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CENTRAL DIST. OF CALIF.  
LOS ANGELES  
BY: \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**LA CV 14 06542-R (MRLVdx)**

U.S. COMMODITY FUTURES )  
TRADING COMMISSION )

Case No.

Plaintiff,

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

v.

RALPH METTERS, aka MALACHAI )  
"MOE" LEVY, )

Defendant.

## SUMMARY

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1. Beginning in early October 2013, Defendant Ralph Metters, using the alias Malachai “Moe” Levy (“Metters”) fraudulently solicited at least \$500,000 from a member of the public for the purported purposes of trading a managed account in connection with agreements, contracts or transactions in off-exchange foreign currency (“forex”).

2. In soliciting the customer, Metters falsely claimed that he would use the customer’s principal as leverage to obtain a line of credit, and then use funds generated by the line of credit to generate profits through forex trading. Metters claimed that there would be no risk to the customer’s principal and that significant trading returns were guaranteed. On information and belief, Metters has misappropriated the customer’s funds.

3. By virtue of this conduct and the conduct further described herein, Metters has engaged, is engaging, or is about to engage in acts and practices in violation of Section 4b(a)(2)(A) and (C) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6b(a)(2)(A), (C) (2012).

4. Accordingly, pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2012), the Commodity Futures Trading Commission (“CFTC” or “Commission”) brings this action to permanently enjoin Metters’ unlawful acts and practices and to compel his compliance with the Act. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to,

1 trading and registration bans, restitution, disgorgement, rescission, pre- and post-  
2 judgment interest, and other such relief as the Court may deem necessary and  
3 appropriate.  
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5 5. Unless restrained and enjoined by this Court, Metters is likely to  
6 continue to engage in the acts and practices alleged in this Complaint and similar  
7 acts and practices, as more fully described below.  
8

### 9 JURISDICTION AND VENUE

10 6. Section 6c(a) of the Act, 7 U.S.C. §13a-1(a) (2012), authorizes the  
11 Commission to seek injunctive relief in district court against any person whenever  
12 it shall appear to the Commission that such person has engaged, is engaging, or is  
13 about to engage in any act or practice constituting a violation of any provision of  
14 the Act or any rule, regulation, or order thereunder.  
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17 7. Venue properly lies with this Court pursuant to Section 6c(e) of the  
18 Act, 7 U.S.C. §13a-1(e) (2012), because Metters is found in, inhabits, or transacts  
19 business in this District, or the acts and practices in violation of the Act occurred,  
20 are occurring, or are about to occur within this District, among other places.  
21

### 22 PARTIES

23 8. The U.S. Commodity Futures Trading Commission is an independent  
24 federal regulatory agency charged by Congress with the responsibility for  
25 administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.*, and the  
26 Commission's Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2013).  
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1           13. Metters promised that M.B.'s \$500,000 would remain in escrow at all  
2 times and would never be at risk of loss. Metters represented that the funds in  
3 escrow would be used as leverage to open a \$20 million line of credit, 70-80% of  
4 which would be used for forex trading. Metters told M.B. he could expect a profit  
5 of 10-50% per week of trading, which would generate gross profits of \$700,000 to  
6 \$3.5 million per week. Metters also told M.B. that M.B. would gain access to \$5  
7 million of the line of credit for use to build new facilities for his business 45 days  
8 after the funds were deposited in escrow.  
9

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11           14. On or about October 10, 2013, M.B. signed a "Foreign Exchange  
12 Management Agreement" ("Management Agreement") between Destiny and  
13 M.B.'s business, which described M.B.'s intent to have Destiny "direct  
14 transactions...involving the purchase and sale of foreign currencies for spot or  
15 forward delivery and currency options." Pursuant to the Management Agreement,  
16 M.B. agreed to deposit \$500,000 into an escrow account "for a period of at least,  
17 and not to exceed 45 days." The Management Agreement further promised that  
18 within three to five business days, Destiny would provide a \$20 million line of  
19 credit, \$5 million of which would be made available to M.B.'s business within 45  
20 days. The Management Agreement also promised that Destiny would make  
21 monthly payments of the profits generated from the trading account and credit line  
22 and M.B. expected to receive monthly account statements reflecting the  
23 investments made in his account.  
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1           15.    The Management Agreement also stated that M.B.'s business "shall  
2 bear no risk of gain or loss in the account(s) and none of the expenses of the  
3 Account."  
4

5           16.    On or about October 14, 2013, both M.B. and Metters, using the  
6 Malachai Levy alias, signed a "Paymaster/Escrow Services" document (the  
7 "Escrow Agreement") as an addendum to the Management Agreement. The  
8 Escrow Agreement set up an escrow account with a third-party escrow company in  
9 connection with an "upcoming Co-Production and Co-Financing agreement"  
10 pursuant to which both Destiny and M.B.'s business would deposit \$500,000 to the  
11 escrow account. The funds were to remain in the escrow account "until such time  
12 that a formal production agreement has been executed."  
13  
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15           17.    On October 21, 2013 M.B. wired \$500,000 into the third-party escrow  
16 account. Destiny did not deposit any funds into the third-party escrow account. In  
17 fact, no other funds were ever deposited into the escrow account.  
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20           18.    Instead, on or about November 14, 2013, Metters sent the third-party  
21 escrow company an "AMENDED Paymaster/Escrow Services" document  
22 ("Amended Escrow Agreement"), which instructed the escrow company to  
23 disburse all funds in the escrow account, minus escrow fees, to a bank account in  
24 the name of Prime One International Association (the "Prime One Bank  
25 Account"). The Amended Escrow Agreement included what purported to be the  
26 notarized signatures of "Malachai Levy" and M.B.  
27  
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1           19. M.B. never signed the Amended Escrow Agreement. The purported  
2 signature appears to have been notarized by a California notary, although as of the  
3 date on the Amended Escrow Agreement, M.B. had never been to California.  
4  
5 Upon information and belief, the signature on that document is either a forgery or  
6 an unauthorized copy of M.B.'s signature from a different document.  
7

8           20. On November 15, 2013, \$495,000 (M.B.'s original \$500,000 deposit,  
9 minus \$5000 in escrow fees) was transferred from the escrow account to the Prime  
10 One Bank Account. None of these funds were used to trade forex or as leverage to  
11 open a line of credit. Instead, on December 3, 2013, \$400,000 was wired to an  
12 account at a second bank in the name of Atlas Analytics and Management, where  
13 the funds were used to pay hotel and travel expenses, bar tabs and other personal  
14 and living expenses. None of these funds were used to trade forex or as leverage to  
15 open a line of credit. Upon information and belief, the Prime One Bank Account  
16 and the Atlas Analytics and Management account were under the control of  
17 Metters.  
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21           21. M.B. learned that his funds had been transferred out of the escrow  
22 account on or about December 4, 2013. Even after that date, Metters continued to  
23 promise M.B. that the financing deal was still proceeding. Metters first claimed  
24 that the delay was due to a change of banks, then he told M.B. that the banker was  
25 on vacation. Metters never offered a satisfactory explanation to M.B. of how  
26 M.B.'s purported signature appeared on the Amended Escrow Agreement.  
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1           22. M.B. was never asked to complete any account application documents  
2 related to a forex trading account.

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4           23. On December 31, 2013, Metters told M.B. that the deposit was made,  
5 the account was leveraged 10 to 1 and the line of credit would be issued by no later  
6 than January 7, 2014. When that did not occur, M.B. flew to California to meet  
7 with Metters.  
8

9           24. They met on January 13, 2014 in a temporary office in Riverside,  
10 California. Two other individuals also attended the meeting. M.B. understood that  
11 these individuals were working with Metters, but he was never told what their roles  
12 were. Metters assured M.B. that the investment was going to work out in the end,  
13 but they had just experienced unexpected delays in the process.  
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16           25. In March 2014, M.B. was told that his funds had been invested in  
17 bonds and that he would begin receiving payments soon. He has not received any  
18 documentation substantiating this investment.  
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20           26. In April and May 2014, M.B. received a total of \$115,000 in  
21 payments from Metters. To date, he had not received any account statements or  
22 other documentation regarding the investment.  
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1 **VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND**  
2 **REGULATIONS**

3  
4 **COUNT I**

5 **Violations of Section 4b(a)(2)(A) and (C) of the Act**  
6 **Fraud by Misappropriation, Misrepresentation and Omission**

7 27. Paragraphs 1 through 26 are re-alleged and incorporated herein.

8 28. Sections 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. §§ 4b(a)(2)(A), (C)  
9  
10 (2012), make it unlawful for any person: (A) to cheat or defraud or attempt to cheat  
11 or defraud the other person; or (C) willfully to deceive or attempt to deceive the  
12 other person by any means whatsoever in regard to any order or contract or the  
13 disposition or execution of any order or contract, or in regard to any act of agency  
14 performed, with respect to any order or contract for the other person, in or in  
15 connection with any order to make, or the making of, any contract of sale of any  
16 commodity for future delivery, or other agreement, contract, or transaction subject  
17 to paragraphs (1) and (2) of Section 5a(g), that is made, or to be made, for or on  
18 behalf of, or with, any other person, other than on or subject to the rules of a  
19 designated contract market.  
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23 29. Pursuant to Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C.  
24 § 2(c)(2)(C)(iv) (2012), Section 4b of the Act applies to Metters' promised forex  
25 transactions "as if" they were a contract of sale of a commodity for future delivery.  
26

27 30. As set forth above, Metters violated Section 4b(a)(2)(A) and (C) of  
28 the Act, 7 U.S.C. § 6b(a)(2)(A), (C) (2012) by, among other things, (a)

1 misappropriating funds provided by M.B.; and (b) making material  
2 misrepresentations including, but not limited to, guaranteeing trading profits and  
3 telling M.B. that his funds would be used for generate a line of credit that would be  
4 used for forex trading, when Metters knew that the funds would in fact be  
5 misappropriated.  
6

7  
8 31. Metters engaged in the acts and practices described above knowingly  
9 or with reckless disregard for the truth.

10  
11 32. Each misrepresentation or omission of material fact and act of  
12 misappropriation, including but not limited to those specifically alleged herein, is  
13 alleged as a separate and distinct violation of Section 4b(a)(2)(A) and (C) of the  
14 Act, 7 U.S.C. § 6b(a)(2)(A), (C) (2012).  
15

16 **RELIEF REQUESTED**

17 WHEREFORE, the Commission respectfully requests that the Court, as  
18 authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2012), and pursuant to its  
19 own equitable powers, enter:  
20

21 A. An order finding Metters violated: Section 4b(a)(2)(A) and (C) of the  
22 Act, 7 U.S.C. § 6b(a)(2)(A), (C) (2012);  
23

24 B. A statutory restraining order and an order for preliminary injunction  
25 pursuant to Section 6c(a) of the Act, as amended, 7 U.S.C. § 13a-1(a), restraining  
26 Metters and all persons or entities insofar as they are acting in the capacity of  
27 Metters' agents, servants, employees, successors, assigns, and attorneys, and all  
28

1 persons insofar as they are acting in active concert or participation with Metters,  
2 who receive actual notice of such order by personal service or otherwise, from  
3 directly or indirectly:  
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5 1. Destroying, mutilating, concealing, altering, or disposing of any  
6 books and records, documents, correspondence, brochures, manuals,  
7 electronically stored data, tape records, or other property of Metters,  
8 wherever located, including all such records concerning Metters'  
business operations;

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

14 3. Withdrawing, transferring, removing, dissipating, concealing,  
15 or disposing of, in any manner, any funds, assets, or other property,  
16 wherever situated, including, but not limited to, all funds, personal  
17 property, money, or securities held in safes or safety deposit boxes,  
18 and all funds on deposit in any financial institution, bank, or savings  
and loan account, whether domestic or foreign, held by, under the  
control of, or in the name of Metters;

19 C. An order of preliminary and permanent injunction prohibiting Metters  
20 and any other persons or entities in active concert with him from engaging in  
21 conduct in violation of Sections 4b(a)(2)(A) and (C);  
22

23 D. An order of permanent injunction prohibiting Metters and any of his  
24 affiliates, agents, servants, employees, successors, assigns, attorneys and persons in  
25 active concert with him, including any successor thereof, who receive actual notice  
26 of such order by personal service or otherwise, from engaging, directly or  
27 indirectly, in:  
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1           1.     trading on or subject to the rules of any registered entity, as that  
2 term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2012);

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4           2.     entering into any transactions involving commodity futures,  
5 options on commodity futures, commodity options (as that term is defined in  
6 Regulation §1.3(hh), 17 C.F.R. §1.3(hh) (2013)) (“commodity options”),  
7 security futures products, foreign currency (as described in Sections  
8 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. §§ 2(c)(2)(B) and  
9 2(c)(2)(C)(i) (2012)) (“forex contracts”) and/or swaps (as that term is  
10 defined in Section 1a(47) of the Act, 7 U.S.C. § 1a(47) (2012) for his own  
11 personal account or for any account in which he has a direct or indirect  
12 interest;

13  
14           3.     having any commodity futures, options on commodity futures,  
15 commodity options, security futures products, forex contracts, and/or swaps  
16 traded on his behalf;

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18           4.     controlling or directing the trading for or on behalf of any other  
19 person or entity, whether by power of attorney or otherwise, in any account  
20 involving commodity futures, options on commodity futures, commodity  
21 options, security futures products, forex contracts, and/or swaps;

22  
23           5.     soliciting, receiving, or accepting any funds from any person  
24 for the purpose of purchasing or selling any commodity futures, options on  
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1 commodity futures, commodity options, security futures products, forex  
2 contracts, and/or swaps;

3  
4 6. applying for registration or claiming exemption from  
5 registration with the Commission in any capacity, and engaging in any  
6 activity requiring such registration or exemption from registration with the  
7 Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R.  
8 § 4.14(a)(9) (2013);  
9

10 7. acting as a principal (as that term is defined in Regulation  
11 3.1(a), 17 C.F.R. § 3.1(a) (2013)), agent or any other officer or employee of  
12 any person (as that term is defined in Section 1a of the Act, 7 U.S.C. § 1a  
13 (2013)) or entity registered, exempted from registration or required to be  
14 registered with the Commission, except as provided for in Regulation  
15 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2013);  
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17

18 E. An order directing that Metters make an accounting to the Court of all  
19 of (i) his assets and liabilities, together with all funds he received from customers  
20 in connection with forex trading or purported forex trading, including the names,  
21 mailing addresses, email addresses, and telephone numbers of any such persons  
22 from whom he received such funds from January 2009 to the date of such  
23 accounting, and (ii) all disbursements for any purpose whatsoever of funds  
24 received from his clients and other persons, including salaries, commissions, fees,  
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1 loans, and other disbursements of money and property of any kind, from January  
2 2009, to and including the date of such accounting;

3  
4 F. Enter an order requiring Metters immediately to identify and provide  
5 an accounting of all assets and property that he currently maintain outside the  
6 United States, including, but not limited to, all funds on deposit in any financial  
7 institution, futures commission merchant, bank, or savings and loan accounts held  
8 by, under the control of, or in the name of Metters or in which any such person or  
9 entity has a beneficial interest of any kind, whether jointly or otherwise, and  
10 requiring Metters to repatriate all funds held in such accounts by paying them to  
11 the Clerk of the Court, or as otherwise ordered by the Court, for further disposition  
12 in this case;

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16 G. An order directing Metters to pay a civil monetary penalty for each  
17 violation of the Act and the Regulations described herein, plus post-judgment  
18 interest, in the amount of the higher of (1) \$140,000 for each violation of the Act  
19 and Regulations or (2) triple the monetary gain to Metters for each violation of the  
20 Act and the Regulations, plus post-judgment interest;

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23 H. An order directing Metters, as well as any successors to Metters, to  
24 disgorge, pursuant to such procedure as the Court may order, all benefits received  
25 from the acts or practices that constitute violations of the Act and Regulations, as  
26 described here, and prejudgment interest thereon from the date of such violations;

1 I. An order directing Metters to make restitution by making whole each  
2 and every participant in the Pool whose funds were received or used by him in  
3 violation of the provisions of the Act as described herein, including pre-judgment  
4 interest;  
5

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

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

16 L. Such further relief as the Court deems proper.

17 Dated: August 19, 2014

Respectfully submitted,

18  
19 /s/ Jennifer E. Smiley

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