM when, in fact, they were not.

90. Lanzana and Masanko engaged in such acts by use of the mails or other means or instrumentalities of interstate commerce.

91. The foregoing acts, omissions, and failures of Lanzana occurred within the scope of his employment, office, or agency with Blackbox Pulse. Therefore, Blackbox Pulse is liable for Lanzana's violations of Section 4o(1)(A) and (B) of the Act pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

92. The foregoing acts, omissions, and failures of Masanko occurred within the scope of his employment, office, or agency with White Cloud Mountain. Therefore, White Cloud Mountain is liable for Masanko's violations of Section 4o(1)(A) and (B) of the Act pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2.

93. Each act of misrepresenting and omitting material facts related to trading activity, profits, and the location of customer funds, issuing false statements, and/or misappropriation, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1)(A) and (B) of the Act.

COUNT IV

FAILURE TO REGISTER AS A COMMODITY POOL OPERATOR Violations of Section 4m(1) of the Commodity Exchange Act and CFTC Regulation 5.3(a)(2)(i) by Lanzana and Blackbox Pulse

94. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

95. It is unlawful for any CPO to make use of the mails or other means or instrumentalities of interstate commerce in connection with its CPO business unless registered with the Commission as a CPO, pursuant to Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012).

96. Additionally, Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2017), requires any CPO, as defined by Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2017), to register with the CFTC.

97. Lanzana violated Section 4m(1) of the Act and Regulation 5.3(a)(2)(i) in that he acted as a CPO without the benefit of registration with the CFTC as a CPO, and in connection with his CPO business, made use of the mails or other means or instrumentalities of interstate commerce.

98. The foregoing acts, omissions, and failures of Lanzana occurred within the scope of his employment, office, or agency with Blackbox Pulse. Therefore, Blackbox Pulse is liable for Lanzana's violations of Section 4m(1) of the Act and Regulation 5.3(a)(2)(i) pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

99. Each use of the mails or other means or instrumentalities of interstate commerce in connection with Lanzana's operation as a CPO without proper registration, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4m(1) of the Act and Regulation 5.3(a)(2)(i).

COUNT V

FAILURE TO REGISTER AS AN ASSOCIATED PERSON OF A COMMODITY POOL OPERATOR

Violations of Section 4k(2) of the Commodity Exchange Act and CFTC Regulations 3.12(a) and 5.3(a)(2)(ii) by Masanko

100. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

101. It is unlawful for any person to be associated with a CPO as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions) in any capacity that involves the solicitation of funds, securities, or property for participation in a commodity pool, unless such person is registered with the Commission as an AP of a CPO, pursuant Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012).

102. Regulation 3.12(a), 17 C.F.R. § 3.12(a) (2017), in relevant part, prohibits any person from being associated with a CPO as an associated person unless that person is registered with the CFTC as an AP of that CPO. Similarly, Regulation 5.3(a)(2)(ii), 17 C.F.R.

§ 5.3(a)(2)(ii) (2017), requires any AP of a CPO, as defined by Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2017), to register with the CFTC.

103. Masanko violated Section 4k(2)(i) of the Act and Regulations 3.12(a) and 5.3(a)(2)(ii) in that he acted as an AP of a CPO as a partner, officer, employee, consultant or agent in a capacity involving the solicitation of funds for participation in commodity pool, without being registered with the Commission.

104. The foregoing acts, omissions, and failures of Masanko occurred within the scope of his employment, office, or agency with White Cloud Mountain. Therefore, White Cloud Mountain is liable for Masanko's violations of Section 4k(2)(i) of the Act and Regulations 3.12(a) and 5.3(a)(2)(ii), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

105. Each act of being associated with a CPO as a partner, officer, employee, consultant, or agent in a capacity involving the solicitation of funds for participation in a commodity pool, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4k(2)(i) of the Act and Regulations 3.12(a) and 5.3(a)(2)(ii).

COUNT VI

PROHIBITED ACTIVITIES OF A COMMODITY POOL OPERATOR Violations of CFTC Regulation 4.20(a) and (c) by Lanzana and Blackbox Pulse

106. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

107. Regulation 4.20(a)(1), 17 C.F.R. § 4.20(a)(1) (2017), requires a CPO to operate its pool as an entity cognizable as a legal entity separate from that of the CPO, with certain exceptions not applicable here, while Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2017), prohibits

CPOs from commingling the property of any pool it operates or intends to operate with the property of another person. Regulation 5.5, 17 C.F.R. § 5.5 (2017), explicitly makes these requirements of Regulation 4.20, along with the other provisions in Part 4 of the Regulations, 17 C.F.R. pt. 4, applicable to any person required by Part 5 of the Regulations, 17 C.F.R. pt. 5, to register as a CPO.

108. Lanzana violated Regulation 4.20(a) and (c) by, among other things, failing to operate at least the Unique Forex pool as an entity cognizable as a legal entity separate from that of Lanzana, including by operating a bank account in the name of “Thomas L. Lanzana DBA Unique Forex,” and by commingling his funds with customer funds in multiple bank accounts.

109. The foregoing acts, omissions, and failures of Lanzana occurred within the scope of his employment, office, or agency with Blackbox Pulse. Therefore, Blackbox Pulse is liable for Lanzana’s violations of Regulation 4.20(a) and (c) pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2017).

110. Each act of acting as a CPO and failing to operate a pool as an entity cognizable as a legal entity separate from that of the CPO, and of commingling property of a pool with the property of another, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Regulation 4.20(a) and (c).

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, and pursuant to its equitable powers:

A. Enter an order finding Defendants liable for violating Sections 4b(a)(2)(A)-(C), 4o(1)(A) and (B), and 6(c)(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6o(1)(A), (B), 9(1) (2012), and Regulations 5.2(b) and 180.1(a), 17 C.F.R. §§ 5.2(b), 180.1(a) (2017); finding

Lanzana, individually and doing business as Unique Forex, and Blackbox Pulse liable for violating Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulations 4.20(a)(1), (c) and 5.3(a)(2)(i), 17 C.F.R. §§ 4.20(a)(1), (c) and 5.3(a)(2)(i) (2017); and finding Masanko and White Cloud Mountain liable for violating Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012), and Regulations 3.12(a) and 5.3(a)(2)(ii), 17 C.F.R. §§ 3.12(a), 5.3(a)(2)(ii) (2017);

B. Issue a statutory restraining order with notice and an order of preliminary injunction pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), restraining Defendants and all persons insofar as they are acting in the capacity of Defendants' agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of such order by personal service or otherwise, from directly or indirectly:

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

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

3. withdrawing, transferring, removing, dissipating, concealing, or disposing of, in any manner, any funds, assets, or other property, wherever situated, including, but not limited to, all funds, personal property, money, or securities held in safes or safety

deposit boxes and all funds on deposit in any financial institution, bank, or savings and loan account held by, under the actual or constructive control of, or in the name of Lanzana, Masanko, Blackbox Pulse, Unique Forex, and/or White Cloud Mountain, whether jointly or otherwise;

C. Enter an order of preliminary injunction requiring Defendants:

1. to make an accounting to the Court of all of their assets and liabilities, together with all funds they received from and paid to customers and other persons in connection with commodity interests or purported commodity interests, including retail off-exchange forex transactions, including the names, mailing addresses, email addresses, and telephone numbers of any such persons from whom they received such funds, and all disbursements for any purpose whatsoever of funds received from customers, including salaries, commissions, fees, loans, and other disbursements of money or property of any kind; and

2. immediately to identify and provide an accounting for all assets and property that they currently maintain outside the United States, including, but not limited to, all funds on deposit in any financial institution, FCM, bank, or savings and loan account held by, under the actual or constructive control of, or in the name of any of Defendants, whether jointly or otherwise, and requiring them to repatriate all funds held in such accounts by paying them to the Registry of the Court, or as otherwise ordered by the Court, for further disposition in this case;

D. Issue orders of preliminary and permanent injunction prohibiting:

1. Defendants, and any other person or entity acting with them, from engaging in conduct that violates Sections 4b(a)(2)(A)-(C), 4o(1)(A) and (B), and 6(c)(1)

of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6o(1)(A), (B), 9(1) (2012), and Regulations 5.2(b) and 180.1(a), 17 C.F.R. §§ 5.2(b), 180.1(a) (2017);

2. Lanzana, individually and doing business as Unique Forex, and Blackbox Pulse, and any other person or entity acting with them, from engaging in conduct that violates Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulations 4.20(a)(1) and (c) and 5.3(a)(2)(i), 17 C.F.R. §§ 4.20(a)(1), (c), 5.3(a)(2)(i) (2017); and

3. Masanko and White Cloud Mountain, and any other person or entity acting with them, from engaging in conduct that violates Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012), and Regulations 3.12(a) and 5.3(a)(2)(ii), 17 C.F.R. §§ 3.12(a), 5.3(a)(2)(ii) (2017);

E. Issue orders of preliminary and permanent injunction prohibiting Defendants, and any other person or entity acting with them, from:

1. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012));

2. entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3(yy), 17 C.F.R. § 1.3(yy) (2017)) for their own personal account or for any account in which they have a direct or indirect interest;

3. having any commodity interests traded on their behalf;

4. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;

5. soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;

6. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017); and/or

7. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2017)), agent, or any other officer or employee of any person registered, exempted from registration, or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017).

F. Enter an order requiring Defendants to make full restitution to each customer whose funds Defendants received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act and Regulations, as described herein, as well as pre- and post-judgment interest thereon from the date of such violations;

G. Enter an order requiring Defendants to disgorge to any officer appointed or directed by the Court, or directly to customers, all benefits received, including, but not limited to, salaries, commissions, loans, fees, revenues, and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act as described herein, including pre-judgment and post-judgment interest;

H. Enter an order directing Defendants and any successors thereof to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between Defendants and any of the customers whose funds Defendants received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act and Regulations, as described herein, as well as pre- and post-judgment interest thereon from the date of such violations;

I. Enter an order directing each Defendant to pay a civil monetary penalty in the amount of not more than the greater of: (1) triple the monetary gain to Defendants for each violation of the Act; or (2) \$170,472 for each violation of the Act and Regulations;

J. Enter an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920, 2412(a)(2) (2012); and

K. Enter an order providing such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Dated: August 21, 2017

Respectfully submitted,

COMMODITY FUTURES
TRADING COMMISSION



Stephanie Reinhart

Susan Padove

Ava Gould

Scott Williamson

Rosemary Hollinger

Division of Enforcement

Commodity Futures Trading Commission

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Designated pursuant to Local Rule 101.1(f)

DESIGNATION PURSUANT TO LOCAL CIVIL RULE 101.1(f)

Pursuant to the requirements of Local Civil Rule 101.1(f), L.Civ.R. 101(f), the undersigned hereby designates the United States Attorney for the District of New Jersey to receive service of all notices or papers in this action at the following address:

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District of New Jersey
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(973) 645-2925

COMMODITY FUTURES
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