

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMMODITY FUTURES TRADING	:	Case No.
COMMISSION,	:	
	:	COMPLAINT FOR INJUNCTIVE,
Plaintiff,	:	CIVIL MONETARY PENALTIES,
	:	RESTITUTION, AND OTHER
v.	:	EQUITABLE RELIEF UNDER THE
	:	COMMODITY EXCHANGE ACT
FUTUREFX and SIMON JOUSEF,	:	
	:	
Defendants.	:	
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Plaintiff, Commodity Futures Trading Commission (the “Commission” or the “CFTC”),
by its attorneys, alleges as follows:

I. SUMMARY

1. From at least July 1, 2014 and continuing to on or about January 31, 2016 (the “Relevant Period”), Defendant Simon Jousef (“Jousef”) and his business FuturesFX (collectively, “Defendants”), fraudulently promoted and sold access to an online trading room referenced as a “Live Trading Room,” educational videos, and online support (collectively, the “Trading System”). Defendants marketed and sold access to the Trading System to provide, among other things, a methodology for determining when to enter and exit trades for foreign exchange (“forex”) and commodity futures contracts.

2. In order to induce members and prospective members, including members in the United States (collectively, “Members”), to purchase subscriptions to the Trading System, Defendants fraudulently marketed the Trading System and solicited Members through various means, including: (1) on the company’s websites at futuresfx.ca and globaltraderoom.com that

Jousef owned, operated, and controlled; (2) in the online trade room; and (3) in email advertisements. The marketing and solicitation materials contained numerous materially false or misleading statements and omissions, including: (1) false or misleading statements that Members could observe Jousef trading “live” in a “Live Trading Room,” when in fact Jousef never actually traded live in the trade room and only made hypothetical or simulated trades; (2) false or misleading statements that Jousef’s “live” trades were profitable, when in fact Jousef never executed live trades in the “Live Trading Room” much less profitable trades; (3) misrepresentations regarding the risks associated with trading forex and futures contracts, such as advertising “Free Money” and “A Guaranteed Winning Formula;” (4) false or misleading statements concerning Jousef’s background and trading experience; and (5) failing to provide proper disclosures concerning client testimonials and hypothetical or simulated trading results.

3. Through this fraudulent marketing of and solicitation for their Trading System, Defendants have engaged, are engaging, or are about to engage in acts and practices that violate the anti-fraud provisions of the Commodity Exchange Act (the “Act”) and Commission Regulations (“Regulation”), including Sections 4o(1) and 6(c)(1) of the Act, 7 U.S.C. § 6o(1), 9(1) (2012), and Regulations 4.41(a) and (b), and 180.1, 17 C.F.R. §§ 4.41(a) and (b), 180.1 (2018).

4. As a result of Defendants’ fraudulent marketing and solicitation scheme, approximately 300 persons located in the United States and other countries became Members of FuturesFX, paying Defendants more than \$1.3 million in subscription fees.

5. Additionally, Jousef knowingly made a false or misleading statement regarding a material fact to the National Futures Association (“NFA”), a registered futures association

pursuant to Section 17 of the Act, 7 U.S.C. § 21 (2012), in violation of Section 9(a)(3) of the Act, 7 U.S.C. § 13(a)(3) (2012).

6. The acts, omissions, and failures of FuturesFX's employees and agents, including Jousef, occurred within the scope of their employment, office, or agency with FuturesFX; therefore, 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 (2018), FuturesFX is liable for the acts, omissions, and failures of its employees and agents that constitute violations of the Act and Regulations.

7. Jousef is a controlling person of FuturesFX. He failed to act in good faith or knowingly induced, directly or indirectly, FuturesFX's acts and omissions described herein. Therefore, in addition to being directly liable for the fraudulent scheme, statements, and omissions described in this Complaint, Jousef is liable for FuturesFX's violations of the Act and Regulations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012).

8. Accordingly, pursuant to Sections 2(c)(2)(C) and 6c of the Act, 7 U.S.C. §§ 2(c)(2)(C) and 13a-1 (2012), the Commission brings this action to enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act and Regulations. Additionally, the Commission seeks civil monetary penalties, restitution to Members, disgorgement of Defendants' ill-gotten gains, permanent trading and registration bans, and such equitable relief as this Court may deem necessary or appropriate.

9. Unless permanently restrained and enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in this Complaint, or in similar acts and practices.

II. JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1 (2012), which provides that whenever it shall appear to the Commission that any 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 promulgated thereunder, the Commission may bring an action in the proper District Court of the United States against such person to enjoin such practice, or to enforce compliance with the Act, or any rule, regulation, or order thereunder. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 (2012) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (providing that district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). The Commission has jurisdiction over the forex transactions at issue in this case pursuant to Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2012).

11. Venue properly lies with this Court 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 transactions, acts, and practices alleged in this Complaint occurred, are occurring, and/or are about to occur within this District.

III. THE PARTIES

12. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act, 7 U.S.C. §§ 1-26 (2012), and the Regulations promulgated thereunder, 17 C.F.R. pts. 1-190 (2018).

13. Defendant **FuturesFX** is a sole proprietorship licensed in Ontario, Canada by Jousef's wife, Lina Gourgees ("Gourgees"), with a principal place of business in Ontario, Canada. During the Relevant Period, FuturesFX was in the business of marketing and providing access to the Trading System, including operating the "Live Trading Room." FuturesFX was owned, operated, and controlled by Jousef. FuturesFX has never been registered with the Commission in any capacity.

14. Defendant **Simon Jousef** is an individual who resides in Ontario, Canada. During the Relevant Period, Jousef owned and operated FuturesFX, solicited Members to purchase access to his Trading System, and commonly conducted the "Live Trading Room." Jousef was a principal of 6716571 Canada, Inc. ("Canada Inc."), a company that he incorporated in February 2007 and dissolved in December 2013. Canada Inc. was registered with the Commission as a commodity trading advisor ("CTA") pursuant to Section 4n of the Act, 7 U.S.C. § 6n (2012), until the time of its dissolution. Jousef, however, has never been registered with the Commission as a CTA; indeed, he has never been registered with the Commission in any capacity.

IV. FACTS

15. During the Relevant Period, FuturesFX, by and through Jousef and other employees or agents, and Jousef directly, for compensation or profit, engaged in a business of advising others as to the value, or the advisability, of trading futures contracts, by soliciting the public to purchase access to their Trading System which purported to provide advice on when to enter and exit a trade for forex and commodity futures contracts.

A. Defendants Solicited Members to Purchase Access to Their Trading System

16. On February 8, 2007, Jousef incorporated Canada, Inc. in Ontario, Canada, which did business as FuturesFX. On November 25, 2009, Gourgees obtained a business license for

“Futures FX” as a sole proprietorship in Ontario which expired on November 23, 2014. The stated business activity on the business license for Futures FX was “teaching and education.” On June 18, 2013, Jousef obtained a business license for “FuturesFX Library” as a sole proprietorship in Ontario which expired on June 17, 2018. The stated business activity on the business license for FuturesFX Library was an “on-line video library for investors.” Jousef operated FuturesFX through a website called futuresfx.ca.

17. At futuresfx.ca, during the Relevant Period, Jousef represented himself as a CTA with thirteen years of trading experience and marketed his Trading System for trading forex and commodity futures contracts such as crude oil, gold, and the E-mini S&P 500 futures contracts.

18. As part of his marketing strategy, Jousef offered free access to the “Live Trading Room” where prospective Members could observe him ostensibly live trading forex and futures contracts using his trading methodology.

19. For a membership fee, Members gained entry to a “member’s area” where they had unlimited access to Defendants’ “Live Trading Room” as well as educational videos and receive online support.

20. Sometime in 2014, Jousef transitioned the “Live Trading Room” to a website called globaltraderoom.com, but the educational videos remained accessible on the futuresfx.ca website. Both websites referred to each other. At globaltraderoom.com, Jousef continued to represent himself as a CTA who “trades his live account in front of students” in “his live trading room sessions at FuturesFX.ca and GlobalTradeRoom.com.”

21. Both the futuresfx.ca and globaltraderoom.com websites were available to and accessed by Members, including a Member who resides within this District.

22. Members who were interested in gaining access to Jousef's Trading System would receive instructions to provide payment through PayPal. The PayPal account was registered with a business name of "Futures FX."

23. Monies paid by Members through PayPal would be directed to bank accounts in the United States and Canada that were owned and controlled by Jousef and his wife. Some Members also wired funds directly to a bank account titled "FuturesFX O/B Lina Gourgees."

24. Members were sent electronic documents for signature for "access to the Trading Library, FuturesFX, and the Global Trade Room Member's Area."

25. Defendants charged Members up to approximately \$9,000 to receive this access to the Trading System, which included access to educational videos and online trading rooms.

26. During the Relevant Period, Defendants received approximately \$1.3 million from approximately 300 FuturesFX Members in both the United States and other countries.

B. Defendants' Material Misrepresentations and Omissions Regarding Live Trading

27. As part of their marketing strategy, Defendants offered Members access to a "Live Trading Room."

28. On the futuresfx.ca website, Defendants advertised "3 LIVE trading rooms" and posted numerous testimonials that described live trading taking place in the "Live Trading Room," including the following:

a. "[W]e get to hear and see live trades happening all the time. Being able to see and take live entries with very tight stops can help a trader immensely. Futures FX has also launched their new GTR (Global Trade Room) and if one were inclined, you could attend a Live Trade Room around the clock in all major time zones"

b. "Needless to say, after doing research, watching his videos, and witnessing Simon use the Price Magnet indicator to trade live in his live trade room, I discovered that Simon was not engaging in any hyperbole."

c. “Simon is the REAL DEAL. Simon is a certified CTA. Simon trades LIVE in front of you. You see his LIVE CHART with his actual account, and you see him placing the actual trades.”

d. “What is unique about the room is Simon trades a LIVE account right in front of the room.”

e. “Simon trades his account live and we all see it.”

29. Jousef also indicated on his futuresfx.ca website that he trades outside the “Live Trading Room” by stating the following: “It is not an easy task to trade and teach at the same time therefore my students understand when I miss good trades. I do however trade beyond [Live Trading Room] hours to reach my personal profit targets.”

30. At globaltraderoom.com, Jousef’s personal biography states that “he trades his live account in front of students and teaches the exact same strategies and tape reading methods he used during live trading competitions daily during his live trading room sessions at FuturesFx.ca and GlobalTradeRoom.com.”

31. Globaltraderoom.com also includes an image of booklets and CDs with the “Global Trade Room” label, which advertise, among other things, “Real Live Trading in 2 Different Sessions,” and “Live Trading everyday in Real Time with live accounts.”

32. Members who registered to access a free trial “Live Trading Room” received an email from Jousef which included the following statement describing a “Live” trading room session at globaltraderoom.com: “Please be advised that the trades being called are in a live account with real money so your entries may differ.” During the free trial “Live” trade room sessions, Members also heard Jousef indicate that he was executing actual trades in a live account.

33. Jousef, however, never traded live in the “Live Trading Room” at either futuresfx.ca or globaltraderoom.com during the Relevant Period. All of his trades were either hypothetical or simulated. He did not disclose to Members that all of his trades in the “Live Trading Room” were either hypothetical or simulated.

34. Jousef admitted that he never traded in a live account outside the “Live Trading Room” and never traded live during the Relevant Period.

C. Defendants’ Material Misrepresentations and Omissions Regarding Performance, Profitability, and Risk of Loss

35. Defendants made material misrepresentations regarding the performance, profitability, and risk of loss when using their Trading System, to Members as set forth below.

36. In a description of their trading methodology at the futuresfx.ca website, Defendants described one method as being “about 80% winner.” On the globaltraderoom.com website, Defendants described their trading system as “[a] Guaranteed Winning Formula.”

37. Defendants also advertised “Swing Trade Recommendations” where they cited specific instances of historical trades where Jousef earned profits described in terms of both specific dollar amounts and “ticks” which refer to a specific price increment.

38. Globaltraderoom.com included spreadsheets that purported to describe “GTR’s Performance Track Record” in 2014 and parts of 2015. Those spreadsheets showed profits in dollar figures, including the representation that total profits in 2014 were \$308,160, in addition to a statement that read: “These results are with a live account with real money. Your results may vary.”

39. In his “Live Trading Room,” Jousef also described trading where the majority of his trades were profitable.

40. At the globaltraderoom.com website, there is a section called “Free Money.”

a. It begins with the following: “Is there really such a thing as free money? Yes. Does free money really exist? Yes. So what’s the catch? No catch. What’s it cost? Absolutely nothing.”

b. This section goes on to compare the “[t]housands of daytrading rooms with outrageous, unproven, and unverified hypes” to the “honest” and “trustworthy” Global Trade Room, which “[h]as been trading live in front of students every day since 2005. A live account. By a licensed CTA. . . . Simon Jousef, owner and head trader at GlobalTradeRoom.com has been trading his live account in front of students every day since 2005.”

c. This “Free Money” section goes on to claim that, had a prospective student taken every trade called out during the free live trading room session at globaltraderoom.com in 2014, that investor would have earned a 640% return on investment.

41. In at least one email advertisement to a prospective Member, Jousef represented that the “Live Room avg. over 120 ticks a day” and it includes the following quote: “[H]aven’t had a losing week in the last 12 months!”

42. However, every reference to performance, profitability, and risk of loss were misrepresentations because Jousef admitted that he never traded live in an actual trading account during the Relevant Period.

D. Jousef’s False Statements to NFA and Defendants’ Material Misrepresentations and Omissions Regarding Jousef’s Background

43. The NFA, which is designated by the CFTC as a registered futures association, is a self-regulatory organization for the U.S. derivatives industry. The CFTC delegated to the NFA responsibilities regarding CTA registration. To be registered with the Commission as a CTA, an applicant must not only satisfy the NFA’s registration requirements, but also submit annual updates with the NFA.

44. On February 8, 2007, Jousef incorporated Canada, Inc. which did business as FuturesFX. On June 6, 2007, Jousef registered Canada, Inc. with the Commission as a CTA.

However, pursuant to Jousef's voluntary application for dissolution, Canada, Inc. was dissolved on December 7, 2013, and thus was no longer registered with the Commission as a CTA as of that date.

45. After Canada, Inc.'s dissolution, Jousef received notices from the NFA on behalf of the Commission to provide updates on Canada, Inc.'s CTA registration. These notices clearly indicate that Canada, Inc. is the registrant.

46. On August 14, 2014, after Canada, Inc. was dissolved, Jousef filed an annual CTA registration update for Canada, Inc. with the NFA indicating that Canada, Inc. remained a Canadian corporation and that Jousef remained the President of Canada, Inc.

47. On June 26, 2015, Jousef filed another annual CTA registration update for Canada, Inc. with the NFA indicating that Canada, Inc. remained a Canadian corporation and that Jousef remained the President of Canada, Inc.

48. Even after Canada, Inc. was no longer a viable business entity and, therefore, no longer a CTA, and notwithstanding that Jousef had never been registered with the Commission as a CTA or in any other capacity, Jousef continued to represent himself as a CTA, including on the futuresfx.ca and globaltraderoom.com websites, during the Relevant Period.

49. Defendants also described Jousef as a trader with thirteen years of trading experience, a "Master Trader," the "Head Trader," and as someone who was "voted as one of the top five traders in the world," despite the fact that he admitted that he never traded live during the "Live Trading Room."

E. Defendants Failed to Make the Required Disclosures

50. During the Relevant Period, Defendants placed testimonials on the futuresfx.ca and globaltraderoom.com websites, as well as on email advertisements, without prominently

disclosing that such testimonials may not be representative of the experience of other Members, or that such testimonials were not guarantees of future performance.

51. During the Relevant Period, Defendants referred to the performance and profitability of simulated or hypothetical trades, but they did not prominently disclose that such results were the result of simulated or hypothetical trades.

52. On globaltraderoom.com's "Performance Track Record" section, Defendants described their performance as the result of trades "with a live account with real money." Although they included a general disclosure about hypothetical or simulated performance, they did not state that their performance results were hypothetical or simulated.

F. Jousef Controlled FuturesFX and Failed to Act in Good Faith or Knowingly Induced FuturesFX's Violations

53. During the Relevant Period, Jousef was the sole owner of FuturesFX.

54. During the Relevant Period, Jousef was in charge of all of FuturesFX's operations, and responsible for all operational decisions.

55. During the Relevant Period, Jousef controlled the content on the futuresfx.ca and globaltraderoom.com websites.

56. During the Relevant Period, Jousef had the authority to hire, pay, authorize payment to, and fire FuturesFX employees, agents, and contractors, including employees, agents, and contractors located in the United States.

57. During the Relevant Period, Gourgees was a signatory to FuturesFX's bank accounts. Jousef had the authority to direct payments and transfers for those accounts, including a bank account located in the United States.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT ONE

Commodity Trading Advisor Fraud

**in violation of Section 4o(1)(A) and (B) of the Act and Regulation 4.41(a)(1) and (2),
7 U.S.C. § 6o(1)(A) and (B) (2012); 17 C.F.R. § 4.41(a)(1) and (2) (2018)**

(Against Defendants FuturesFX and Jousef)

58. Paragraphs 1 through 57 of this Complaint are re-alleged and incorporated herein by reference.

59. Section 1a(12)(a)(i)(I) of the Act, 7 U.S.C. § 1a(12) (a)(i)(I) (2012), in relevant part, defines a CTA as:

any person who for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery, security futures product, or swap[.]

60. 7 U.S.C. § 6o(1) (2012) provides that:

It shall be unlawful for a commodity trading advisor . . . 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.

61. 17 C.F.R. § 4.41(a) (2018) provides that no CTA “may advertise in a manner which (1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client; [or] (2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client[.]”

62. During the Relevant Period, Jousef, for compensation or profit, engaged in a business of advising others as to the value, or the advisability, of trading futures contracts, by soliciting Members to purchase access to his futures trading system and online trade room, which provided guidance and advice on trading futures contracts.

63. During the Relevant Period, Jousef fraudulently marketed and sold access to their Trading System using the mails and other means or instrumentalities of interstate commerce, including email, their internet websites at futuresfx.ca and globaltraderoom.com, and wire transfers through PayPal which is headquartered in California. Some subscription fees were wired from Defendants' PayPal account to a United States bank in Illinois.

64. During the Relevant Period, Jousef, acting as a CTA, through the use of the mails or other means or instrumentality of interstate commerce, violated 7 U.S.C. § 6o(1)(A) and (B) and 17 C.F.R. § 4.41(a)(1) and (2), by making material misrepresentations and omissions to Members, including by:

- a. Telling Members that Jousef executed live trades in a "Live Trading Room" when in fact all of Jousef's trading in the "Live Trading Room" was simulated or hypothetical;
- b. Telling Members that Defendants' trading system earned significant profits in dollar figures and describing their trading system as being highly successful when Jousef admitted that he never executed any actual trades in a live account; and
- c. Telling Members that Jousef was a CTA even after the corporation that was registered as a CTA had been dissolved, and telling Members that Jousef had years of trading experience when in fact Jousef did not trade on a live account in the "Live Trading Room."

65. Each and every misrepresentation and omission by Jousef (by and through their employees and agents) including but not limited to those specifically alleged herein, was made

with the knowledge that, or made with reckless disregard of the fact that, it was false or misleading.

66. Each material misrepresentation or omission made by Jousef, but not limited to those specifically alleged herein, constitutes a separate and distinct violation of 7 U.S.C. § 6o(1)(A) and (B), and 17 C.F.R. § 4.41(a)(1) and (2).

67. The foregoing acts, omissions, and failures of FuturesFX's employees and agents, including Jousef, occurred within the scope of their employment, office, or agency with FuturesFX; therefore, 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 (2018), FuturesFX is liable for these acts, omissions, and failures and for its employees and agents' violation of 7 U.S.C. § 6o(1)(A) and (B), and 17 C.F.R. § 4.41(a)(1) and (2).

68. Jousef directly and indirectly controlled FuturesFX and did not act in good faith or knowingly induced the acts constituting FuturesFX's violations, and is therefore liable, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2012), for FuturesFX's violations of 7 U.S.C. § 6o(1)(A) and (B), and 17 C.F.R. § 4.41(a)(1) and (2).

COUNT TWO

Commodity Fraud – Deceptive Device or Contrivance; Fraudulent Scheme in violation of Section 6(c)(1) of the Act and Regulation 180.1(a), 7 U.S.C. § 9(1) (2012); 17 C.F.R. § 180.1(a) (2018)

(Against Defendants FuturesFX and Jousef)

69. Paragraphs 1 through 57 of this Complaint are re-alleged and incorporated herein by reference.

70. 7 U.S.C. § 9(1) (2012) provides in relevant part:

It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any . . . 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 such rules and regulations as the Commission shall promulgate

71. 17 C.F.R. § 180.1(a) (2018), provides in relevant part:

It shall be 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;

(2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; [or]

(3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person

72. Defendants used and employed a scheme or artifice to defraud Members in connection with futures contracts traded on registered entities, in violation 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a), by using websites, email advertisements, and free trials to their “Live Trading Room” to fraudulently solicit Members to purchase access to their trading system based on claims that: (a) Jousef was trading live when in fact he was exclusively making simulated or hypothetical trades; (b) Jousef’s live trading was consistently profitable when in fact he never traded live and therefore never earned profits or had a basis for claiming that his trading system was successful; and (c) Jousef was a registered CTA with years of trading experience when he was not a registered CTA during the Relevant Period, and he did not trade on a live account.

73. Defendants made false or misleading statements of material facts in connection with futures contracts traded on registered entities, in violation 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a), by misrepresenting that: (a) Jousef traded live in a “Live Trading Room” when in

fact he only made simulated or hypothetical trades; (b) his live trades were consistently profitable and successful when in fact he never traded live in the “Live Trading Room” and therefore never earned profits or had a basis for claiming that his trading system was successful; and (c) Jousef was a registered CTA with years of trading experience when he was not a registered CTA during the Relevant Period, and he did not trade on a live account.

74. Defendants engaged and attempted to engage in acts, practices, and a course of business, which operated as a fraud and deceit upon Members in connection with futures contracts traded on registered entities, in violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a), by fraudulently soliciting Members to purchase access to their futures contracts trading system with misrepresentations that Jousef, a registered CTA with years of trading experience, was using his trading system to trade live in the “Live Trading Room” and that his live trades resulted in consistent profits, when in fact Jousef was not a registered CTA during the Relevant Period, and he did not trade live much less with profits.

75. Each and every scheme or artifice to defraud, misrepresentation, and omission, and acts, practices, or courses of business which operated as a fraud and deceit upon Members by Defendants (by and through their employees and agents) including but not limited to those specifically alleged herein, was made with the knowledge that, or made with reckless disregard of the fact that, it was false or misleading.

76. Each scheme or artifice to defraud, misrepresentation and omission, and acts, practices, or courses of business which operated as a fraud and deceit upon Members by Defendants made by Defendants, but not limited to those specifically alleged herein, constitutes a separate and distinct violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a).

77. The foregoing acts, omissions, and failures of FuturesFX's employees and agents, including Jousef, occurred within the scope of their employment, office, or agency with FuturesFX; therefore, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2, FuturesFX is liable for these acts, omissions, and failures and for its employees and agents' violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a).

78. Jousef directly and indirectly controlled FuturesFX and did not act in good faith or knowingly induced the acts constituting FuturesFX's violations, and is therefore liable, pursuant to 7 U.S.C. § 13c(b), for FuturesFX's violations of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a).

COUNT THREE
Failure to Provide Disclosures Regarding Testimonials
in violation of Regulation 4.41(a)(3),
17 C.F.R. § 4.41(a)(3) (2018)

(Against Defendants FuturesFX and Jousef)

79. Paragraphs 1 through 57 of this Complaint are re-alleged and incorporated herein by reference.

80. 17 C.F.R. § 4.41(a)(3) (2018) provides in relevant part:

No . . . commodity trading advisor, or any principal thereof, may advertise in a manner which: (3) Refers to any testimonial, unless the advertisement or sales literature providing the testimonial prominently discloses:

(i) That the testimonial may not be representative of the experience of other clients;

(ii) That the testimonial is no guarantee of future performance or success; and

(iii) If, more than a nominal sum is paid, the fact that it is a paid testimonial.

81. Through the conduct alleged in Paragraphs 28 and 50, Defendants, while acting as a CTA, referred to testimonials on both the futuresfx.ca and globaltraderoom.com websites, as

well as in email advertisements without prominently disclosing that the testimonials were not representative of the experience of other Members and that the testimonials were no guarantee of future performance or success, in violation of 17 C.F.R. § 4.41(a)(3).

82. Each and every instance in which Defendants referred to testimonials without the required disclosures constitutes a separate and distinct violation of 17 C.F.R. § 4.41(a)(3).

83. Each and every instance in which Defendants referred to testimonials without the required disclosures occurred within the scope of their employment, office, or agency with FuturesFX; therefore, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2, FuturesFX is liable for these acts, omissions, and failures and for its employees and agents' violation of 17 C.F.R. § 4.41(a)(3).

84. Jousef directly and indirectly controlled FuturesFX and did not act in good faith or knowingly induced the acts constituting FuturesFX's violations, and is therefore liable, pursuant to 7 U.S.C. § 13c(b), for FuturesFX's violations of 17 C.F.R. § 4.41(a)(3).

COUNT FOUR
Failure to Provide Disclosures Regarding Simulated or Hypothetical Performance
in violation of Regulation 4.41(b),
17 C.F.R. § 4.41(b) (2018)

(Against Defendants FuturesFX and Jousef)

85. Paragraphs 1 through 57 of this Complaint are re-alleged and incorporated herein by reference.

86. 17 C.F.R. § 4.41(b) provides:

(1) No person may present the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a commodity pool operator, commodity trading advisor, or any principal thereof, unless such performance is accompanied by one of the following:

(i) The following statement: "These results are based on simulated or hypothetical performance results that have certain inherent

limitations. Unlike the results shown in an actual performance record, these results do not represent actual trading. Also, because these trades have not actually been executed, these results may have under-or over-compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated or hypothetical trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to these being shown.” or

(ii) A statement prescribed pursuant to rules promulgated by a registered futures association pursuant to section 17(j) of the Act.

(2) If the presentation of such simulated or hypothetical performance is other than oral, the prescribed statement must be prominently disclosed and in immediate proximity to the simulated or hypothetical performance being presented.

87. Through the conduct alleged in Paragraphs 36 to 39, 41, and 51 to 52, Defendants published the performance results of simulated or hypothetical trades but failed to prominently disclose the prescribed disclosures in immediate proximity to this performance information, in violation of 17 C.F.R. § 4.41(b).

88. Each and every instance in which Defendants published the performance results of simulated or hypothetical trades but failed to prominently disclose the prescribed disclosures in immediate proximity to this performance information constitutes a separate and distinct violation of 17 C.F.R. § 4.41(b).

89. Each and every instance in which Defendants published the performance results of simulated or hypothetical trades but failed to prominently disclose the prescribed disclosures in immediate proximity to this performance information occurred within the scope of their employment, office, or agency with FuturesFX; therefore, pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2, FuturesFX is liable for these acts, omissions, and failures and for its employees and agents' violation of 17 C.F.R. § 4.41(b).

90. Jousef directly and indirectly controlled FuturesFX and did not act in good faith or knowingly induced the acts constituting FuturesFX's violations, and is therefore liable, pursuant to 7 U.S.C. § 13c(b), for FuturesFX's violations of 17 C.F.R. § 4.41(b).

COUNT FIVE
False or Misleading Statements
in violation of Section 9(a)(3) of the Act,
7 U.S.C. § 13(a)(3) (2012)

(Against Defendant Jousef only)

91. Paragraphs 1 through 57 of this Complaint are re-alleged and incorporated herein by reference.

92. 7 U.S.C. § 13(a)(3) makes it unlawful for:

[a]ny person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement required under this chapter, or by any registered entity or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

93. The NFA, a registered futures association pursuant to Section 17 of the Act, 7 U.S.C. § 21 (2012), is a self-regulatory organization for the U.S. derivatives industry. The CFTC delegated to the NFA responsibilities regarding the registration of certain firms and individuals that conduct business in the derivatives industry, including CTA registration. See Regulations 3.2 and 3.75, 17 C.F.R. §§ 3.2, 3.75 (2018).

94. To be registered with the Commission as a CTA, an applicant must not only satisfy the NFA's registration requirements, but also review and update registration information maintained with NFA on an annual basis. See Regulation 3.10, 17 C.F.R. § 3.10 (2018). The

failure to submit annual registration updates with the NFA shall be deemed a request for withdrawal from registration. See 17 C.F.R. § 3.10(d).

95. Through the conduct alleged in Paragraphs 44 to 48, Jousef knowingly made false or misleading statements regarding material facts to the NFA when he submitted annual CTA registration updates to the NFA indicating that Canada, Inc. remained a Canadian corporation and that Jousef remained the President of Canada, Inc. when, in fact, he knew that he had voluntarily dissolved Canada, Inc. at the time he made those false or misleading statements.

96. Each and every instance in which Jousef knowingly made a false or misleading statement regarding a material fact to the NFA constitutes a separate and distinct violation of 7 U.S.C. § 13(a)(3).

VI. RELIEF REQUESTED

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

A. An order finding Defendants violated Sections 4o(1)(A) and (B) and 6(c)(1) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B), 9(1) (2012), and Regulations 4.41(a)(1)-(3) and (b) and 180.1, 17 C.F.R. §§ 4.41(a)(1)-(3) and (b) and 180.1 (2018), and finding Jousef violated Section 9(a)(3) of the Act, 7 U.S.C. § 13(a)(3) (2012);

B. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from engaging in conduct in violation of 7 U.S.C. §§ 6o(1)(A) and (B), and 9(1), and 17 C.F.R. §§ 4.41(a)(1)-(3) and (b) and 180.1, and prohibiting Jousef, and any other person or entity associated with him, from engaging in conduct in violation of 7 U.S.C. § 13(a)(3);

D. And order of permanent injunction prohibiting Defendants, and any of their

agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any one Defendant, including any successor thereof, from, directly or indirectly, in:

- i. Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the CEA, 7 U.S.C. § 1a(40) (2012));
- ii. Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2018)), for Defendants’ accounts or for any account in which they have a direct or indirect interest;
- iii. Having any commodity interest traded on Defendants’ behalf;
- iv. 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;
- v. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- vi. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission except as provided for 17 C.F.R. § 4.14(a)(9) (2018); and
- vii. Acting as a “principal” (as that term is defined in 17 C.F.R. § 3.1(a) (2018)), 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 17 C.F.R. § 4.14(a)(9) (2018).

E. An order requiring Defendants and any third party transferee and/or successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received

including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices with constitute violations of the Act and Regulations as described herein, including pre-judgment and post-judgment interest;

F. 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 them and any of the Members whose funds were received by Defendants as a result of the acts and practices that constitute violations of the Act and Regulations as described herein;

G. An order requiring Defendants as well as any successors thereof, to make full restitution to every person who has sustained losses proximately caused by the violations described herein, including pre-judgment and post-judgment interest;

H. An order directing Defendants to pay a civil monetary penalty assessed by the Court, in an amount not to exceed the penalty prescribed by Section 6c(d)(1) of the Act, 7 U.S.C. § 13a-1(d)(1) (2012), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, tit. VII, § 701, 129 Stat. 584, 599-600, 84 Fed. Reg. 3103 (Feb. 11, 2019) (to be codified at 17 C.F.R. § 143.8), or subsequent annually adjusted amounts, for each violation of the Act and Regulations, as described herein;

I. An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

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

Respectfully Submitted,

COMMODITY FUTURES TRADING
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