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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

<b>COMMODITY FUTURES</b>	)	
<b>TRADING COMMISSION,</b>	)	
	)	<b>Civil Action No. 1:21-cv-386</b>
	)	_____
<b>Plaintiff,</b>	)	
<b>v.</b>	)	
	)	<b>COMPLAINT FOR</b>
	)	<b>INJUNCTIVE RELIEF, CIVIL</b>
	)	<b>MONETARY PENALTIES,</b>
	)	<b>RESTITUTION,</b>
	)	<b>DISGORGEMENT AND</b>
	)	<b>OTHER EQUITABLE RELIEF</b>
<b>GREGORY DEMETRIUS BRYANT,</b>	)	
<b>JR., an individual,</b>	)	
	)	
	)	
<b>Defendant.</b>	)	
	)	

Plaintiff Commodity Futures Trading Commission (“CFTC” or  
“Commission”), by and through its attorneys, alleges as follows:

## I. SUMMARY

1. Since approximately September 2016 and through at least June 2020, (the “Relevant Period”), Defendant Gregory Demetrius Bryant, Jr. (“Defendant”), an unregistered commodity pool operator (“CPO”), has engaged in a fraudulent scheme to solicit and misappropriate money given to him for the purpose of trading various commodity futures contracts (“futures”) and off-exchange foreign currency (“forex”) contracts in commodity pools. During the Relevant Period, Defendant fraudulently solicited at least \$426,000 from at least 35 members of the public (“pool participants”) to trade futures and forex, and operated his fraud as a commodity pool by combining pool participant funds and trading a portion of those funds in several personal trading accounts (collectively, “the Bryant Pool”).

2. During the Relevant Period, Defendant made various material misrepresentations to solicit pool participants, including that: (1) pool participants would earn returns of \$6,000 to \$8,000 per month trading futures and forex; (2) he would make pool participants monthly returns of sixty to eighty percent trading futures and forex; (3) the returns he was paying to current pool participants were generated from futures and forex trading profits; (4) he was an experienced trader of twenty or more years; (5) his name was “Gregory Surrey England” and he was registered with the National Futures Association (“NFA”); and (6) each pool

participant would have their own trading account with his company, “Surrey Libor Capital, LLC” (“Surrey Libor”).

3. Defendant’s representations were false. Defendant traded only approximately 16% of the total funds solicited and received from pool participants and his trading was unprofitable. The payments Defendant made to pool participants were not from trading profits, but from funds he solicited from other pool participants. He has not been trading futures and forex for twenty years. He has never been registered with the CFTC or the NFA. Gregory Surrey England is not his name, and he does not own a company called Surrey Libor, because such a company does not even exist.

4. Defendant also omitted to tell to pool participants, among other things, that: (1) he had no history of achieving or any reasonable basis to claim that he would generate monthly returns of sixty to eighty percent trading futures and forex for pool participants; and (2) he was a convicted criminal with a history of financial problems, including three bankruptcies.

5. Instead of trading futures and forex as promised, Defendant misappropriated the vast majority of pool participant funds—approximately \$356,000, including at least \$66,000 in Ponzi payments. He used the money for his living expenses, including his rent, his cellular phone, international travel, eating in restaurants, shopping, and playing golf.

6. Finally, to conceal and perpetuate his fraud, Defendant made at least \$66,000 in Ponzi payments to some pool participants and lulled other pool participants, falsely telling them that their accounts were “in great shape,” to expect returns or disbursements soon, and/or that his business was being impacted by the coronavirus pandemic.

7. By virtue of this conduct and the conduct further described herein, Defendant has engaged, is engaging, or is about to engage in acts and practices in violation of Sections 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1), 4o(1), and 2(c)(2)(C)(iii)(I)(cc) of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 6b(a)(1) (A), (C); 6b(a)(2)(A), (C), 6m(1), 6o(1); and 2(c)(2)(C)(iii)(I)(cc) (2018), and Commission Regulations (“Regulations”) 4.20(a)(1) and (b), 4.21, 4.22, 5.2(b)(1) and (3), and 5.3(a)(2)(i), 17 C.F.R. §§ 4.20(a)(1), (b), 4.21, 4.22, 5.2(b)(1), (3), 5.3(a)(2)(i)(2020).

8. Unless restrained and enjoined by this Court, Defendant is likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as described below.

9. Accordingly, the Commission brings this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(a) (2018), to enjoin Defendant’s unlawful acts and practices, to compel his compliance with the Act and Regulations promulgated thereunder, and to enjoin him from engaging in any commodity-

related activity. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other and further relief as the Court may deem necessary and appropriate.

## II. JURISDICTION AND VENUE

10. The Court has jurisdiction over this action under 28 U.S.C. § 1331 (2018) (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (2018) (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). In addition, Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2018), authorizes the Commission to seek injunctive and other relief against any person whenever it shall appear 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.

Section 2(c)(2)(C) of the Act, 7 U.S.C. § 2(c)(2)(C) (2018), subjects the forex solicitations and transactions at issue in this action to, *inter alia*, Sections 4b and 4o of the Act, 7 U.S.C. §§ 6b and 6o (2018), as further described below.

11. Venue properly lies in this district pursuant to 7 U.S.C. § 13a-1(e) (2018), because Defendant transacted business in this District and certain transactions, practices, and courses of business in violation of the Act and

Regulations occurred, are occurring, or are about to occur in this District, among other places.

### III. PARTIES

12. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act and Regulations promulgated thereunder. The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

13. Defendant **Gregory Demetrius Bryant, Jr.** is an individual who, during a portion of the Relevant Period, resided in Hawaii. During the Relevant Period, Defendant operated as a CPO by soliciting, accepting, and receiving funds from pool participants for participation in the Bryant Pool. Defendant is known to use the aliases “Gregory Surrey England” and “Surrey England,” and to do business as “Surrey Libor Capital” and/or “Libor Capital, LLC.” Neither Surrey Libor nor Libor Capital is a formally organized business entity. Defendant has never been registered with the Commission or the NFA—the Commission’s designated self-regulatory organization for the U.S. derivatives industry that oversees and manages the Commission’s registration process—in any capacity.

## IV. FACTS

### **A. Defendant Engaged in Minimal and Unprofitable Trading of Bryant Pool Funds.**

14. Prior to the Relevant Period, Defendant had minimal experience trading futures and forex.

15. During the Relevant Period, Defendant used accounts he maintained in his own name at five different futures commission merchants to trade futures and forex for the Bryant Pool. Despite receiving at least \$426,000 in pool funds, Defendant only sent \$110,105.98 to futures and forex trading accounts and only traded approximately \$70,000 of that amount. Overall, his futures and forex trading in the Bryant Pool has been unprofitable with net losses of approximately \$22,000.

### **B. Defendant Misappropriated the Vast Majority of Pool Funds for Personal Expenses and To Make Ponzi Payments.**

16. During the Relevant Period, Defendant did not appear to be employed in any capacity, as his only source of income was pool funds he swindled from unwitting pool participants.

17. Rather than trade futures and forex with pool funds as promised, Defendant misappropriated the vast majority—at least \$356,000—of pool funds.

18. Defendant misappropriated pool funds on, among other things, personal expenses in the following amounts:

- a) travel (\$15,316.36);
- b) meals and grocery items (\$5,302.93);
- c) mobile telephone charges (\$6,111.63);
- d) cash and ATM withdrawals (\$73,238.82);
- e) transfers to unknown accounts through xoom.com (\$68,388.50);
- f) transfers to unknown recipients through Western Union (\$28,305.29);
- g) personal shopping (\$41,205.45);
- h) golf (\$1,098.66);
- i) Google ads (\$1,766.07); and
- j) rent (\$12,343).

19. Additionally, during the Relevant Period Defendant made Ponzi payments to pool participants totaling at least \$66,000. Defendant misrepresented to pool participants that he was paying returns from futures and forex pool trading profits, but as described above, Defendant's futures and forex trading in the Bryant Pool was minimal and unprofitable.

**C. Defendant Fraudulently Solicited for the Bryant Pool.**

20. During the Relevant Period, Defendant made material misrepresentations and omissions to pool participants and prospective pool participants about the Bryant Pool in Instagram and Craig's List advertisements



and in direct communications with pool participants via telephone calls and electronic mail communications.

**1. Defendant Fraudulently Solicited via Instagram and Craig’s List Advertisements.**

21. During the Relevant Period, Defendant placed numerous fraudulent advertisements on Instagram and Craig’s List.

22. For example, on December 4, 2017, Defendant solicited potential pool participants via an Instagram advertisement, which stated, among other things, that he was a forex trader with a trading company called Surrey Libor offering “Investment Management Services” and a “guaranteed \$6,000-\$8,000 monthly.”

23. Likewise, on February 12, 2018, Defendant fraudulently solicited potential pool participants via a Craig’s List advertisement, which falsely stated, among other things, that he was a forex trader who “GUARANTEED \$6,000 to \$8,000 Monthly.”

**2. Defendant Fraudulently Solicited via Direct Communications with Pool Participants.**

24. On March 14, 2017, Pool Participant A received an email from Defendant using the email address [surrey.england@yahoo.com](mailto:surrey.england@yahoo.com), which falsely stated, among other things, that he was the President of Surrey Libor and that he “GUARANTEED \$6,000 TO \$8,000 MONTHLY . . . . [with his] Revolutionary

FOREX Market Trading System.” The email further falsely claimed “consistent returns GUARANTEED \$6,000 - 20,000 - \$30,000 per month from trading in the FOREX market . . . .”

25. In early 2017, using the alias “Surrey England,” Defendant told Pool Participant A in a telephone call that:

- a) he had been trading for 27 years and that he traded for “a bunch of clients;”
- b) he would make her \$6,000 to \$8,000 a month if she gave him \$10,000 to trade for her;
- c) she would have \$30,000 in trading returns by the time of her wedding in October 2017; and
- d) she would have her own account and she could take her money out of it any time using an ATM card linked to the account.

26. Based upon Defendant’s misrepresentations, Pool Participant A contributed \$10,000 to the Bryant Pool. On March 15, 2017, Pool Participant A wired \$5,000 directly to Defendant’s personal trading account at a registered futures commission merchant and designated forex dealer (“FCM A”), which Defendant represented was her new trading account. Shortly thereafter, Pool Participant A contacted Defendant and asked him for the login. Defendant provided an account login for an account held by FCM A.

27. Upon examining the trading account online, Pool Participant A realized that her \$5,000 was in an account held in the name of “Gregory Bryant.”

Pool Participant A tried to reach Defendant to find out who “Gregory Bryant” was, but he did not respond. Pool Participant A called FCM A, which put a hold on Defendant’s trading account. Defendant chastised Pool Participant A for contacting FCM A. Defendant then instructed Pool Participant A to wire \$5,000 to his bank account, which she did. After wiring the second \$5,000 to Defendant, Pool Participant A never heard from him again, despite numerous attempts to contact him.

28. On May 8, 2018, Pool Participant B received an email from Defendant using the email address [bankforex1969@gmail.com](mailto:bankforex1969@gmail.com), which falsely stated, among other things, that he “GUARANTEED \$6,000 TO \$8,000 MONTHLY . . . [with his] Revolutionary FOREX Commodity Futures, Stocks, Bonds & New BitCoin Futures Market Trading System.”

29. In May 2018, using the alias “Surrey England,” Defendant told Pool Participant B in a telephone call that:

- a) he had been trading “for many years” and had obtained “hefty returns;”
- b) he would “manage” her money for her in a Surrey Libor trading account, which would have an ATM card linked to it;
- c) he would double her \$7,000 contribution and the returns were going to be “good;” and
- d) he was registered with the NFA and that she could confirm this on NFA’s website.

30. Based on Defendant's misrepresentations, Pool Participant B wired \$7,000 to Defendant's personal credit union account on or about May 11, 2018.

31. In early 2019, Defendant, using the alias "Surrey England," told Pool Participant C in a telephone call that:

- a) he had been trading "for over 20 years" and "knows what he is doing;" and
- b) he would trade her money in crude oil, copper, platinum, and wheat futures, as well as forex.

32. Based on Defendant's misrepresentations, Pool Participant C wired a total of \$50,000 to Defendant's personal credit union account (\$10,000 on May 1, 2019; \$20,000 on June 19, 2019; and \$20,000 on July 5, 2019).

33. In December 2019, using the alias "Surrey England, Defendant told Pool Participant D that:

- a) he would "day trade" her money;
- b) she would earn three to seven percent monthly return on her money from his trading; and
- c) his other clients were "happy" with the profits he made for them.

34. Based on Defendant's misrepresentations, Pool Participant D wired \$20,000 to Defendant's personal bank account on or about January 1, 2020.

35. In early 2017, using the alias "Surrey England," Defendant told Pool Participant E, who had seen Defendant's Craig's List advertisement, that:

- a) he would have his own account with a company called Libor Capital, LLC;
- b) the guaranteed returns would be sixty to eighty percent on a minimum \$5,000 contribution;
- c) he would decide how to trade Pool Participant E's money and that it could be traded in forex, stocks, or bonds;
- d) he had worked for "bigger companies and branched off;" and
- e) he was registered with the NFA and that this could be confirmed on NFA's website.

36. Based on Defendant's misrepresentations Pool Participant E wired \$1,500 to FCM A on February 8, 2017. FCM A called and alerted Pool Participant E that he was wiring money to Defendant's personal trading account. Defendant then instructed Pool Participant E to wire funds to his bank account, which Pool Participant E did on April 7, August 3, August 28, and September 13, 2017 and February 9, 2018, respectively, for a total contribution to the Bryant Pool of \$7,650.

37. In 2017, 2018, 2019, and 2020, respectively, Pool Participants A, B, C and D also received "Financial Analysis Agreements" from Defendant, which guaranteed "minimum return[s] on investment between 30% to a maximum of 80% each month," as well as "no total loss of the principle [sic]" they provided to him for futures and forex trading.

### **3. Defendant's Representations and Omissions to Pool Participants Were False.**

38. Defendant's representations in his solicitations through Instagram, Craig's List, email, and the phone were false. Defendant's name was not Gregory Surrey England and he has never been registered with the NFA in any capacity. Additionally, Defendant had only traded forex and futures for, at a minimum, three years—not twenty or twenty-seven years—before he began soliciting for the Bryant Pool. He could not guarantee returns of \$6,000 to \$8,000 or sixty to eighty percent a month trading futures and forex when his trading in the Bryant Pool resulted in a negative return. Further, Defendant never incorporated Surrey Libor; it was not a real company and could not have held trading accounts for pool participants.

39. Defendant also made material omissions to pool participants and prospective pool participants in his solicitations through Craig's List, Instagram, email, and the phone. Specifically, Defendant failed to disclose that: (1) he had no history of achieving or any reasonable basis to claim that he would generate monthly returns of \$6,000 to \$8,000 or sixty to eighty percent trading futures and forex for pool participants; (2) he was not using all of the pool participants' money to trade futures or forex, but instead was using the majority of the pool funds to pay living expenses, including international travel, shopping, and golf; (3) he was also using some pool participants' money to make Ponzi payments to other pool

participants as purported trading returns; and (4) he was a convicted criminal with a history of financial problems, including three bankruptcies.

40. During the Relevant Period, at least thirty-five pool participants gave Defendant at least \$426,000 for the Bryant Pool based on Defendant's fraudulent solicitations and omissions.

41. In addition, when soliciting pool participants for the Bryant Pool, Defendant made no attempt to determine if pool participants were ECPs as defined in Section 1a(18) of the Act, 7 U.S.C. § 1a(18) (2018)—i.e., individuals with \$10,000,000 invested on a discretionary basis—and none of the pool participants are ECPs.

**D. Defendant's Misappropriation, Misrepresentations, and Omissions Were Intentional or Reckless and Operated as a Fraud on Pool Participants.**

42. Defendant knew, or was reckless in not knowing, that by accepting funds from pool participants and using pool funds for personal expenses or to make Ponzi payments, he was misappropriating pool funds. Defendant solicited and communicated with full knowledge of how pool funds were being used and that his futures and forex trading was unprofitable. Thus, there was no reasonable basis for Defendant to believe that the funds he used for personal expenses or to make Ponzi payments were derived from trading profits or anywhere besides pool funds.

43. Similarly, Defendant knew, or was reckless in not knowing, that his solicitations for the Bryant Pool and communications with pool participants contained the material misstatements and omissions described above. Defendant knew, or was reckless in not knowing, that he could not guarantee monthly returns of \$6,000 to \$8,000 and was not making monthly returns of sixty to eighty percent trading futures and forex in the Bryant Pool. Additionally, Defendant knew that he was not an experienced trader, that his name was not “Gregory Surrey England,” and that he was not registered with the NFA. Finally, Defendant knew that “Surrey Libor Capital” was not an organized business entity and could not hold futures and forex trading accounts for pool participants.

44. At minimum, Defendant’s misappropriation of pool funds and the material misstatements and omissions in his communications with pool participants operated as a fraud on pool participants.

**E. Defendant Failed To Operate the Bryant Pool as a Separate Legal Entity or Receive Pool Funds in the Bryant Pool’s Name.**

45. Defendant did not operate the Bryant Pool as a separate legal entity because no such entity existed. Although he solicited money on behalf of the Bryant Pool, Defendant failed to open bank or futures or forex trading accounts for the Bryant Pool. Defendant received pool funds that were not in the names of the Bryant Pool when he received pool funds in his name and deposited them into the



trading and bank accounts he personally held, rather than separate trading and bank accounts designated for the Bryant Pool.

**F. Defendant Failed To Register as a CPO with the Commission.**

46. During the Relevant Period, Defendant acted as a CPO in that he used the mails, emails, wire transfers, Internet websites such as Craig's List and Instagram, and other means or instrumentalities of interstate commerce to solicit, accept, and receive pool participants' funds for the purpose of trading futures and forex. During the Relevant Period, Defendant was never registered as a CPO and was not exempt or excluded from registration as a CPO.

**G. Defendant Failed to Provide Pool Disclosures and Other Relevant Documents.**

47. Defendant, while acting as the CPO of the Bryant Pool, failed to provide pool disclosure documents, account statements, and other documents required by Regulations 4.21 and 4.22, 17 C.F.R. §§ 4.21, 4.22 (2020), including but not limited to required cautionary statements, risk disclosures, fees and expenses incurred by the Bryant Pool, past performance disclosures, a statement that the CPO is required to provide to all pool participants with monthly or quarterly account statements, as well as an annual report containing financial statements certified by an independent public accountant.

## VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS

### COUNT ONE

#### **Violations of Section 4b(a)(1)(A) and (C) and 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. §§ 6b(a)(1)(A), (C) and 6b(a)(2)(A), (C) (2018), and Regulation 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1), (3) (2020) (Futures and Forex Fraud by Misrepresentations, Omissions, and Misappropriation)**

48. Paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

49. 7 U.S.C. § 6b(a)(1)(A) and(C) makes it unlawful:

[F]or any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person . . .

(A) to cheat or defraud or attempt to cheat or defraud the other person; [or] . . .

(C) willfully to deceive or attempt to deceive the 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 or, in the case of paragraph (2), with the other person[.]

50. 7 U.S.C. § 6b(a)(2)(A) and (C) makes it unlawful:

[F]or 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* on or subject to the rules of a designated contract market

(A) to cheat or defraud or attempt to cheat or defraud the other person; [or] . . .

(C) willfully to deceive or attempt to deceive the 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 or, in the case of paragraph (2), with the other person[.] (emphasis added).

51. Pursuant to Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C.

§ 2(c)(2)(C)(iv) (2018), 7 U.S.C. § 6b applies to the forex transactions described herein “as if” they were a contract of sale of a commodity for future delivery.

52. Regulation 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1), (3) (2020), provides, in relevant part, that “[i]t shall be unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any retail forex transaction: (1) [t]o cheat or defraud or attempt to cheat or defraud any person; . . . or (3) [w]illfully to deceive or attempt to deceive any person by any means whatsoever.”

53. By reason of the conduct described above, Defendant, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in connection with commodity futures and retail forex transactions, willfully or recklessly: (1) cheated or defrauded or attempted to cheat or defraud

pool participants; and (2) deceived or attempted to deceive pool participants by any means.

54. By reason of the foregoing, Defendant violated 7 U.S.C. §6b(a)(1)(A) and (C) and 6b(a)(2)(A) and (C), and 17 C.F.R. § 5.2(b)(1) and (3).

55. Each misrepresentation, omission of material fact, and act of misappropriation, including but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. §6b(a)(1)(A) and (C) and 6b(a)(2)(A) and (C), and 17 C.F.R. § 5.2(b)(1) and (3).

## **COUNT TWO**

### **Violations of Section 4o(1) of the Act, 7 U.S.C. §6o(1) (2018) (Fraud and Deceit by CPO)**

56. Paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

57. Section 1a(11)(A)(i) of the Act, 7 U.S.C. § 1a(11)(A)(i) (2018), defines a CPO, in relevant part, as any person:

[E]ngaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any—(I) commodity for future delivery, security futures product, or swap; [or] (II) agreement, contract, or transaction described in

[S]ection 2(c)(2)(C)(i) or [S]ection 2(c)(2)(D)(i) [of the Act].

58. Pursuant to Regulation 5.1(d)(1), 17 C.F.R. § 5.1(d)(1) (2020), and subject to certain exceptions not relevant here, any person who operates or solicits funds, securities, or property for a pooled investment vehicle and engages in retail forex transactions is defined as a retail forex CPO.

59. Pursuant to Section 2(c)(2)(C)(vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(vii) (2018), “the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in [retail forex].”

60. Pursuant to 7 U.S.C. § 2(c)(2)(C)(ii)(I), “[a]greements, contracts, or transactions” in retail forex and accounts or pooled investment vehicles “shall be subject to . . . [7 U.S.C. §] 6o,” except in circumstances not relevant here.

61. During the Relevant Period, Defendant engaged in a business, for compensation or profit, that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including in relevant part transactions in futures and forex; therefore, Defendant acted as a CPO, as defined by 7 U.S.C. § 1a(11).

62. During the Relevant Period, Defendant solicited funds, securities, or property for a pooled investment vehicle and engaged in retail forex transactions; therefore, Defendant acted as a retail forex CPO, as defined by 17 C.F.R. § 5.1(d)(1).

63. During the Relevant Period, Defendant was not registered with the Commission as a CPO or retail forex CPO.

64. 7 U.S.C. § 6o(1) prohibits CPOs, among others, whether registered with the Commission or not, from using the mails or any means or instrumentality of interstate commerce, directly or indirectly, from employing devices, schemes, or artifices to defraud any client or participant or prospective client or participant, or engaging in transactions, practices, or courses of business which operate as a fraud or deceit upon any client or participant or prospective client or participant.

65. By reason of the foregoing, Defendant, through the use of the mails or any means or instrumentality of interstate commerce: (1) knowingly or recklessly employed devices, schemes or artifices to defraud pool participants and prospective pool participants, or (2) engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon pool participants or prospective pool participants.

66. By reason of the foregoing, Defendant violated 7 U.S.C. § 6o(1).

67. Each misrepresentation, omission of material fact, and act of misappropriation, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 6o(1).

### **COUNT THREE**

**Violations of Regulation 4.20(a)(1) and (b), 17 C.F.R.  
§ 4.20(a)(1), (b) (2020)  
(Failure to Operate Pool as a Separate Entity and  
Failure to Receive Pool Participants' Funds in Pool's  
Name)**

68. Paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

69. Regulation 5.4, 17 C.F.R. § 5.4 (2020), states that Part 4 of the Regulations, 17 C.F.R. pt. 4 (2020), applies to any person required to register as a CPO pursuant to Part 5 of the Regulations, 17 C.F.R. pt. 5 (2020), relating to forex transactions.

70. 17 C.F.R. § 4.20(a)(1) requires a CPO, whether registered or not, to operate its pool as a legal separate from that of the CPO.

71. 17 C.F.R. § 4.20(b) prohibits CPOs, whether registered or not, from receiving pool participants' funds in any name other than that of the pool.

72. By reason of the foregoing, Defendant, while acting as a CPO for the Bryant Pool, failed to operate the Bryant Pool as a legal entity separate from

himself as an individual; and received pool participants' funds in his own name rather than the name of a legally cognizable commodity pool.

73. By reason of the foregoing, Defendant violated of 17 C.F.R. § 4.20(a)(1) and (b).

74. Each act of failing to operate the Bryant Pool as a separate legal entity and improperly receiving pool participants' funds, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 17 C.F.R. § 4.20(a)(1) and (b).

#### **COUNT FOUR**

**Violations of Sections 2(c)(2)(C)(iii)(I)(cc)  
and 4m(1) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1)  
(2018) and Regulation 5.3(a)(2)(i), 17 C.F.R. § 5.3(a)(2)(i) (2020)  
(Failure to Register as a CPO and Retail Forex CPO)**

75. Paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

76. Subject to certain exceptions not relevant here, 7 U.S.C. § 6m(1) states that it shall be “unlawful for any . . . [CPO], unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such . . . [CPO] . . . .”

77. Subject to certain exceptions not relevant here, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc) states, in part, that:



A person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not— . . .

(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with [retail forex contracts, agreements, or transactions] . . . .

78. For the purposes of retail forex transactions, a CPO is defined in 17 C.F.R. § 5.1(d)(1) as any person who operates or solicits funds, securities, or property for a pooled investment vehicle that is not an ECP, as defined in 17 C.F.R. § 1a(18), and who engages in retail forex transactions.

79. Except in circumstances not relevant here, 17 C.F.R. § 5.3(a)(2)(i) requires those that meet the definition of retail forex CPO under 17 C.F.R. §5.1(d) to register as a CPO with the Commission.

80. By reason of the foregoing, Defendant engaged in a business, for compensation or profit, that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including in relevant part transactions in futures and retail forex transactions; therefore, Defendant acted as a CPO, as defined by 7 U.S.C. § 1a(11).

81. Likewise, by reason of the foregoing, Defendant operated or solicited funds, securities, or property for a pooled investment vehicle from investors who were not ECPs, as defined by 7 U.S.C. § 1a(18) of the Act, for the purpose of trading in retail forex transactions (as defined by 17 C.F.R. § 5.1(m)); thus, Defendant acted as a CPO engaged in retail forex transactions as defined by 17 C.F.R. § 5.1(d)(1).

82. Defendant, while using the mails or means of interstate commerce in connection with his business as a CPO, was not registered with the Commission as a CPO or as a CPO engaged in retail forex transactions.

83. By reason of the foregoing, Bryant acted as an unregistered CPO in violation of 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R. § 5.3(a)(2)(i).

84. Each instance that Defendant acted as a CPO but failed to register with the Commission as such is alleged as a separate and distinct violation.

## **COUNT FIVE**

### **Violation of Regulations 4.21 and 4.22, 17 C.F.R. §§ 4.21, 4.22 (2020) (Failure to Provide Pool Disclosures and Other Required Documents)**

85. Paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

86. 17 C.F.R. § 5.4 states that 17 C.F.R. pt. 4 applies to any person required to register as a CPO pursuant to 17 C.F.R. pt. 5, relating to forex transactions.

87. 17 C.F.R. § 4.21, in relevant part, provides that:

[E]ach [CPO] registered or required to be registered under the Act must deliver or cause to be delivered to a prospective participant in a pool that it operates or intends to operate a Disclosure Document for the pool prepared in accordance with §§ 4.24 and 4.25 by no later than the time it delivers to the prospective participant a subscription agreement for the pool . . .

88. 17 C.F.R. § 4.22 requires, in relevant part, that CPOs (registered or required to be registered) provide periodic account statements to investors—presented and computed in accordance with generally accepted accounting principles—itemizing, among other things, the total amount of realized net gain or loss on commodity interest positions liquidated during the reporting period; the total amount of unrealized net gain or loss on commodity interest positions during the reporting period, and the total amount of net gain or loss from all other transactions in which the pool engaged during the reporting period.

89. By reason of the foregoing, Defendant failed to provide prospective pool participants with pool disclosure documents in the form specified in Regulations 4.24 and 4.25, 17 C.F.R. §§ 4.24, 4.25 (2020).

90. By reason of the foregoing, Defendant violated 17 C.F.R. § 4.21.

91. By reason of the foregoing, Defendant failed to provide pool participants account statements and annual reports required by 17 C.F.R. §4.22.

92. By reason of the foregoing, Defendant violated 17 C.F.R. §4.22.

93. Each failure to furnish the required disclosure documents and account statements and reports to prospective pool participants and pool participants, including, but not limited to, those specifically alleged herein, is a separate and distinct violation of 17 C.F.R. §§ 4.21 and 4.22.

### **RELIEF REQUESTED**

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2018), and pursuant to its own equitable powers:

A. Find that Defendant violated Sections 4b(a)(1)(A) and (C), 4b(a)(2)(A) and (C), 4m(1), 4o(1), and 2(c)(2)(C)(iii)(I)(cc) of the Act, 7 U.S.C. §§ 6b(a)(1)(A),(C); 6b(a)(2)(A), (C); 6m(1), 6o(1); and 2(c)(2)(C)(iii)(I)(cc) (2018), and Regulations 4.20(a)(1) and (b), 4.21, 4.22, 5.2(b)(1) and (3), and 5.3(a)(2)(i), 17 C.F.R. §§ 4.20(a)(1), (b), 4.21; 4.22, 5.2(b)(1), (3), 5.3(a)(2)(i) (2020);

B. Enter an order of permanent injunction, enjoining Defendant and his affiliates, agents, servants, employees, successors, assigns, attorneys, and all persons in active concert with him, who receive actual notice of such order by

personal service or otherwise, from engaging in conduct in violation of 7 U.S.C. §§ 6b(a)(1)(A),(C); 6b(a)(2)(A), (C); 6m(1); 6o(1); and 2(c)(2)(C)(iii)(I)(cc) and 17 C.F.R. §§ 4.20(a)(1), (b); 4.21; 4.22; 5.2(b)(1), (3); and 5.3(a)(2)(i);

C. Enter an order of permanent injunction restraining and enjoining Defendant and his affiliates, agents, servants, employees, successors, assigns, attorneys, and all persons in active concert with him from, directly or indirectly:

- 1) Trading on or subject to the rules of any registered entity (as that term is defined by Section 1a(40) of the Act, 7 U.S.C. § 1a(40) (2018));
- 2) Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2020)), for accounts held in the name of Defendant or for accounts in which Defendant has a direct or indirect interest;
- 3) Having any commodity interests traded on Defendant’s 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 of any commodity interests;

- 6) Applying for registration or claiming exemption from registration with the CFTC in any capacity and engaging in any activity requiring such registration or exemption from registration with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2020); and
- 7) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2020)), agent, or any other officer or employee of any person registered, exempted from registration, or required to be registered with the CFTC except as provided for in Regulation 4.14(a)(9);

D. Enter an order directing Defendant, as well as 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 that constitute violations of the Act and Regulations as described herein, including plus pre-judgment interest;

E. Enter an order directing Defendant and any of his successors, 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;

F. Enter an order directing Defendant and any of his successors, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between him and any of the pool participants whose funds were received by him as a result of the acts and practices which constituted violations of the Act and Regulations, as described herein;

G. Enter an order requiring Defendant to pay a civil monetary penalty assessed by the Court, in an amount not to exceed the penalty prescribed by 7 U.S.C. § 13a-1(d)(1), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Pub. L. 114-74, tit. VII, § 701, 129 Stat. 584, 599-600, *see* Regulation 143.8, 17 C.F.R. § 143.8 (2020), for each violation of the Act and Regulations, as described herein;

H. Enter an order requiring Defendant to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2413(a)(2) (2018); and

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

Dated: September 15, 2021

Respectfully submitted,

/s/ Rachel Hayes

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