

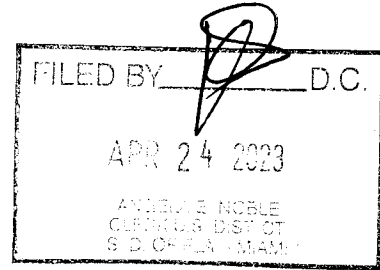
SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NUMBER: _____

COMMODITY FUTURES)
TRADING COMMISSION,)
)
Plaintiff,)
)
v.)
)
SYSTEMATIC ALPHA)
MANAGEMENT, LLC and)
PETER KAMBOLIN,)
)
Defendants,)
)
and)
)
JERSEY CITY PARTNERS, LLC)
and THOR ENTERPRISES)
INTERNATIONAL, INC.,)
)
Relief Defendants.)
_____)

JURY TRIAL DEMANDED



**COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL MONETARY
PENALTIES, AND OTHER EQUITABLE RELIEF UNDER
THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS**

Plaintiff Commodity Futures Trading Commission (“Commission”) alleges as follows:

I. SUMMARY

1. Defendant Peter Kambolin (“Kambolin”) held out his company, Defendant Systematic Alpha Management, LLC (“SAM”), as a successful commodity pool operator (“CPO”) and commodity trading advisor (“CTA”). For more than a decade, Defendants solicited customers, including both individuals and institutional asset managers, either to contribute to commodity pools operated by SAM or authorize SAM to trade funds in a managed account.

Defendants marketed SAM as offering customers a fully-automated, algorithm-based trading strategy involving futures contracts that purportedly offered customers returns that were not correlated to traditional investments. Defendants cultivated a strong reputation for SAM's trading as a CTA and CPO, winning a number of awards from a variety of industry publications.

2. However, beginning as early as January 2019 through November 2021 (the "Relevant Period"), Defendants fraudulently allocated trades between: (1) two commodity pools, the Cryptocurrency Pool and the FX Pool (defined in Section IV.B.1 *infra*), and four managed accounts Defendants traded for (the "Managed Accounts") (collectively, with the Cryptocurrency Pool and the FX Pool, the "Customer Accounts"); and (2) certain trading accounts owned by entities controlled by and/or benefiting Kambolin or members of his family (the "Proprietary Accounts"). As a result, Defendants generated trading profits for the Proprietary Accounts at the expense of the Customer Accounts. Defendants generated at least \$1,451,559 in total trading profits for the Proprietary Accounts while causing the Customer Accounts to incur at least \$1,551,670 in net losses.

3. During the Relevant Period, Defendants executed trades on behalf of both the Customer Accounts and the Proprietary Accounts using bunched orders that they placed and executed in suspense accounts at various futures commission merchants ("FCMs"). At the end of each trading day, Defendants instructed the FCM to allocate the trades Defendants executed in the suspense accounts to the Customer Accounts or the Proprietary Accounts.

4. It is a common practice for CPOs and CTAs that manage multiple accounts to execute trades through bunched orders and then allocate these trades among multiple accounts. CFTC Regulations, however, require that CPOs and CTAs engaging in this practice allocate

trades on a fair and equitable basis, with no account or group of accounts receiving consistently favorable or unfavorable treatment.

5. Instead, Defendants allocated trades in a manner designed to disproportionately benefit the Proprietary Accounts. Defendants typically opened and closed their futures positions in the suspense accounts by the end of each trading day, before they instructed the FCMs on how to allocate the trades. Thus, by the end of each trading day, Defendants could determine which trades were profitable and which were not. Defendants directed the FCMs holding the suspense accounts to allocate the most profitable trades to Proprietary Accounts and to allocate the unprofitable or less profitable trades to the Customer Accounts.

6. By allocating trades in this manner, Defendants disproportionately favored the Proprietary Accounts, deprived the Customer Accounts of a proportional share of the trading profits Defendants generated, and caused the Customer Accounts to incur a disproportionate share of Defendants' trading losses. Consequently, Defendants defrauded participants in the Cryptocurrency Pool and the FX Pool and the Managed Account customers.

7. Defendants further defrauded participants in the Cryptocurrency Pool and the FX Pool and Managed Account Customers by misrepresenting to them, in Private Placement Memoranda ("PPMs") and Trading Advisory Agreements (respectively), that Defendants would allocate investment opportunities fairly and equitably among Defendants' various commodity pools, managed accounts, and the Proprietary Accounts. In these PPMs, as well as other marketing materials and solicitations, Defendants also misrepresented to participants in the Cryptocurrency Pool and the FX Pool the investment strategies Defendants would pursue on behalf of each pool, creating the false impression that each pool would employ a trading strategy that focused on cryptocurrency futures contracts and foreign exchange futures contracts,

respectively, when in fact approximately 45% of Defendants' trading for each pool involved various equity index futures contracts, which Defendants allocated unfairly.

8. Through this conduct and the conduct described further herein, Defendants have engaged, are engaging, or are about to engage in acts and practices that violate Sections 4b(a)(1)(A)-(C) and 4c(1)(A)-(B) of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6c(1)(A)-(B), and Commission Regulation ("Regulation") 1.35(b)(5)(iv)(B), 17 C.F.R. §1.35(b)(5)(iv)(B) (2022).

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

10. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the Commission brings this action to permanently enjoin Defendants' unlawful acts and practices and to compel their compliance with the Act and Regulations, and to further enjoin Defendants 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 relief as this Court deems necessary and appropriate.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (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, provides that district courts have jurisdiction to hear actions brought by the Commission for injunctive and other relief or to enforce compliance with the Act 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, regulations, or order thereunder.

12. Venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e), because Defendants have transacted business in this District, and certain of the acts and practices in violation of the Act have occurred within this District, among other places. Venue is also proper under 28 U.S.C. § 1391(c)(3) because Defendant Kambolin resides in this District and Defendant SAM's principle place of business is within this District.

III. PARTIES

13. 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 Commission is headquartered at 1155 21st Street, NW, Washington, DC 20581.

14. Defendant Systematic Alpha Management, LLC is a New York limited liability company, with its principle place of business at 18201 Collins Ave., 708, Sunny Isles Beach, Florida 33160. SAM is registered with the Commission as a CPO and as a CTA.

15. Defendant Peter Kambolin is an individual who resides in Sunny Isles Beach, Florida. Kambolin co-founded SAM and during the Relevant Period was the owner, managing member, and Chief Executive Officer of SAM. Kambolin is registered with the Commission as an Associated Person of SAM.

16. Relief Defendant Jersey City Partners, LLC ("Jersey City") is a New York limited liability company, with its principle place of business at 18201 Collins Ave., Suite 708, Sunny Isles Beach, FL 33160. Kambolin is the sole owner of Jersey City and makes all decisions on behalf of the company. During the Relevant Period, Jersey City received improper allocations of

profitable trades into its trading accounts, transferring the profits from these trades into its bank accounts or otherwise using the funds.

17. Relief Defendant Thor Enterprises International, Inc. (“Thor”) is a Nevis, West Indies corporation, with its principle place of business at Hunkins Plaza, Main St. 556, Charlestown, St. Kitts & Nevis. During the Relevant Period, Kambolin’s brother exercised control over Thor and as of September 2019 was given full power of attorney to manage Thor by Thor’s nominal owner. During the Relevant Period, Thor received improper allocations of profitable trades into its trading accounts, transferring the profits from these trades into its bank accounts or otherwise using the funds.

IV. FACTS

A. Industry Background

18. A futures contract is an agreement to buy or sell a commodity at a fixed quantity and price for delivery or cash settlement at a specific date and time in the future. Futures contracts are used to assume or shift price risk and may be satisfied by cash settlement, delivery, or offset. Futures contracts are commonly used to hedge risks or to speculate on the price of physical commodities. Futures contracts are traded on exchanges—designated contract markets regulated by the CFTC. All of the futures contracts at issue here were traded on exchanges operated by CME Group, Inc. (“CME”).

19. A futures commission merchant, or FCM, is an individual, association, partnership, corporation, or trust that, among other things, is engaged in soliciting or in accepting orders for regulated transactions including futures, swaps, commodity options, or retail commodity transactions; and which, in connection with these activities, “accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any

trades or contracts that result or may result therefrom.” Section 1a(28)(A) of the Act, 7 U.S.C. § 1a(28)(A).

20. A “commodity pool” is “an investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests,” including futures contracts. Section 1a(10)(A) of the Act, 7 U.S.C. § 1a(10)(A).

21. A “commodity pool operator” or CPO is any person “engaged in a business that is of the nature of a commodity pool” and “who, in connection therewith, solicits, accepts, or receives from others, funds securities, or property” for the purpose of trading commodity interests, including futures contracts. Section 1a(11)(A) of the Act, 7 U.S.C. § 1a(11)(A).

22. A “commodity trading advisor” or CTA is any person who “for compensation or profit, engages in the business of advising others... as to the advisability of trading” in futures contracts. Section 1a(12)(A) of the Act 7 U.S.C. § 1a(12)(A). Commodity trading advisors that direct trading in client accounts typically are required to register with the CFTC. A trading account for which the account owner grants a CTA authority to direct the trading in that account is commonly known as a “managed account.”

23. A “suspense” or execution-only account, is a temporary futures trading account held by an FCM in which trades may be executed but are subsequently allocated to a different account for clearing. The clearing account(s) receiving these executed trades may be held at the same FCM as the suspense account or may be held at different FCM. If the suspense account and clearing account are held by different FCMs, the trades from the suspense account are “given-up” by the executing FCM to the clearing FCM.

24. A “bunched order” is a single order placed by a CPO or CTA on behalf of multiple commodity pools and/or managed accounts. The CPO or CTA subsequently allocates

the executed trades resulting from a bunched order among the participating pool and/or managed accounts.

25. CPOs and CTAs are considered under the Regulations to be “eligible account managers” who may allocate trades executed through a bunched order among customer accounts. Regulation 1.35(b)(5)(i), 17 C.F.R. § 1.35(b)(5)(i) (2022). Eligible account managers must follow certain regulations and a core set of principles when allocating trades on a post-trade basis for its customers. Principally, per 1.35(b)(5)(iv)(B), 17 C.F.R. 1.35(b)(5)(iv)(B) (2022), allocations must be fair and equitable, and no account or a group of accounts may receive consistently favorable or unfavorable treatment.

B. Defendants Solicited Individuals and Institutional Asset Managers to Participate Either in Commodity Pools or Managed Accounts.

26. Defendants have held themselves out as investment managers to individual and institutional clients for more than a decade. Kambolin co-founded SAM in 2007 and later became its sole owner. Throughout that time, Defendants solicited pool participants and managed account customers, including both individuals and institutional asset managers. Defendants solicited these pool participants and managed account customers to participate in a variety of what they marketed as fully-automated, algorithm-based trading strategies. In marketing materials and monthly letters to pool participants and managed account customers during the Relevant Period, SAM repeatedly held itself out to be a fully systematic, quantitative short-term CTA, with the objective of generating “positive absolute returns, having low to negative correlation to any traditional and alternative investments, including major CTA indices, while providing enhanced liquidity and transparency to its investors.”

27. Pool participants participated in Defendants' trading strategies by contributing funds to one or more commodity pools operated by SAM. Defendants purported to trade each commodity pool in accordance with a particular trading strategy.

28. Defendants offered to managed account customers the same trading strategies they purportedly used for the commodity pools. Managed account customers granted SAM the authority to trade directly in the customer's own account, which Defendants purported to trade in accordance with a particular trading strategy.

29. Defendants typically solicited prospective pool participants and prospective managed account customers directly.

30. Defendants in some instances worked directly with employees at the FCMs with which they had relationships to set up the trading accounts they would use for either their commodity pools or their managed account customers. In other instances, Defendants worked with an Introducing Broker ("IB") to set up trading accounts for either the commodity pools or for their managed account customers.

1. The Commodity Pools

31. During the Relevant Period, SAM, and Kambolin as an AP of SAM, operated at least two commodity pools as a CPO, the Systematic Alpha Cryptocurrency Master Fund, Ltd. (the "Cryptocurrency Pool") and the Systematic Alpha FX Master Fund, Ltd. (the "FX Pool").

a. The Cryptocurrency Pool

32. The Cryptocurrency Pool was a Cayman Islands exempted company established in or around January 2018. The Cryptocurrency Pool was funded through a master-feeder structure. Pool participants contributed funds either to the Systematic Alpha Cryptocurrency Fund, LP (a Delaware Limited Partnership) or the Systematic Alpha Cryptocurrency Offshore Fund, Ltd (a Cayman Island exempted company). Both the Systematic Alpha Cryptocurrency

Fund, LP and the Systematic Alpha Cryptocurrency Offshore Fund, Ltd “fed” pool participant funds to the Cryptocurrency Pool, which owned the trading accounts used to trade futures contracts.

33. Defendants opened an account for the Cryptocurrency Pool at FCM 1 in or around January 2018. Defendants began trading in this account in February 2018. Defendants ceased trading in this account in or around March 2020.

34. Defendants opened and began trading in a second account for the Cryptocurrency Pool in or around February 2018 at a different FCM (“FCM 2”). Defendants began trading in this account at FCM 2 in or around April 2018. Defendants opened and began trading in a third account for the Cryptocurrency Pool at another FCM (“FCM 3”) in or around April 2018. Defendants opened and began trading in an additional account at FCM 3 in or around March 2020.

35. Defendants began receiving contributions from pool participants to the Cryptocurrency Pool beginning in January 2018. Between January 2018 and October 2020, when Defendants ceased trading for and operating the Cryptocurrency Pool, Defendants received at least \$6,121,704 from at least 29 pool participants in the Cryptocurrency Pool.

36. In marketing materials for the Cryptocurrency Pool prepared and disseminated to pool participants and prospective pool participants in 2018, Defendants stated that they intended use pool assets to trade cryptocurrency futures contracts. In these marketing materials, Defendants described the Cryptocurrency Pool’s trading strategy as seeking to “take advantage of the price predictability of cryptocurrency futures, related to the unusually high concentration of trading in retail hands” and “to achieve its investment objective of delivering positive returns while significantly dampening the volatility of underlying cryptocurrency markets . . . while

trading exclusively regulated futures markets on the CME and CBOE exchanges, thus eliminating the risk of potential principal loss related to hacking, or to infrastructural problems often associated with the unregulated private exchanges.”

37. Defendants gave pool participants a PPM that stated that the Cryptocurrency Pool would “seek to achieve its investment objective by systematically trading exchange traded futures contracts on major liquid ‘cryptocurrencies.’”

38. In April 2019, Defendants supplemented the Cryptocurrency Pool’s PPM to state that the Cryptocurrency Pool would trade financial futures contracts other than cryptocurrency futures contracts. Specifically, this April 2019 supplement provided that the Cryptocurrency Pool would “seek to achieve its investment objective by systematically trading exchange traded futures contracts on major liquid “cryptocurrencies” as well as any other financial futures contracts to provide further diversification.”

b. The FX Pool

39. The FX Pool was a Cayman Islands exempted company established in or around April 2019. Like the Cryptocurrency Pool, Defendants set up a master-feeder structure to fund the FX Pool. Pool participants contributed funds either to the Systematic Alpha FX Fund LP (a Delaware Limited Partnership) or the Systematic Alpha FX Offshore Fund Ltd (a Cayman Islands exempted company). In turn, both of these entities sent funds to the FX Pool for trading.

40. In or around February 2020, Defendants opened a trading account for the FX Pool at FCM 2. Defendants began trading on behalf of the FX Pool in this account in March 2020. In or around December 2020, Defendants opened a trading account for the FX Pool at FCM 3. In July 2020, Defendants opened additional trading accounts for the FX Pool at FCM 2. At various points during the Relevant Period, Defendants traded for the FX Pool in each of these accounts.

41. Defendants began receiving contributions from pool participants to the FX Pool beginning October 2019. Between October 2019 and November 2021, when Defendants ceased trading for and operating the FX Pool, Defendants received at least \$680,000 from at least 9 pool participants in the FX Pool.

42. In marketing materials for the FX Pool, Defendants stated that they intended to use funds contributed to the FX Pool to trade foreign exchange (“FX”) futures contracts. In these marketing materials, Defendants described the FX Pool’s trading strategy as seeking to “generate high risk-adjusted returns which are uncorrelated to major FX indexes and other FX managers . . . trad[ing] major FX futures on CME using proprietary fully systematic, mostly contrarian, models with an average holding period of 2 – 3 days.”

43. Defendants provided pool participants in the FX Pool with a PPM. The PPM for the FX Pool provided in relevant part, that the FX Pool “will seek to achieve its investment objective by systematically trading foreign currency” and “by employing a diversified set of trend-following, momentum, and contrarian trading strategies, using fully automated systematic execution with built-in rigorous risk management.”

2. The Managed Accounts

44. Between July 9, 2020 and December 13, 2021, Defendants exercised discretionary trading authority over the four Managed Accounts. These Managed Account customers included both individual and institutional traders.

45. Defendants directed these Managed Account customers to open trading accounts at FCM 1, another U.S.-based FCM (“FCM 4”), and a foreign FCM (“FCM 5”). Defendants purported to trade each of these accounts using the same fully-automated, algorithm-based trading strategies used for the Cryptocurrency Pool, the FX Pool, or other commodity pools Defendants offered.

46. Defendants executed Trading Advisory Agreements with the Managed Account customers. These Trading Advisory Agreements described the particular trading strategy Defendants intended to use for a specific Managed Account.

C. Defendants Traded for the Proprietary Accounts that Were Controlled by Kambolin or Members of Kambolin's Family.

47. During the Relevant Period, Kambolin also exercised discretionary trading authority over trading accounts owned by Jersey City and Thor.

48. Kambolin was the sole owner of and controlled Jersey City. As a result, Kambolin benefitted directly from trading profits generated by trading for Jersey City's accounts.

49. During the Relevant Period, Thor was controlled by Kambolin's brother. Before the Relevant Period, Kambolin's brother had owned Thor but later transferred ownership of Thor to another person. After this transfer of ownership, however, Kambolin's brother still exercised control over Thor. For example, during the Relevant Period, Kambolin's brother requested multiple transfers of funds from Thor's trading accounts at various FCMs to Thor's bank account. In September 2019, the nominal owner of Thor granted Kambolin's brother full power of attorney over Thor.

50. Defendants benefitted from their trading for Thor's accounts because Thor paid SAM incentive fees that were based on the trading profits Defendants generated in those Thor accounts.

51. At various times during the Relevant Period, Thor maintained trading accounts at FCMs 1 and 3. At various times during the Relevant Period, Jersey City maintained trading accounts at FCM 3 and another U.S.-based FCM ("FCM 6").

D. Defendants Fraudulently Allocated Trades Between the Customer Accounts and the Proprietary Accounts to Generate Trading Profits in the Proprietary Accounts.

1. Defendants Used Bunched Orders and Post-Trade Allocation to Trade for the Customer Accounts and the Proprietary Accounts and Represented That They Would Allocate Trades Fairly and Equitably Between Both Sets of Accounts.

52. During the Relevant Period, Defendants traded collectively for the Customer Accounts and the Proprietary Accounts using bunched orders. Defendants subsequently allocated the trades executed through these bunched orders among the Customer Accounts and the Proprietary Accounts.

53. Between February 2018, when Defendants began trading for the Cryptocurrency Pool, and December 2018, Defendants executed trades directly in various trading accounts belonging to the Cryptocurrency Pool. During the Relevant Period, specifically beginning in January 2019 through October 2020, when Defendants ceased trading for and operating the Cryptocurrency Pool, Defendants continued to execute some trades directly into these accounts while also executing a substantial number of trades for the Cryptocurrency Pool through bunched orders, as described below.

54. Between March 2020, when Defendants began trading for the FX Pool, and January 2021, Defendants executed trades directly in various trading accounts belonging to the FX Pool. Beginning in January 2021 through November 2021, when Defendants ceased trading for and operating the FX Pool, Defendants executed trades for the FX Pool exclusively through bunched orders, as described below.

55. Between July 9, 2020 and December 13, 2021, Defendants executed some trades for the Managed Accounts directly into each individual Managed Account. However, beginning

in January 2021 through November 2021, Defendants executed the majority of their trades for the Managed Accounts through bunched orders, as described below.

56. For the Cryptocurrency Pool, Defendants executed bunched orders in a suspense account at a U.S.-based FCM (“FCM 7”). Defendants then sent instructions to FCM 7 to “give up” the executed trades and allocate them between the Cryptocurrency Pool account and the Thor account held at FCM 1. Specifically, Kambolin, or others employed by SAM acting at Kambolin’s direction, uploaded a data file onto FCM 7’s allocation portal that instructed FCM 7 as to which trades in which futures contracts should be allocated to the Cryptocurrency Pool account and to the Thor account. In accordance with these instructions, FCM 7 gave up and allocated trades between the Cryptocurrency Pool account and the Thor account held at FCM 1 between January 2019 and January 2020.

57. For the Cryptocurrency Pool, the FX Pool, and the Managed Accounts, Defendants executed bunched orders in a suspense account at FCM 3. Defendants sent instructions to FCM 3 to allocate the executed trades in this account among the Cryptocurrency Pool, FX Pool, Thor, and Jersey City accounts held at FCM 3, as well as give up and allocate trades to the Managed Accounts that were held at FCM 1, FCM 4, and FCM 5. Specifically, at the end of each trading day, Kambolin sent an email to FCM 3 that attached a data file that set forth exactly which trades in which futures contracts executed that day should be allocated to each of the Proprietary Accounts or Customer Accounts. In accordance with these instructions, FCM 3 gave up and/or allocated trades among these accounts between March 2020 and November 2021.

58. For both the suspense account at FCM 7 and the suspense account at FCM 3 Defendants had until the end of the trading day, after they had executed all of that day’s trades in

the suspense account, to instruct either FCM 7 or FCM 3 to allocate particular trades to particular Customer Accounts or Proprietary Accounts at the same or other FCMs at which Defendants maintained these accounts.

59. Defendants instructed FCM 7 and FCM 3 to set up the suspense accounts held by each FCM to allocate trades on an average price basis. This meant that FCM 7 and FCM 3, when allocating trades to the Customer Accounts and Proprietary Accounts, first calculated the average price of all of the trades executed as part of a bunched order for a particular futures contract. FCM 7 and FCM 3 then allocated trades to individual Customer Accounts or Proprietary Accounts at this average price.

60. By setting up and instructing FCM 7 and FCM 3 to allocate on average price basis, Defendants created the appearance that the trades they were executing through bunched orders were being allocated on a fair and equitable basis, as required by the Regulations.

61. Kambolin represented to the IB that assisted Defendants in setting up some of the Customer Accounts and Proprietary Accounts at FCM 3 that Defendants would be allocating trades on an average price basis.

62. In the PPMs distributed to participants in the Cryptocurrency Pool and the FX Pool, Defendants represented that SAM would be aggregating orders placed on behalf of the pool with orders placed for other pools, managed accounts, and the Proprietary Accounts. However, Defendants represented that SAM “will act in a manner that it considers fair and equitable in allocating investment opportunities” among the various pools, managed accounts, and Proprietary Accounts Defendants were trading for.

63. Defendants made similar representations to at least some of the Managed Account customers in the Trading Advisory Agreements they executed with those Managed Account

customers. For example, in one of the Trading Advisory Agreements, Defendants agreed that SAM would at all times allocate trades between the Managed Account customer and SAM's other clients "in a fair and equitable manner so that no account or group of accounts consistently receives favorable or unfavorable treatment over time."

2. Defendants Defrauded Pool Participants and Managed Account Customers by Inequitably Allocating Trades Between the Customer Accounts and the Proprietary Accounts in order to Generate Trading Profits in the Proprietary Accounts.

a. Defendants Unfairly and Inequitably Allocated the Trades Executed in the Suspense Accounts at FCM 7 and FCM 3 between the Proprietary Accounts and the Customer Accounts.

64. Although Defendants instructed FCM 7 and FCM 3 to allocate trades between the Customer Accounts and the Proprietary Accounts on an average price basis, Defendants allocated trades in a way that consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts.

65. During the Relevant Period, when trading using bunched orders in the suspense accounts at FCM 7 and FCM 3, Defendants typically opened a position in a particular futures contract and closed, or offset, that same position on the same day. By opening and closing a futures contract position on the same day, Defendants realized a gain or loss on their trades for that futures contract before the end of the trading day.

66. Because Defendants instructed FCM 7 and FCM 3 to allocate trades on an average price basis, all of Defendants' trades for a particular futures contract in a single bunched order received the same price. However, Defendants realized profits on their trades for some of the futures contracts they traded while realizing losses on others.

67. Defendants therefore knew at the end of each trading day, and before instructing FCM 7 or FCM 3 to allocate particular futures contracts and trades to either the Proprietary

Accounts or the Customer Accounts, which futures contracts in the suspense accounts at either FCM 7 or FCM 3 resulted in profitable trades and which did not. During the Relevant Period, Defendants consistently instructed FCM 7 or FCM 3 to allocate the trades in those futures contracts that were profitable to the Proprietary Accounts. Defendants instructed FCM 7 or FCM 3 to allocate the trades in those futures contracts that were unprofitable or less profitable futures contract trades to the Customer Accounts.

b. By Unfairly and Equitably Allocating Trades, Defendants Generated Substantial Profits for the Proprietary Accounts and Defrauded Pool Participants and Managed Account Customers.

68. By trading and allocating trades in this manner, Defendants achieved consistently high profits during the Relevant Period, month over month, in the Proprietary Accounts. For example, the Proprietary Accounts were profitable in 31 of the 34 months during the Relevant Period when Defendants allocated trades to the Proprietary Accounts, or over 91% of the time. During the Relevant Period, Defendants' trading generated total profits of \$1,451,559 for the Proprietary Accounts.

69. In addition, by trading and allocating trades in this manner, Defendants were able to achieve extraordinarily high rates of return for the Proprietary Accounts. For example, Kambolin funded the Jersey City account at FCM 3 with only \$10,000 in March 2020. During March 2020, as a result of receiving allocations of profitable trades, the balance in the Jersey City account grew to \$255,714.67, a rate of return of 2,457.1%. Kambolin withdrew \$135,000 from Jersey City's account at FCM 3 to Jersey City's bank account, and by the end of March 2020, Jersey City had an ending balance of \$124,522.17.

70. Similarly, at the beginning of December 2019, the Thor account at FCM 1 had a beginning balance of only \$444.50 and received no additional incoming cash. During December

2019, as a result of receiving allocations of profitable trades, the balance in the Thor account grew to \$60,847.39, a rate of return of 13,559.8%. \$60,051.48 was withdrawn from the Thor account at FCM 1 by the end of December 2019 to Thor's bank account at a non-U.S. financial institution.

71. Defendants were able to achieve these rates of return and net profits for the Proprietary Accounts in part because they aggregated their trading for the Proprietary Accounts with their trading for the Customer Accounts through bunched orders. By doing so, Defendants were able to place more trades for more futures contracts using bunched orders than they would have been able to do had they been trading with only the money they or others contributed to the Proprietary Accounts. This is because the combined money in the Proprietary Accounts and the Customer Accounts allowed to Defendants to post the margin needed to place trades for larger quantities of particular futures contracts and/or a larger number of different futures contracts than Defendants otherwise could have done so had they been trading the money in the Proprietary Accounts alone.

72. In contrast, by trading and allocating trades in this manner, Defendants deprived Customer Accounts of a proportional share of the trading profits Defendants generated and caused the Customer Accounts to incur a disproportionate share of Defendants' trading losses. During the Relevant Period, the Customer Accounts consistently sustained losses, or at best, a low level of profitability.

73. Specifically, between January 2019 through October 2020, when Defendants allocated trades to the Cryptocurrency Pool from the suspense accounts at FCM 7 and FCM 3, the Cryptocurrency Pool account that received allocations from the bunched orders Defendants

executed at FCM 7 or FCM 3 was profitable in only 1 of 22 months, or less than 5% of the time; and suffered net realized trading losses of at least \$1,283,325.

74. Between January 2021 through November 2021, when Defendants allocated trades to the FX Pool from the suspense account at FCM 3, the FX Pool account that received allocations from the bunched orders Defendants executed at FCM 3 was profitable in only 3 of the 10 months when Defendants allocated trades to that account, or approximately 30% of the time; and suffered net realized trading losses of at least \$13,910.

75. Between January 2021 and November 2021, when Defendants allocated trades to the Managed Accounts from the suspense account at FCM 3, the Managed Accounts were collectively profitable only in 4 of 11 months, or approximately 36% of the time; and suffered net realized trading losses of at least \$254,434.

76. This disparity between the profits generated for the Proprietary Accounts versus the profits generated for the Customer Accounts is inconsistent with a fair and equitable allocation of trades executed via bunched orders and post-trade allocation. By knowingly or recklessly allocating the trades they executed in the suspense accounts at FCM 7 and FCM 3 in a manner that consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts, Defendants defrauded participants in the Cryptocurrency Pool and FX Pool as well as the Managed Account customers.

77. This is further illustrated by the fact that, even though Defendants fraudulently allocated trades to the Cryptocurrency Pool, the FX Pool, and the Managed Accounts for only a portion of the time for which Defendants traded on their behalf, Defendants' fraudulent allocations reduced the overall profitability of the Cryptocurrency Pool, the FX Pool, and the Managed Accounts over their entire existence. The Cryptocurrency Pool as a whole was

profitable only in 12 of 34 months Defendants operated it, or approximately 35% of the time.

The FX Pool as a whole was profitable only in 12 of 26 months Defendants operated it, or approximately 38% of the time. The Managed Accounts were collectively profitable only in 7 of 18 months, or approximately 39% of the time.

78. By knowingly or recklessly allocating the trades they executed in the suspense accounts at FCM 7 and FCM 3 in a manner that consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts, Defendants also contradicted the express representations they made to participants in the Cryptocurrency Pool and the FX Pool in the PPMs; specifically, the representation that Defendants would “act in a manner that it considers fair and equitable in allocating investing opportunities” among the various pools, managed accounts, and Proprietary Accounts Defendants were trading for. Similarly, by allocating trades in the manner described above, Defendants contradicted the representation they made to at least some Managed Account customers in the Trading Advisory Agreement that Defendants would allocate trades “in a fair and equitable manner so that no account or group of accounts consistently receives favourable or unfavourable [sic] treatment over time.”

79. Defendants fraudulently allocated trades in the manner described above on nearly a daily basis throughout the Relevant Period. Defendants engaged in this conduct with respect to the Cryptocurrency Pool beginning in January 2019 and continuing through October 2020, when Defendants ceased trading for and operating the Cryptocurrency Pool. Defendants engaged in this conduct with respect to the FX Pool beginning in January 2021 and continuing through November 2021, when Defendants ceased trading for and operating the FX Pool. Defendants engaged in this conduct with respect to the Managed Accounts beginning in January 2021 and continuing through November 2021.

c. Kambolin and Others Transferred Profits Generated in the Proprietary Accounts to Bank Accounts They Controlled.

80. During the Relevant Period, Kambolin transferred at least \$600,000 from Jersey City's trading accounts to Jersey City's bank accounts. Kambolin then routinely transferred money from Jersey City's bank accounts to his personal bank accounts or to other bank accounts controlled by him. Jersey City had no other legitimate claim to the money Kambolin transferred from Jersey City's trading accounts to Jersey City's bank accounts.

81. During the Relevant Period, at least \$ 850,000 was transferred from Thor's trading accounts to Thor's bank accounts at non-U.S. financial institutions. Thor had no other legitimate claim to the money transferred from Thor's trading accounts to Thor's bank accounts.

82. In addition, SAM received from Thor a total of \$338,783.66 in management and incentive fees based on Defendants' trading for the Thor Accounts.

3. Examples of Defendants' Fraudulent Allocations.

a. May 20, 2019

83. On May 20, 2019, Defendants, placed multiple bunched orders in the suspense account at FCM 7. As a result, executed round-trip trades in three different equity index futures contracts, the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and E-mini S&P 500 Index, all traded on CME. Defendants also executed trades through these bunched orders that resulted in small (1 or 2 lot) positions in the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and E-mini Nasdaq-100 Index (also traded on CME) futures contracts that remained open at the end of the trading day.

84. By the end of the trading day on May 20, 2019, Defendants had realized profits of \$7,157.14 on their round-trip trades in the E-mini S&P Midcap 400 Index contract and profits of

\$1,150 on their round-trip trades in the E-mini Russell 2000 Index contract. Defendants realized losses of \$6,937.50 on their round-trip trades in the E-mini S&P 500 Index contract.

85. At the end of the day, after Defendants had realized these profits and losses, Kambolin or an employee of SAM acting at Kambolin's direction, uploaded a file to FCM 7's customer portal containing Defendants' instructions to FCM 7 on how to allocate the trades between the Thor account and the Cryptocurrency Pool account. Pursuant to these instructions, FCM 7 allocated the round-trip trades in the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract to the Thor account. Pursuant to these instructions, FCM 7 allocated the round-trip trades in the E-mini S&P 500 Index to the Cryptocurrency Pool account. As a result of this allocation, the Thor account obtained \$8,307.14 in profits from the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract round-trip trades. The Cryptocurrency Pool incurred the \$6,937.50 loss from the E-mini S&P 500 Index contract round-trip trades.

86. The profits and losses resulting from Defendants' allocation of round-trip trades between the Thor account and the Cryptocurrency Pool account is shown in the following table:

5/20/2019	Thor			Cryptocurrency Pool		
	Long	Short	P/L	Long	Short	P/L
E-mini S&P Midcap 400 Index (ME)	6	6	\$ 7,157.14	1		-OPEN-
E-mini Russell 2000 Index (RTY)	2	2	\$ 1,150.00	1		-OPEN-
E-mini S&P 500 Index (ES)				10	10	\$ (6,937.50)
E-mini Nasdaq-100 Index (NQ)				2		-OPEN-

b. October 6, 2020

87. On October 6, 2020, Defendants placed multiple bunched orders in the suspense account at FCM 3. As a result, Defendants executed round-trip trades in three different equity index futures contracts, the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and the E-mini Nasdaq-100 Index.

88. By the end of the trading day, Defendants realized profits of \$8,250 on their round-trip trades in the E-mini Russell 2000 Index contract and profits of \$ 3,820 on their round-trip trades in the E-mini S&P Midcap 400 Index contract. Defendants realized losses of \$6,100 on their round-trip trades in the E-mini Nasdaq-100 Index contract.

89. At the end of the day, after Defendants had realized these profits and losses, Kambolin sent an email to FCM 3 containing instructions on how to allocate these round-trip trades between the Jersey City account and the Cryptocurrency Pool account. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract to the Jersey City account. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the E-mini Nasdaq-100 contract to the Cryptocurrency Pool account. As a result of this allocation, the Jersey City account obtained \$12,070 in profits from the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract round-trip trades. The Cryptocurrency Pool incurred the \$6,100 loss from the E-mini Nasdaq-100 Index contract round-trip trades.

90. The profits and losses resulting from Defendants' allocation of round-trip trades between the Jersey City account and the Cryptocurrency Pool account is shown in the following table:

10/6/2020	Jersey City			Cryptocurrency Pool		
	Long	Short	P/L	Long	Short	P/L
E-mini Russell 2000 Index (RTY)	5	5	\$ 8,250.00			
E-mini S&P Midcap 400 Index (ME)	1	1	\$ 3,820.00			
E-mini Nasdaq-100 Index (NQ)				5	5	\$ (6,100.00)

c. January 12, 2021

91. On January 12, 2021, Defendants placed multiple bunched orders in the suspense account at FCM 3. As a result, Defendants executed round-trip trades in four different equity index futures contracts, the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index,

and the E-mini Nasdaq-100 Index, and the E-mini S&P 500 Index; as well as round-trip trades in the Japanese Yen futures contract listed on CME. Defendants also executed trades in two additional FX futures, the Swiss Franc contract and Euro FX contract traded on CME, that closed positions in those contracts Defendants had opened on a previous day.

92. By the end of the trading day, Defendants had realized profits of \$5,125 on their round-trip trades in the Japanese Yen contract, profits of \$620 on their round-trip trades in the E-mini Nasdaq-100 Index contract, and profits of \$375 on their round-trip trades in the E-mini S&P 500 Index contract. Defendants realized losses of \$2,350 on their round-trip trades in the E-mini Russell 2000 contract and losses of \$6,500 on their round-trip trades in the E-mini S&P Midcap 400 Index contract. In addition, Defendants realized losses of \$2,437.50 on their trades in the Swiss Franc contract that closed a previously-opened position, and realized losses of \$2,737.50 on their trades in the Euro FX contract that closed a previously-opened position.

93. At the end of the day, after Defendants had realized these profits and losses, Kambolin sent an email to FCM 3 containing instructions on how to allocate these trades between the Jersey City account, the FX Pool account, and one of Defendants' managed accounts. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the Japanese Yen contract to the Jersey City account. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the E-mini Nasdaq-100 Index contract, the E-mini S&P 500 Index contract, the E-mini Russell 2000 Index contract, and the E-mini S&P Midcap 400 contract to the FX Pool account. Pursuant to these instructions, FCM 3 allocated the trades in the Swiss Franc contract and the Euro FX contract that closed previously-opened positions, to the FX Pool account and the managed account. As a result of this allocation, the Jersey City account obtained \$5,125 in profits from the Japanese Yen contract round-trip trades. The FX Pool incurred a total of

\$13,030 in losses, and the managed account incurred a total of \$ 3,587.50 in losses, from the allocation of the remaining trades.

94. The profits and losses resulting from Defendants' allocation of trades among the Jersey City account, the FX pool account, and the managed account is shown in the following table:

1/12/2021	Jersey City			FX Pool			Managed Account		
	Long	Short	P/L	Long	Short	P/L	Long	Short	P/L
Yen Futures (J1)	20	20	\$ 5,125.00						
E-mini Nasdaq-100 Index (NQ)				4	4	\$ 620.00			
E-mini S&P 500 Index (ES)				3	3	\$ 375.00			
E-mini Russell 2000 Index (RTY)				5	5	\$ (2,350.00)			
E-mini S&P Midcap 400 Index (ME)				11	10	\$ (6,500.00)			
Swiss Franc Futures (E1)					3	\$ (2,437.50)		3	\$ (2,237.50)
Euro FX Futures (EC)					3	\$ (2,737.50)		2	\$ (1,350.00)

E. Defendants Fraudulently Misrepresented the Trading Strategy that SAM Would Use When Trading for the Cryptocurrency Pool and the FX Pool.

95. Defendants marketed the Cryptocurrency Pool and the FX Pool as employing trading strategies focused on cryptocurrency futures and FX futures, respectively, and offered similar strategies to the Managed Account customers. Nevertheless, Defendants regularly traded a variety of futures contracts other than cryptocurrency futures and FX futures, such as various equity index futures, when trading for the Customer Accounts and Proprietary Accounts using bunched orders in the suspense accounts at FCM 7 and FCM 3.

96. The PPMs for the Cryptocurrency Pool (as amended by the April 2019 supplement) and the FX Pool stated that Defendants may trade a variety of financial futures contracts other than cryptocurrency futures and FX futures "to provide further diversification" or "broaden its investment processes." However, contrary to the impression Defendants' created through their representations regarding the investment strategy particular to each commodity pool, Defendants traded large quantities of equity index futures contracts relative to

cryptocurrency futures and FX futures, using bunched orders in the suspense accounts at FCM 7 and FCM 3.

97. During the Relevant Period, only approximately 55% of the Defendants' trading for the Cryptocurrency Pool involved cryptocurrency futures. All of the other trades Defendants executed and allocated to the Cryptocurrency Pool's account involved equity index futures contracts. During the Relevant Period, only approximately 55% of the trades allocated to the FX Pool accounts involved FX futures, with the remaining trades involving equity index futures.

F. SAM is Vicariously Liable for Kambolin's Violations of the Act and Regulations.

98. Kambolin was acting as SAM's agent and within the scope of his employment for SAM when Kambolin fraudulently allocated trades between the Proprietary Accounts and the Customer Accounts to generate trading profits for the Proprietary Accounts. Kambolin engaged in the fraudulent allocations of trades alleged herein in the course of executing trades and allocating them to commodity pools operated by SAM as a registered CPO and managed accounts traded by SAM as a CTA.

99. SAM benefitted from Kambolin's fraudulent allocation of trades to generate trading profits for the Proprietary Accounts. SAM acted as a CTA for Thor and Jersey City, and Thor and Jersey City paid SAM incentive fees calculated as a percentage of the trading profits generated by Kambolin's and SAM's trading for Thor and Jersey City under the terms of their agreements with SAM.

G. Kambolin Was the Controlling Person of SAM.

100. During the Relevant Period, Kambolin was the owner, managing member, and Chief Executive Officer of SAM. During the Relevant Period, Kambolin controlled SAM, either directly or indirectly, as its owner, managing member, and Chief Executive Officer.

101. Kambolin did not act in good faith or knowingly induced, directly or indirectly, SAM's conduct by fraudulently allocating trades between the Proprietary Accounts and the Customer Accounts to generate profits for the Proprietary Accounts.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS

COUNT ONE

**Violation of Section 4b(a)(1)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(1)(A)-(C)
(Fraud in Connection with Futures)**

(All Defendants)

102. The allegations set forth in Paragraphs 1 through 101 are re-alleged and incorporated herein by reference.

103. 7 U.S.C. § 6b(a), in relevant part, makes it unlawful:

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

* * *

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

(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;[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 . . . the other person.

104. As described above, Defendants violated 7 U.S.C. § 6b(a)(1)(A)-(C) of the Act, in or in connection with futures contracts made for or on behalf of other persons, by knowingly or recklessly allocating the trades they executed for both the Proprietary Accounts and the Customer Accounts in a manner that was not fair and equitable but which consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts.

105. Defendants further violated Section 6b(a)(1)(A)-(C) by knowingly or recklessly: (1) misrepresenting to pool participants and Defendants' managed account customers in PPMs and Trading Advisory Agreements, respectively, that Defendants would allocate investment opportunities fairly and equitably among Defendants' various commodity pools, managed accounts, and the Proprietary Accounts; and (2) misrepresenting to participants in the Cryptocurrency Pool and the FX Pool the trading strategies that Defendants would employ and the types of trades Defendants would execute in the course of trading for each respective commodity pool.

106. Kambolin committed the acts, omissions, and/or failures described above within the scope of his agency, employment, and office at SAM; therefore, such acts, omissions, and/or failures are deemed to be those of SAM pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2 (2022).

107. At all times relevant to this Complaint, Kambolin controlled SAM, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, SAM's alleged conduct in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Kambolin is liable for SAM's violations of 7 U.S.C. § 6b(a)(1)(A)-(C) of the Act.

108. Each fraudulent or deceptive act, including each instance in which Defendants allocated trades to generate trading profits in the Proprietary Accounts as alleged herein, is alleged to be a separate and distinct violation of Section 4b(a)(1)(A)-(C) of the Act.

COUNT II

**Violations of Section 4o(1)(A)-(B) of the Act, 7 U.S.C. § 6o(1)(A), (B)
(Fraud by a Commodity Pool Operator and Commodity Trading Advisor)**

(All Defendants)

109. The allegations set forth in Paragraphs 1 through 103 are re-alleged and incorporated herein by reference.

110. 7 U.S.C. § 6o(1), in relevant part, makes it unlawful for a CPO, CTA, or AP of a CPO or CTA to use:

[T]he 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 a fraud or deceit upon any client or participant or prospective client or participant.

111. Section 1a(11)(A)(ii) of the Act, 7 U.S.C. §1a(11)(A)(ii), defines a CPO, in relevant part, as “any person . . . who is registered with the Commission as a [CPO].”

112. Section 1a(12)(A) of the Act, 7 U.S.C. § 1a(12)(A), defines a CTA, in relevant part, as “any person who—for compensation or profit, engages in the business of advising others . . . as to the value of or the advisability of trading in” futures contracts.

113. As alleged herein, at all times relevant to this Complaint, SAM was registered with the CFTC as a CPO and therefore a CPO as defined by 7 U.S.C. §1a(11)(A)(ii). At all

times relevant to this Complaint, SAM was registered with the CFTC as a CTA and acted as a CTA by engaging in the business of advising others as to the value or advisability of trading in any futures and/or options for compensation of profit, including by having discretionary trading authority over the accounts of SAM's managed account customers.

114. At all times relevant to this Complaint, Kambolin was registered with the CFTC as an AP of SAM. Kambolin acted as an AP of a CPO because he was a partner, officer, employee and/or agent of SAM, a registered CPO, and he solicited and accepted funds, securities, or property from pool participants for SAM for participation in a commodity pool. Kambolin acted as an AP of a CTA because he was a partner, officer, employee, consultant, or agent of SAM, a registered CTA, and was involved in the solicitation of a clients' or prospective clients' discretionary accounts.

115. During the Relevant Period, Defendants through the use of the mails or other means or instrumentalities of interstate commerce (including through the use of the telephone and internet), violated 7 U.S.C. §6o(1)(A)-(B) by knowingly or recklessly allocating the trades they executed for both the Proprietary Accounts and the Customer Accounts in a manner that was not fair and equitable but which consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts.

116. Defendants further violated 7 U.S.C. §6o(1)(A)-(B) by knowingly or recklessly: (1) misrepresenting to pool participants and Defendants' managed account customers in PPMs and Trading Advisory Agreements, respectively, that Defendants would allocate investment opportunities fairly and equitably among Defendants' various commodity pools, managed accounts, and the Proprietary Accounts; and (2) misrepresenting to participants in the Cryptocurrency Pool and the FX Pool the trading strategies that Defendants would employ and

the types of trades Defendants would execute in the course of trading for each respective commodity pool.

117. Kambolin committed the acts, omissions, and/or failures described above within the scope of his agency, employment, and office at SAM; therefore, such acts, omissions, and/or failures are deemed to be those of SAM pursuant to 7 U.S.C. § 2(a)(1)(B), and 17 C.F.R. § 1.2 .

118. At all times relevant to this Complaint, Kambolin controlled SAM, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, SAM's alleged conduct in this Count. Therefore, pursuant to 7 U.S.C. § 13c(b), Kambolin is liable for SAM's violations of 7 U.S.C. §6o(1)(A)-(B).

119. Each fraudulent or deceptive act, including each instance in which Defendants allocated trades to generate trading profits in the Proprietary Accounts as alleged herein, is alleged to be a separate and distinct violation of 7 U.S.C. §6o(1)(A)-(B).

COUNT III

Violation of Regulation 1.35(b)(5)(iv)(B), 17 C.F.R. § 1.35(b)(5)(iv)(B) (2022) (Inequitable Allocation of Orders)

(All Defendants)

120. The allegations set forth in Paragraphs 1 through 103 are re-alleged and incorporated herein by reference.

121. 17 C.F.R. §1.35(b)(5)(iv) states, in relevant part, that "Orders eligible for post-execution allocation must be allocated by an eligible account manager in accordance with the following:

(B) Allocations must be fair and equitable. No account or group of accounts may receive consistently favorable or unfavorable treatment."

122. At all times relevant to this Complaint, SAM was an eligible account manager under Regulation 1.35(b)(5)(i)(A), 17 C.F.R. §1.35(b)(5)(i)(A) (2022), as a CTA registered with the Commission. The bunched orders Defendants placed collectively on behalf of the Customer Accounts and the Proprietary Accounts were eligible for post-execution allocation.

123. During the Relevant Period, SAM violated 17 C.F.R. §1.35(b)(5)(iv)(B) by knowingly or recklessly allocating the trades it executed for both the Proprietary Accounts and the Customer Accounts in a manner that was not fair and equitable but which consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts.

124. At all times relevant to this Complaint, Kambolin controlled SAM, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, SAM's alleged conduct in this Count. Therefore, pursuant to 7 U.S.C. § 13c(b), Kambolin is liable for SAM's violations of 17 C.F.R. §1.35(b)(5)(iv)(B).

125. Each instance in which Defendants allocated trades unfairly and inequitably allocated trades to generate trading profits in the Proprietary Accounts as alleged herein, is alleged to be a separate and distinct violation of 17 C.F.R. §1.35(b)(5)(iv)(B).

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, and pursuant to its own equitable powers:

- A. Find that Defendants violated Sections 4b(a)(1)(A)-(C) and 4o(1)(A)-(B) of the Act, 7 U.S.C. §§6b(a)(1)(A)-(C), 6o(1)(A)-(B), and Regulation 1.35(b)(5)(iv)(B), 17 C.F.R. §1.35(b)(5)(iv)(B) (2022);
- B. Enter an order of permanent injunction enjoining Defendants and their affiliates, agents, servants, employees, successors, assigns, attorneys, and all persons in

active concert with them, who receive actual notice of such order by personal service or otherwise, from engaging in the conduct described above in violation of 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6o(1)(A)-(B) and 17 C.F.R. §1.35(b)(5)(iv)(B).

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

- 1) Trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40);
- 2) Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022), for accounts held in the name of any Defendant or for accounts in which any Defendant has a direct or personal interest;
- 3) Having any commodity interest traded on any 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 interest;
- 5) Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests;
- 6) Applying for registration or claiming any 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 in Regulation 4.14(a)(9), 17 C.F.R. § 4.14 (a)(9) (2022); and

- 7) Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2022), 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).
- D. Enter an order directing Defendants, 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 from, directly or indirectly, the acts or practices which constitute violations of the Act and Regulations as described herein, and pre- and post-judgment interest;
- E. Enter an order directing Relief Defendants, including 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 which constitute violations of the Act or Regulations as described herein, including pre- and post-judgment interest;
- F. Enter an order directing Defendants, as well as any successors thereof, to make full restitution, pursuant to such procedure as the Court may order, to every customer, investor, pool participant whose funds any Defendant received, or caused another person or entity to receive, as a result of the acts and practices constituting violations of the Act and Regulations, as described herein, including pre- and post-judgment interest;

- G. Enter an order directing Defendants, as well as any successors thereof, to rescind, pursuant to such procedure as the Court may order, all contracts and agreements, whether express or implied, entered into between, with or among Defendants and any of the pool participants or other customers whose funds were received by Defendants as a result of the acts and practices which constituted violations of the Act and Regulations, as described herein;
- H. Enter an order directing Defendants to pay civil monetary penalties 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), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act 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 (2022), for each violation of the Act and Regulations, as described herein;
- I. Enter an order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2413(a)(2) and
- J. Enter an order for such other and further relief as the Court may deem necessary and appropriate under the circumstances.

Dated: April 24, 2023

Respectfully submitted,

**COMMODITY FUTURES TRADING
COMMISSION**

A handwritten signature in black ink, appearing to read 'T. Simek', is written over a horizontal line.

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