

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 9:23-cv-81320

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COMMODITY FUTURES TRADING :  
COMMISSION, :  
  
Plaintiff, :  
  
v. :  
  
MOSAIC EXCHANGE LIMITED, a :  
limited liability company, :  
  
and :  
  
SEAN MICHAEL, individually and as :  
an officer of MOSAIC EXCHANGE :  
LIMITED, :  
  
Defendants. :  
  
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**COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL MONETARY  
PENALTIES, RESTITUTION, AND OTHER EQUITABLE RELIEF  
UNDER THE COMMODITY EXCHANGE ACT**

Plaintiff, Commodity Futures Trading Commission (the “CFTC” or “Commission”), an independent federal agency, by its attorneys, alleges as follows:

**I. INTRODUCTION**

1. From approximately February 2019 to in or about June 2021 (the “Relevant Period”), Mosaic Exchange Limited, through its officers, agents, and employees (“Mosaic”), and Sean Michael directly ( “Michael,” and collectively, “Defendants”), fraudulently solicited and induced individuals in the United States and other countries to open accounts with and transfer

bitcoin (“BTC”), a digital asset commodity, or other funds to Defendants for Mosaic to trade futures contracts and/or swaps on, and engage in spot transactions and transactions on a leveraged or margined basis in, digital asset commodities on customers’ behalves through pooled and individual accounts. As described below, many of the transactions involving leverage or margin were transactions described in Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D) (“leveraged or margined retail commodity transactions”).

2. To induce customers and prospective customers to open accounts with Mosaic, Mosaic, while acting as a Commodity Pool Operator (“CPO”), and Michael, while acting as an Associated Person (“AP”) of a CPO, falsely represented and advertised, among other things, that Mosaic: (a) was a cryptocurrency trading platform with tens of millions of dollars in assets under management; (b) offered a Mosaic-designed proprietary trading algorithm (“Mosaic AI” or “algorithm”) to trade, according to Mosaic, “futures,” “spot” and/or “leveraged” digital asset commodity contracts that was purportedly 82% accurate, and purportedly had profit margins at various times ranging from “20% [to] 60% per month” and “10% to 50+% per month”; and (c) had partnerships or broker agreements with certain cryptocurrency trading exchanges.

3. In actuality, contrary to Defendants’ representations, Mosaic was not a trading platform with tens of millions of dollars of assets under management, Mosaic did not have the track record of trading profitability as represented but instead it lost money trading for customers, and Mosaic did not have partnership or broker agreements with the cryptocurrency exchanges that Defendants advertised they had.

4. In addition, Defendants misappropriated some of the customer funds to pay for Michael’s restaurant and travel expenses.

5. As a result of Defendants' fraudulent scheme, at least 17 persons located in the United States, including Florida, and other countries gave Defendants hundreds of thousands of dollars' worth of BTC or other funds for Defendants to engage in trading related to BTC and other digital asset commodities through Mosaic on the customers' behalves. Defendants traded futures contracts and/or swaps and engaged in spot and leveraged or margined retail commodity transactions in BTC and other digital asset commodities for many customers, and many lost most if not all of their money.

6. By this conduct and the conduct further described herein, Defendants have engaged, are engaging, or are about to engage in fraudulent acts and practices in violation of Sections 4b(a)(2)(A) and (C), 4o(1)(A) and (B), 6(c)(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A) and (C), 6o(1)(A) and (B), 9(1), and Commission Regulations ("Regulations") 4.41 and 180.1(a), 17 C.F.R. §§ 4.41, 180.1(a) (2022).

7. At all relevant times, the acts of Michael and other Mosaic agents and employees were committed within the scope of their employment, agency, or office with Mosaic. Therefore, 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), Mosaic is liable as principal for their actions in violation of the CEA and Regulations.

8. At all relevant times, Michael was the controlling person of Mosaic and knowingly induced the underlying violations of the CEA and Regulations or failed to act in good faith. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Michael is liable as the controlling person for the actions of Mosaic in violation of the CEA and Regulations.

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

10. Accordingly, pursuant to Sections 2(c)(2)(D) and 6c of the Act, 7 U.S.C. §§ 2(c)(2)(D) and 13a-1, the Commission brings this action to 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 interest or digital asset commodity related activity. Additionally, the Commission seeks civil monetary penalties, restitution, disgorgement of Defendants' ill-gotten gains, and ancillary remedial relief, including, but not limited to, permanent trading and registration bans, rescission, fees and costs, pre- and post-judgment interest, and such equitable relief as this Court may deem necessary or appropriate.

## **II. JURISDICTION AND VENUE**

11. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1345 (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 of the Act, 7 U.S.C. § 13a-1, authorizes the CFTC to seek injunctive relief against any person whenever it shall appear to the CFTC 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 CEA or any rule, regulation, or order thereunder.

12. Venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e) because Defendants transacted business in this District and certain acts and practices alleged in this Complaint occurred within this District, among other places.

### **III. THE PARTIES**

13. Plaintiff **Commodity Futures Trading Commission** is an independent federal regulatory agency charged by Congress with the administration and enforcement of the CEA and the Regulations promulgated thereunder. The CFTC maintains its principal office in Washington, D.C.

14. Defendant **Mosaic Exchange Limited** registered as a limited liability company in Pennsylvania in May 2019. It also was registered as a Private Limited Company in the United Kingdom from January 2019 until in or about September 2020. Mosaic conducted business during the Relevant Period from Boca Raton, Florida, among other places. Mosaic has never been registered with the CFTC in any capacity.

15. Defendant **Sean Michael** is an individual who resided during the Relevant Period in Boca Raton, Florida, among other places. Throughout the Relevant Period, Michael conducted business on behalf of Mosaic in Boca Raton, Florida, among other places. Michael has never been registered with the CFTC in any capacity.

### **IV. Relevant Statutory Definitions and Derivative Liability Under the CEA and Regulations**

#### **A. Statutory Definitions**

16. A digital asset is anything that can be stored and transmitted electronically and has associated ownership or use rights. Digital assets include virtual currencies that are digital representations of value that function as mediums of exchange, units of account, and/or stores of value. Certain digital assets, including BTC and Ethereum (“ETH”), as well as other virtual currencies, are “commodities,” as defined under Section 1a(9) of the Act, 7 U.S.C. § 1a(9).

17. Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D), applies to any agreement, contract, or transaction in any commodity that is entered into with or offered to (even if not

entered into with) persons that are not eligible contract participants “on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis,” with limited exceptions not applicable here (as described above, “leveraged or margined retail commodity transactions”).

18. Section 2(c)(2)(D)(iii), 7 U.S.C. § 2(c)(2)(D)(iii), provides that leveraged or margined retail commodity transactions are treated “as if the agreement, contract, or transaction was a contract of a sale of a commodity for future delivery.”

19. An eligible contract participant (“ECP”) is, in relevant part, an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$10 million, or \$5 million if the individual enters into the transaction “in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.” Section 1a(18)(xi) of the Act, 7 U.S.C. § 1a(18)(xi).

20. Section 1a(11) of the Act, 7 U.S.C. § 1a(11), in relevant part, defines a CPO as:

any person — (i) engaged 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 . . . otherwise, for the purpose of trading in commodity interests, including any — (I) commodity for future delivery [or] swap; [or] (II) agreement, contract, or transaction described in . . . Section 2(c)(2)(D)(i).

21. Regulation 1.3, 17 C.F.R. § 1.3, in relevant part, defines an AP of a CPO as any “partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged[.]”

**B. Provisions Authorizing Imposition of Derivative Liability Under the CEA and Regulations**

22. 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), provide that the “act, omission, or failure of any official, agent, or other person acting for . . . any corporation . . . within the scope of his employment or office, shall be deemed the act, omission, or failure of such . . . corporation . . . as well as such official, agent, or other person.”

23. Section 13(b) of the Act, 7 U.S.C. § 13c(b), provides that any “person who, directly or indirectly, controls any person who has violated any provision of this chapter or any of the rules, regulations, or orders issued pursuant to this chapter may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violation.”

**V. FACTS**

**A. Background**

24. Michael was Mosaic’s sole owner, its principal, and its Chief Executive Officer (“CEO”).

25. Throughout the Relevant Period, Mosaic maintained a website at [www.mosaicexchange.co](http://www.mosaicexchange.co).

26. Mosaic represented on its website and in advertisements posted to the internet that Mosaic was a “Cryptocurrency Exchange and Trading Platform” with offices throughout the world, including within the United States.

27. Defendants represented on Mosaic's website, in advertisements posted to the internet, and/or in direct communications that they would trade "futures" and engage in "spot" transactions and "leveraged" digital asset commodity contracts on customers' behalves.

28. Customers opened trading accounts with Mosaic by signing up through the Mosaic website.

29. Mosaic stated in advertisements posted to the internet that customers were required to deposit at least one BTC with Mosaic to open a trading account. However, some customers were permitted to open a trading account by transferring money instead of BTC to Mosaic.

30. After signing up for a trading account with Mosaic, Mosaic emailed customers a Mosaic account username and password and a deposit address to transfer the required BTC or other funds to Mosaic. The Mosaic website also provided instructions on how to transfer the BTC or other funds to Mosaic.

31. During the Relevant Period, customers transferred BTC or other funds to Mosaic as instructed for the purpose of opening trading accounts with Mosaic.

32. After transferring the required BTC or other funds to the account, customers, according to Mosaic, purportedly were able to "buy" and "sell" through the Mosaic website "futures" contracts, and engage in "spot" transactions as well as "leveraged" retail commodity transactions, in digital asset commodities such as "Bitcoin, Ethereum and other digital currencies, and store them securely in your personal account."

33. Mosaic represented on its website and in advertisements posted to the internet that it was connected to top cryptocurrency exchanges, including HDR Global Trading Limited (also known as and hereinafter, "BitMEX"), and Binance Holdings Limited and its affiliates including,



Binance Holdings (IE) Limited and Binance (Services) Holdings Limited, (collectively hereinafter, “Binance”).

34. Mosaic claimed on its website and in advertisements posted to the internet and/or sent via email that its trading platform allowed customers to “leverage” their accounts through its partnerships with BitMEX and Binance.

35. As detailed in Paragraphs 68-72, 75-78, and 86-90 below, during the Relevant Period, Mosaic opened pooled and individual accounts for customers in the name of Mosaic with BitMEX and Binance:

- a. At BitMEX, Mosaic opened an account in its own name, deposited and pooled customer BTC or other funds in that account, and traded on behalf of the pool (the “Mosaic BitMEX Pool Trading Account”).
- b. At Binance, Mosaic opened a master account in its own name, deposited and pooled customer BTC or other funds in that account, and traded through the master account some customer funds as a pool (the “Mosaic Master Binance Pool Trading Account” or “master account” and, together with the Mosaic BitMEX Pool Trading Account, the “Mosaic Pools”).
- c. At Binance, under the Mosaic master account, Mosaic also opened customer-specific individual sub-accounts containing BTC or other funds from individual customers (the “Mosaic Binance Subaccounts” or “subaccounts”).

36. Through the Mosaic Pools and the Mosaic Binance Subaccounts, Mosaic, on behalf of customers, traded futures contracts and/or swaps on, and engaged in spot transactions and leveraged or margined retail commodity transactions in, digital asset commodities.

37. Many of the customers on whose behalves Mosaic traded were not ECPs as defined in Section 1a(18)(A)(xi) of the Act, 7 U.S.C. § 1a(18)(A)(xi).

38. Many of the digital assets relating to the trading at issue here, including BTC and ETH, are commodities in interstate commerce pursuant to Section 1a(9) of the Act, 7 U.S.C. § 1a(9).

39. Many of the contracts that Mosaic calls “futures” and/or “spot” on digital asset commodities, including BTC and ETH, were entered into with, or offered to, non-ECPs on a leveraged or margined basis and did not result in actual delivery of the underlying digital asset commodities within 28 days. These transactions are leveraged or margined retail commodity transactions subject to Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D).

40. Mosaic, through Michael, controlled the trading in the Mosaic Pools and the Mosaic Binance Subaccounts.

41. Defendants ultimately decided for one or more customers and/or brokers when to buy, when to sell, when to leverage, and when to hold contracts in BTC, ETH or other digital asset commodities, and executed trades for customers and/or brokers through the Mosaic Pools and the Mosaic Binance Subaccounts.

42. Mosaic represented in advertisements posted to the internet and/or sent via email that customers would be charged fees for trading through Mosaic, and charged commissions on profitable trades.

**B. Defendants’ False or Misleading Solicitations**

43. Throughout the Relevant Period, Mosaic, through its agents and employees, and Michael directly, advertised its business and solicited customers, prospective customers, brokers and prospective brokers through its website, on social media platforms, on internet job posting boards, and through email, telephone calls, in-person and other direct communications with customers, prospective customers, brokers and prospective brokers.

44. To induce customers, prospective customers, brokers and prospective brokers to open trading accounts with and transfer BTC or other funds to Mosaic, Defendants misrepresented in their advertisements and solicitations, among other things, that Mosaic purportedly had tens of millions of dollars in assets under management; had an algorithm that, among other things, purportedly had profit margins at various times ranging from “20% [to] 60% per month” and “10% to 50+% per month” or more; and had partnerships with BitMEX and Binance, and a broker agreement with Binance.

45. During the Relevant Period, Mosaic, through its agents and employees, and Michael directly, solicited at least 17 persons, at least 10 of whom were located in the United States, including in Florida, to deposit hundreds of thousands of dollars’ worth of BTC or fiat currency with Defendants for Defendants to engage in trading related to BTC, ETH, or other digital asset commodities through Mosaic on the customers’ behalves. As described in Paragraphs 65, 80-81, and 92-97 below, a number of customers lost all of the funds they transferred to Mosaic for Mosaic to trade digital asset commodities on their behalves.

**i. Defendants’ Misrepresentations Concerning Assets Under Management**

46. Mosaic claimed in advertisements posted to the internet and/or sent via email that it had anywhere from \$30 million to \$120 million assets under management. For example,

- a. Mosaic claimed in a July 10, 2019 article written by Michael and posted on the internet through a hyperlink to Mosaic’s Facebook.com webpage, entitled “Mosaic AI Machine Learning Bitcoin Leverage Trading with Bit[MEX], and Binance” (hereinafter, “the July 2019 article”), that Mosaic “[c]urrently . . . has 120 million in assets under management working in 32 countries with Fiat/BTC onboarding.”
- b. Mosaic claimed in a Glassdoor advertisement available on the internet in or about November 2019 that “currently we

have 30 million in assets under management projected to 50 million by years end.”

47. These claims were false. Mosaic did not have \$30 million to \$120 million in assets under management at BitMEX and Binance. Indeed, during the Relevant Period, customer funds under management by Defendants at BitMEX and Binance combined totaled less than \$700,000.

**ii. Defendants’ Misrepresentations and Material Omissions Regarding Profits and the Mosaic Algorithm**

48. Mosaic’s advertisements and website claimed that, by signing up with Mosaic, Mosaic would trade BTC and other digital asset commodities for customers using an algorithm designed by Michael, called Mosaic “Einstein AI” or “Mosaic AI.”

49. A July 2019 article written by Michael and posted through a hyperlink to Mosaic’s Facebook.com webpage claimed that once a customer signed up with Mosaic, funded his or her account, and followed the link to BitMEX and/or Binance, Mosaic’s “profit margins range[d] from 50% per month up to 300+%.”

50. In addition to website and internet advertisements, Defendants touted Mosaic’s supposed profitability to customers and prospective customers in emails, telephone calls and/or in-person communications. For example, beginning in or about February 2020, a prospective customer was told in various telephone calls by Mosaic through its agents and employees, including Michael, that the Mosaic AI historically had provided about 20% monthly profits. Based in part upon these representations, the customer opened an account with and transferred BTC to Mosaic. Thereafter, on or about February 13, 2020, this customer received an email from Defendants stating that, with respect to a Binance account: “You are now live with Mosaic AI trading your funds on average 20%-60% profit per month.”

51. As part of their fraudulent scheme, Mosaic and Michael recruited a number of Mosaic customers by first inducing them to become Mosaic “brokers.”

52. To do so, Mosaic placed various job advertisements during the Relevant Period for Mosaic “cryptocurrency broker” positions through internet job posting boards like Glassdoor and LinkedIn.

53. For example, during the summer of 2019 and again in November 2019, Mosaic listed job postings on the internet for “cryptocurrency broker.” The postings stated, among other things, that

- a. Mosaic traded using the Mosaic AI algorithm that was 82% accurate; and
- b. “Our AI software algorithm, risk management software and top traders monitoring the market are seeing minimum monthly ROI [return on investment] of 20%.

54. The postings also stated that, to become a broker with Mosaic, each broker was required to invest at least one BTC with Mosaic and that the average investment was five BTC.

55. During the Relevant Period, a number of persons agreed to be hired as Mosaic brokers based upon Defendants’ representations about Mosaic AI, customers’ ability to use leverage to trade, and Mosaic’s purported history of profitable trading, among other things. One or more of these brokers then opened trading accounts with Mosaic, and at least one transferred their personal BTC or other funds to Mosaic.

56. After hiring brokers, Defendants continued to tout the Mosaic AI’s supposed profitability to its brokerage staff. For example, after being hired as a broker by Mosaic, one person received an email on January 9, 2020, from a Mosaic employee stating “[g]lad to have you on board” and providing instructions on how to recommend Mosaic to prospective customers:

Recommending Mosaic is pretty simple. If you were to think about how you just recommend something you thought was really interesting, it's the same thought process with Mosaic. "Did you hear about Mosaic yet, yeah they act as a digital asset hedge fund that allows their Clients to Copy-Trade professional AI strategies and collect 80% of the profits in their accounts automatically. They win about 75+% of their trades and return a baseline of 15% to 20%+monthly. I've had an account with them for 30, 60, 90 days. I'd be happy to email/show you my results.["]

That's the basic conversational talk track. If they want more info link them to our Twitter for recent trades. . . . Mosaic historically returns 15%-20% + monthly, while mitigating risk with trailing stops and trailing profits, insurance trades, tight money % trade management and deep liquidity, with a running win rate above 75%.

57. Another customer – after becoming a Mosaic broker, opening a Mosaic account, and transferring BTC to Mosaic – received an email on February 13, 2020 from Michael stating, among other things, "You are now live with Mosaic AI trading your funds on average 20%-60% profit per month." Thereafter, on April 8, 2020, a Mosaic employee emailed the same customer a marketing document stating, among other things, that Mosaic had "profit margins range from 10% per month up to 50+%."

58. Mosaic did not generate profits or "win" rates as represented in Paragraph 56 above based upon the trading identified in Paragraphs 80-81, 92, and 94-96 below.

59. Additionally, during the Relevant Period, to further induce one or more customers, prospective customers, brokers, or prospective brokers to open accounts with Mosaic, Defendants sent via email or otherwise showed them documents purporting to show Mosaic's actual performance trading related to digital asset commodities.

60. One such document, which purported to show Mosaic's daily trading performance during the period from January to March 2019, showed that Mosaic predominately profited during daily trading on BitMEX. Defendants represented to one or more customer, prospective

customer, broker or prospective broker that the document showed Mosaic's actual results trading through "leverage" in connection with digital asset commodities on BitMEX during the three-month period.

61. In fact, however, these profit representations were hypothetical projections, and not actual trading results.

62. Defendants knew the profit representations were hypothetical projections and not actual results, but failed to disclose that fact to one or more customer, prospective customer, broker or prospective broker.

63. Similarly, Defendants sent to one or more customer, prospective customer, broker or prospective broker, what purported to be Mosaic's trading results on BitMEX for the period November to December 2019. That document claimed a "success rate" of between 64.29% to 78.95%. Defendants represented to one or more customers, prospective customers, brokers and/or prospective brokers that the document showed Mosaic's actual results from such trading on BitMEX during the two-month period, including in futures contracts.

64. In fact, however, in November 2019, Mosaic had a realized loss of approximately \$4,800 trading contracts on digital asset commodities on BitMEX, and in December 2019, Mosaic did no trading on BitMEX at all.

65. On information and belief, the Mosaic algorithm never consistently worked, never generated the represented profits, and ultimately was abandoned by Defendants. Indeed, a number of customers lost all of the funds they transferred to Mosaic for Mosaic to engage in trading relating to digital asset commodities on their behalves.

**iii. Defendants Misrepresentations Regarding Their Partnership and/or Broker Agreements with BitMEX and/or Binance**

66. Mosaic also touted on its website, in its internet advertisements, and in direct communications with customers and prospective customers that it had a “partnership” with BitMEX and Binance and was a broker for Binance.

67. Mosaic, however, never had a partnership or broker agreement with Binance. Nor did it have a partnership agreement with BitMEX.

**C. The Mosaic Pooled and Individual Trading Accounts**

68. To fund their Mosaic accounts for trading, Mosaic customers electronically transferred their BTC and/or other funds to a Mosaic bank or Coinpayment account, or a Mosaic trading account at BitMEX and/or Binance. At least one Mosaic customer wrote a check payable to Michael, and Michael deposited it into his personal bank account.

69. Once received, Defendants electronically transferred some or all of the customer’s BTC or other funds from the Mosaic corporate bank or Coinpayment accounts and/or Michael’s personal bank account to one or more of the following accounts:

- a. A Mosaic pooled account at Gemini Trust Company, LLC (“Gemini”) (“Mosaic Gemini Pool Account”).
- b. The Mosaic BitMEX Pool Trading Account.
- c. The Mosaic Master Binance Pool Trading Account.
- d. The Mosaic Binance Subaccounts created under the Mosaic Master Binance Pool Trading Account.
- e. Michael’s personal Gemini account.

70. During the Relevant Period, Defendants transferred customer funds from the Mosaic Gemini Pool Account to the Mosaic BitMEX Pool Trading Account, the Mosaic Master



Binance Pool Trading Account, two of the Mosaic Binance Subaccounts and/or the Mosaic corporate bank account.

71. Additionally, at least two customers deposited funds directly into Mosaic Binance Subaccounts.

72. Michael did not transfer all of the customer funds received into the Mosaic corporate bank account or his personal bank account into the accounts listed in Paragraphs 69.b., 69.c., or 69.d. above, but rather used the money, in part, to pay for personal expenditures such as hotels and restaurants.

**i. The Mosaic BitMEX Pool Trading Account**

73. During the Relevant Period, BitMEX operated a trading platform for the trading of futures, options, swaps, spot market transactions, and leveraged or margined retail commodity transactions involving various digital asset commodities, including BTC and ETH, including for persons in the United States.

74. During the Relevant Period, BitMEX offered leveraged or margined trading of digital asset commodities to retail non-ECs, and other market participants, through its website, including those located in the United States.

75. In or about late February 2019, Michael opened the Mosaic BitMEX Pool Trading Account in Mosaic's name to engage in trading related to BTC and other digital asset commodities for Mosaic's customers.

76. During the Relevant Period, from the Mosaic BitMEX Pool Trading Account, customer funds were traded as part of a pool.

77. During the Relevant Period, Defendants executed trades for the Mosaic BitMEX Pool Trading Account.

78. Through that Mosaic BitMEX Pool Trading Account, Defendants traded futures contracts and/or swaps on, and likely also engaged in spot and/or leveraged or margined retail commodity transactions in, digital asset commodities.

79. During the period February 2019 through January 2020, Defendants deposited approximately 36.4 BTC – valued in U.S. dollars as approximately \$323,284 at the time of the deposit – into the Mosaic BitMEX Pool Trading Account. The majority of the funds were transferred to BitMEX from the Mosaic Gemini Pool Account, the Mosaic Master Binance Pool Trading Account, and the Michael’s personal Gemini account.

80. Throughout the lifetime of the account, the Mosaic BitMEX Pool Trading Account never realized a profit from the trading, but instead lost money in every month of the account’s existence. Ultimately, the Mosaic BitMEX Pool Trading Account realized a total loss over the account’s lifetime of approximately 30 BTC, valued in U.S. dollars as approximately \$314,000.

81. Defendants trading on customers’ behalves through the Mosaic BitMEX Pool Trading Account did not generate trading profits as represented; rather, Defendants’ trading resulted in the loss of almost the entire amount used to fund the Mosaic BitMEX Pool Trading Account.

82. On top of the losses, Michael withdrew approximately 6.4 BTC from the Mosaic BitMEX Pool Trading Account over the account’s lifetime. On information and belief, Defendants did not return all of that money to Mosaic’s customers, but rather withdrew the majority to fund the Michael personal Gemini account.

**ii. The Mosaic Master Binance Pool Trading Account and the Mosaic Binance Subaccounts**

83. During the Relevant Period, Binance operated a trading platform for the trading of futures, options, swaps, spot market commodity, and leveraged or margined retail commodity transactions, including BTC and ETH, including for persons in the United States.

84. Beginning in or around September 2019, Binance offered both quarterly futures contracts, which are futures contracts, and perpetual contracts, which are swaps.

85. Beginning in July 2019, Binance offered leveraged or margined trading of digital asset commodities to non-ECPs and other market participants, through its website, including those located in the United States.

86. In or about February 2019, Michael opened the Mosaic Master Binance Pool Trading Account in Mosaic's name to engage in trading related to BTC and other digital asset commodities for Mosaic's customers. Under the Mosaic Binance Master Trading Account, Mosaic and Michael created "subaccounts" in the name of certain Mosaic customers.

87. As the master account holder, Defendants could (i) manage the permissions of the subaccounts, including freezing the subaccounts or changing account passwords; and (ii) execute trades for the subaccount holders.

88. During the Relevant Period, Defendants executed trades for the Mosaic Master Binance Pool Trading Account and for the Mosaic Binance Subaccounts.

89. Through the Mosaic Master Binance Pool Trading Account, Defendants traded futures contracts and/or swaps on, as well as engaged in spot and leveraged or margined retail commodity transactions in, digital asset commodities.

90. Through the Mosaic Binance Subaccounts, Defendants traded futures contracts and/or swaps on, and engaged in spot and/or leveraged or margined retail commodity transactions in, digital asset commodities.

91. Throughout the Relevant Period, Defendants deposited into the Mosaic Master Binance Pool Trading Account digital asset commodities valued at more than \$372,000.

92. From the Mosaic Master Binance Pool Trading Account, throughout the Relevant Period, Defendants transferred funds valued at approximately \$101,000, including customer funds, to the Mosaic BitMEX Pool Trading Account. Defendants then used those funds to trade futures contracts and/or swaps, and likely engaged in leveraged or margined retail commodity transactions, involving BTC and other digital asset commodities as a pool through the Mosaic BitMEX Pool Account. As stated in Paragraphs 80-81 above, the Mosaic BitMEX Pool Trading Account never realized a profit from the trading, but instead lost money in every month of the account's existence.

93. From the Mosaic Master Binance Pool Account, during the Relevant Period, Defendants also transferred customer funds valued at approximately \$139,000 to the Mosaic Binance Subaccounts. Defendants used those funds to trade futures contracts and/or swaps, as well as in spot and leveraged or margined retail commodity transactions, in BTC and other digital asset commodities through the subaccounts for the individual customer subaccount holders.

94. With respect to Defendants trading in futures contracts and spot transactions on digital asset commodities for the Mosaic Binance Subaccounts, while there were small profits in a few isolated months, Defendants lost money in every other month trading those products.

Accordingly, Defendants' trading in those products for customers through the Mosaic Binance Subaccounts did not result in the trading profits Defendants represented.

95. With respect to Defendants' engaging in other leveraged or margined transactions on digital asset commodities through the Mosaic Binance Subaccounts, on information and belief, Defendants' trading in those products similarly did not result in the trading profits represented, particularly given that the majority of trading in the subaccounts was conducted over a short period of time and the subaccounts ultimately showed a zero balance.

96. Finally, Defendants traded futures contracts and/or swaps on digital asset commodities on behalf of the pool through the Mosaic Master Binance Pool Trading Account. Defendants traded those products on behalf of the pool or the Master Binance Pool Trading from December 2019 through January 2020 and March 2020 through November 2020, for a total of eleven months. While there were small profits in four of those months, Defendants lost money trading futures contracts and/or swaps in every other month. Accordingly, Defendants' trading in those products on behalf of the pool did not result in the trading profits represented.

97. Defendants also engaged in spot and leveraged or margined transaction in digital asset commodities on behalf of the pool through the Mosaic Master Binance Pool Trading Account. With respect to those products, given the trading losses described in Paragraphs 80-81, 92 and 94-96 above, and on information and belief, Defendants' trading similarly did not result in the trading profits represented.

**D. Michael Controlled Mosaic and Solicited and Supervised the Solicitation of Funds to Engage in Trading Related to Digital Asset Commodities**

98. During the Relevant Period, Michael was the sole owner of Mosaic and CEO; was in charge of Mosaic's operations; and recruited, hired and supervised staff, including staff located in the United States.

99. During the Relevant Period, on information and belief, Michael prepared Mosaic's job postings and advertisements and other promotional material, and controlled the content on Mosaic's website.

100. During the Relevant Period, Michael opened and was the sole signatory to Mosaic's bank and other financial accounts located in the United States. Michael had the authority to direct deposits into, and payments and transfers from those accounts.

101. During the Relevant Period, Michael opened and, on information and belief, had control over Mosaic bank and other financial accounts into which customer funds were deposited for Mosaic to engage in trading related to digital asset commodity on their behalves.

102. During the Relevant Period, Michael solicited customers, prospective customers, brokers, and prospective brokers, including some located in the United States, to open trading accounts with Mosaic and to deposit BTC and other funds with Mosaic for Mosaic to engage in trading related to digital asset commodities on their behalves.

103. During the Relevant Period, Michael supervised one or more Mosaic agents and employees in their solicitation of customers, prospective customers, brokers, and prospective brokers, including some located in the United States, to open trading accounts with Mosaic and to deposit BTC and other funds with Mosaic for Mosaic to engage in trading related to digital asset commodities on their behalves.

104. Funds solicited by Michael directly, and/or by Mosaic agents and employees supervised by him, included funds that were traded through Mosaic pool accounts at BitMEX and Binance, and/or Mosaic-created customer Binance subaccounts.

105. During the Relevant Period, Michael opened trading accounts in the name of Mosaic at Binance and BitMEX through which he traded customer funds. In addition, at

Binance, Michael opened subaccounts for customers under the Mosaic Binance Master Pool Trading Account, and traded customer funds through both the master and subaccounts.

**E. Florida Long-Arm Jurisdiction for Service of Process Purposes**

106. During the Relevant Period and for purposes of Florida Statute § 48.181, Mosaic operated, conducted, engaged in, or carried on a business or business venture in the state of Florida, or had an office or agency in the state of Florida, insofar as it solicited at least one customer who resided in Florida, listed a business address in Florida, accepted customer funds in Florida, and owned at least one bank account which held customer funds in Florida.

107. For purposes under Florida Statute § 48.181, Mosaic is a nonresident foreign corporation insofar as it is a limited liability corporation that was incorporated in the state of Pennsylvania.

108. During the Relevant Period and for purposes of Florida Statute § 48.181, Michael operated, conducted, engaged in, or carried on a business or business venture in the state of Florida, or had an office or agency in the state of Florida, insofar as he solicited at least one customer who resided in Florida, listed a business address in Florida, accepted customer funds in Florida, and owned at least one bank account which held customer funds in Florida.

109. For purposes of Florida Statute § 48.181, Michael is either a resident of Florida who subsequently became a nonresident, or a resident concealing his whereabouts.

**VI. VIOLATIONS OF THE COMMODITY EXCHANGE ACT  
AND CFTC REGULATIONS**

**COUNT ONE**

**Violations of 7 U.S.C. § 6b(a)(2)(A) and (C)  
Fraud in Connection with Futures and/or Swaps**

110. Paragraphs 1 through 109 of this Complaint are re-alleged and incorporated herein by reference.

111. As part of the conduct described herein, Defendants traded contracts of sale of commodities for future delivery and/or swaps for or on behalf of their customers.

112. Separately, as part of the conduct described herein, Defendants entered into agreements, contracts, or transactions in digital asset commodities that were entered into with, or offered to, non-ECPs on a leveraged or margined basis, as described in 7 U.S.C. § 2(c)(2)(D)(i), and which are not subject to the exemptions set for in 7 U.S.C. § 2(c)(2)(D)(ii) (as described above, “leveraged or margined retail commodity transactions”).

113. Section 4b of the Act, 7 U.S.C. § 6b, applies to such leveraged or margined retail commodity transactions “as if the agreement, contract, or transaction was a contract of a sale of a commodity for future delivery.” Section 2(c)(2)(D)(iii), 7 U.S.C. § 2(c)(2)(D)(iii).

114. Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C. § 6b(a)(2)(A) and (C), make it unlawful “for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery . . . 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[.]”



115. During the Relevant Period, Defendants violated 7 U.S.C.

§ 6b(a)(2)(A) and (C), by:

- a. Making material misrepresentations on the Mosaic website, in advertisements posted to the internet, and/or in electronic and other direct communications, including:
  - i. That Mosaic had \$30 million to \$120 million in assets under management;
  - ii. That Mosaic had historically earned specific monthly profits and that the Mosaic algorithm had specific “win” rates; and/or
  - iii. That Mosaic had a partnership agreement with BitMEX and/or Binance and a broker agreement with Binance.
- b. Omitting and failing to disclose material facts concerning Mosaic’s history of trading digital asset commodities and related products, including that the profit and win rate history trading digital asset commodities and related products as represented in Paragraphs 56-63 either never occurred or were hypothetical trading projections and not actual trading results; and
- c. Misappropriating some customer funds to pay for personal expenses, such to pay for, at least in part, Michael’s restaurant and travel expenses.

116. Each and every material misrepresentation and omission by Defendants, including but not limited to those specifically alleged herein, was made with the knowledge that, or made with reckless disregard of the fact that, it was false or misleading.

117. The foregoing acts, omissions, and failures of Mosaic employees and agents, including Michael, occurred within the scope of their employment, office, or agency with Mosaic; therefore, 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), Mosaic is liable for these acts, omissions, and failures and for its employees and agents' violations of 7 U.S.C. § 6b(a)(2)(A) and (C).

118. Michael directly and indirectly controlled Mosaic and did not act in good faith or knowingly induced the acts constituting Mosaic's violations, and is therefore liable, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), for Mosaic's violations of 7 U.S.C. § 6b(a)(2)(A) and (C).

119. Each material misrepresentation, material omission, or act of misappropriation made by Defendants, including but not limited to those specifically alleged herein, constitutes a separate and distinct violation of 7 U.S.C. § 6b(a)(2)(A) and (C).

## **COUNT TWO**

### **Violations of 7 U.S.C. § 6o and 17 C.F.R. § 4.41 Fraud by a Commodity Pool Operator And an Associated Person of a Commodity Pool Operator**

120. Paragraphs 1 through 109 of this Complaint are re-alleged and incorporated herein by reference.

121. As part of the conduct described herein, Defendants traded contracts of sale of commodities for future delivery and/or swaps for or on behalf of their customers.

122. Separately, as part of the conduct described herein, Defendants entered into agreements, contracts, or transactions in digital asset commodities that were entered into with, or offered to, non-ECPs on a leveraged or margined basis, as described in 7 U.S.C. § 2(c)(2)(D)(i), and which are not subject to the exceptions set forth in 7 U.S.C. § 2(c)(2)(D)(ii) (as described above, “leveraged or margined retail commodity transactions.”)

123. During the Relevant Period, Mosaic acted as a CPO, as defined in Section 1a(11) of the Act, 7 U.S.C. § 1a(11), and Michael acted as an AP of a CPO, as defined in Regulation 1.3, 17 C.F.R. § 1.3, by soliciting and accepting funds from others for the purpose of participating in a pool which traded futures contracts and/or swaps, and leveraged or margined retail commodity transactions subject to Section 2(c)(2)(D)(i) of the Act, 7 U.S.C. § 2(c)(2)(D)(i).

124. Section 4o(1) of the Act, 7 U.S.C. § 6o(1) provides in relevant part that:

It shall be unlawful for a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or (B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

125. Regulation 4.41(a), 17 C.F.R. § 4.41(a) (2022), provides in relevant part that no CPO or principal thereof “may advertise in a manner which: (1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client; [or] (2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client[.]”

126. During the Relevant Period, Mosaic, acting as a CPO, under Michael's direction, and Michael, acting as an AP of the CPO, through the use of the mails or other means or instrumentality of interstate commerce, violated 7 U.S.C. § 6o(1)(A) and (B) and 17 C.F.R. § 4.41(a)(1) and (2), by making the material misrepresentations, omitting and failing to disclose the material facts, and engaging in the acts of misappropriation set forth in Paragraph 115 of Count I.

127. Each and every material misrepresentation and omission by Defendants including but not limited to those specifically alleged herein, was made with the knowledge that, or made with reckless disregard of the fact that, it was false or misleading.

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

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

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

**COUNT THREE**

**Violations of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)  
Commodity Fraud – Deceptive Device or Contrivance; Fraudulent Scheme**

131. Paragraphs 1 through 109 of this Complaint are re-alleged and incorporated herein by reference.

132. Section 6(c) of the Act, 7 U.S.C. § 9(1), provides in relevant part:

It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate . . . .

133. 17 C.F.R. § 180.1(a) (2022) provides in relevant part:

It shall be unlawful for any person, directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly:

(1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;

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

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

134. The digital assets, including BTC, at issue here are commodities in interstate commerce pursuant to Section 1a(9) of the Act, 7 U.S.C. § 1a(9).

135. Defendants traded swaps for the benefit of their customers.

136. During the Relevant Period, in connection with a swap, and/or a contract of sale of any commodity in interstate commerce (i.e., the non-leveraged spot contracts on digital asset commodities, including BTC, that the Defendants traded), Defendants intentionally or recklessly (i) used or employed, or attempted to use or employ, manipulative or deceptive devices or contrivances; (ii) made or attempted to make untrue or misleading statements of material fact or omitted to state a material fact; and/or (iii) engaged or attempted to engage in an act, practice, or course of business, which operated or would operate as a fraud or deceit upon any person, in violation of 7 U.S.C. § 9(1), and 17 C.F.R. § 180.1(a), by making the material misrepresentations, omitting and failing to disclose the material facts, and engaging in the acts of misappropriation set forth in Paragraph 115 of Count I.

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

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

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

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

## **VII. 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, enter:

A. An order finding Defendants violated Sections 4b(a)(2)(A) and (C), 4o(1)(A) and (B), 6(c)(1), 7 U.S.C. §§ 6(a), 6b(a)(2)(A) and (C), 6o(1)(A) and (B), 9(1), and Regulations 4.41(b) and 180.1(a), 17 C.F.R. §§ 4.41(b) and 180.1(a) (2022);

B. An order of permanent injunction prohibiting Defendants, and any other person or entity associated with them, from engaging in conduct in violation of 7 U.S.C. §§ 6b(a)(2)(A) and (C), 6o(1)(A) and (B), and 9(1), and 17 C.F.R. §§ 4.41(b) and 180.1(a);

D. An order of permanent injunction prohibiting Defendants, and any of their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any one Defendant, including any successor thereof, from, directly or indirectly:

- i. 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));
- ii. Entering into any transactions involving "commodity interests" (as that term

is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022)) or digital asset commodities (as described herein), including BTC and ETH, for Defendants' accounts or for any account in which they have a direct or indirect interest;

- iii. Having any commodity interest or digital asset commodity, including BTC and ETH traded on Defendants' behalf;
- iv. Controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests or digital asset commodities, including BTC and ETH;
- v. Soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity interests or digital asset commodities, including BTC and ETH;
- vi. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission except as provided for 17 C.F.R. § 4.14(a)(9) (2022); and
- vii. Acting as a "principal" (as that term is defined in 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) (2022).

E. An order requiring Defendants and any third-party transferee and/or successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits



derived, directly or indirectly, from acts or practices with constitute violations of the Act and Regulations as described herein, including pre-judgment and post-judgment interest;

F. An order directing Defendants and any successors thereof, to rescind, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between them and any of the Customers whose funds were received by Defendants as a result of the acts and practices that constitute violations of the Act and Regulations as described herein;

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

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

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

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

September 26, 2023

Respectfully Submitted,

COMMODITY FUTURES TRADING COMMISSION



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