

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**DARREN ROBINSON, and
THE QYU HOLDINGS INC.,**

Defendants.

Case No.: 2:23-cv-12456

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

JURY TRIAL DEMANDED

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

I. SUMMARY

1. From at least January 1, 2017 to the present (the “Relevant Period”), Darren Robinson (“Robinson”) and The QYU Holdings Inc. (“QYUHI”) (collectively, “Defendants”), engaged, and continue to engage, in a multimillion-dollar fraudulent scheme through which Robinson, individually and as the agent of QYUHI, solicited and Defendants accepted not less than \$7.1 million from at least 30 members of the public to participate in a commodity pool operated by QYUHI

(“commodity pool” or “Pool”), for the purpose of trading in commodity interests, including foreign currency (“forex”) pairs on a leveraged, margined or financed basis with participants who are not eligible contract participants (“retail forex”) and forex futures contracts.

2. Instead of trading pool participants’ funds, Defendants misappropriated all of the pool participants’ funds by depositing them directly into QYUHI’s corporate bank account controlled by Robinson, rather than depositing the funds directly into an account carried in the name of the Pool at a Futures Commission Merchant (“FCM”) and/or a retail foreign exchange dealer (“RFED”). Defendants misappropriated, and continue to misappropriate, participants’ funds to pay Robinson’s personal expenses, including, but not limited to: luxury cruises, airfare, luxury vehicle purchases, real property purchases, credit cards payments, and other daily living expenses. Additionally, Defendants used not less than \$1,272,850 of later-in-time participants’ funds to pay earlier-in-time participants purported “profits” and/or “redemptions” in the nature of a Ponzi scheme.

3. Robinson, individually and as the agent of QYUHI, took steps to conceal the fraudulent activity by, among other things, creating fictitious trading data and providing false participant account statements which purported to show that each participant’s account in Defendants’ Pool consistently traded at a profit throughout the Relevant Period. In fact, these reports to participants were false.

Defendants failed to advise participants that there was no trading, no profits were ever generated by trading, and all of the participants' funds were misappropriated by Defendants.

4. Throughout the Relevant Period, while operating a business that was of the nature of a commodity pool, Defendants used the Internet, interstate wires, and other means or instrumentalities of interstate commerce, directly or indirectly, to employ a device, scheme, or artifice to defraud existing and prospective participants, and to engage in transactions, practices, or a course of business that operated as a fraud or deceit upon existing and prospective participants. Robinson, individually and as the agent of QYUHI, made, and continues to make, fraudulent omissions of material facts in solicitations through his "client managers" to actual and prospective pool participants, and/or in accepting funds from actual participants, and in account statements to actual participants, including but not limited to failing to disclose that: (1) Defendants never traded pool participant funds as promised; (2) Defendants did not open forex trading accounts in the name of the Pool with any lawfully operating commodity exchange, or with any registered FCM or RFED; (3) Defendants misappropriated, and are continuing to misappropriate, participants' funds; (4) the "account statements" provided to participants showing purported profits were false, created by Robinson, and not reflective of actual trading; (5) QYUHI was unlawfully acting, and continues to

unlawfully act, as an unregistered commodity pool operator (“CPO”); and
(6) Robinson was unlawfully acting, and continues to unlawfully act, as an unregistered associated person (“AP”) of a CPO.

5. Throughout the Relevant Period, QYUHI acted at all times, and continues to act, as a CPO without being registered with the Commission, in that it accepted, or received from participants, funds for the purpose of trading commodity interests. Throughout the Relevant Period, Robinson acted at all times, and continues to act, as an AP of a CPO without being registered with the Commission. At no time during the Relevant Period did QYUHI provide required disclosures and reports and keep and maintain the records required to be kept and maintained by a CPO, in violation of Commission Regulations (“Regulation(s)”) 4.21, 4.22, 4.23, and 5.4, 17 C.F.R. §§ 4.21, 4.22, 4.23, 5.4 (2022). Furthermore, throughout the Relevant Period, QYUHI, while acting as a CPO: failed to operate the commodity pool as a legal entity separate from itself; received funds from existing or prospective pool participants for the purchase of an interest in the Pool without receiving the same in the Pool’s name; and commingled Pool funds with the personal funds of Robinson and the corporate funds of QYUHI in violation of Regulations 4.20(a)(1), (b), and (c), and 5.4, 17 C.F.R. §§ 4.20(a)(1), (b), (c), 5.4 (2022).

6. By this conduct, and the conduct further described herein, Defendants

have engaged, are engaging and/or are about to engage in acts and practices in violation of Sections 2(c)(2)(C)(iii)(I)(cc), 4b(a)(1)(A)-(C), 4b(a)(2)(A)-(C), 4k(2), 4m(1), and 4o(1)(A)-(B) of the Commodity Exchange Act, (“Act”), 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6b(a)(1)(A)-(C), 6b(a)(2)(A)-(C), 6k(2), 6m(1), 6o(1)(A)-(B), and Regulations 4.20(a)(1), (b), and (c), 4.21, 4.22, 4.23, 5.2(b)(1)-(3), 5.3(a)(2)(i) and (ii), and 5.4, 17 C.F.R. §§ 4.20(a)(1), (b), (c), 4.21, 4.22, 4.23, 5.2(b)(1)-(3), 5.3(a)(2)(i), (ii), 5.4 (2022).

7. Robinson’s acts and omissions described herein were made within the scope of his employment or office at QYUHI during the Relevant Period. Therefore, QYUHI is liable for all acts and omissions by Robinson described herein, 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).

8. Robinson was, and is, a controlling person of QYUHI and did not act in good faith or knowingly induced QYUHI’s violations of the Act and Regulations described herein during the Relevant Period. Therefore, Robinson is liable for QYUHI’s violations of the Act and Regulations, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

9. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the CFTC brings this action to enjoin Defendants’ unlawful acts and practices and to compel their compliance with the Act and the Regulations promulgated thereunder.

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

10. Unless restrained and enjoined by this Court, Defendants will likely continue to engage in acts and practices alleged in this Complaint and similar acts and practices, as described below.

II. JURISDICTION AND VENUE

11. This Court possesses jurisdiction over this action pursuant to 28 U.S.C. § 1331 (codifying federal question jurisdiction) and 28 U.S.C. § 1345 (providing that U.S. district courts have original jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by act of Congress). In addition, Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), provides that U.S. district courts possess jurisdiction to hear actions brought by the CFTC for injunctive relief or to enforce compliance with the Act whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

12. Venue lies properly with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because Defendants reside and/or transact business in this

District, and certain transactions, acts, practices, and courses of business alleged in this Complaint occurred, are occurring, or are about to occur in this District.

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 Act, 7 U.S.C. §§ 1-26, and the Regulations promulgated thereunder, 17 C.F.R. pts. 1–190 (2022).

14. Defendant **Darren Robinson** is a U.S. citizen and, upon information and belief, resides or resided in Miami Beach, Florida during the Relevant Period. Robinson is the President, Treasurer, and Director of QYUHI. Robinson was registered with the CFTC as Principal, AP, and Forex AP of QYU Technologies Corp., a commodity trading advisor (“CTA”), from February 2018 until May 5, 2023, when his registration was withdrawn. Robinson has not been registered with the CFTC in any capacity since May 5, 2023.

15. Defendant **The QYU Holdings Inc.** is a corporation organized and operated pursuant to the laws of Wyoming, with a purported principal address in Dallas, Texas. Robinson is identified in the records of the Wyoming Secretary of State as the President, Treasurer and Director of QYUHI. QYUHI has never been registered with the CFTC in any capacity.

IV. RELATED INDIVIDUAL AND ENTITIES

16. **QYU Holdings Corporation** is a corporation organized and operated pursuant to the laws of the Republic of Panama. It is owned by Robinson and third parties not named in this Complaint. QYU Holdings Corporation was registered with the CFTC as a commodity trading advisor (“CTA”) on December 30, 2013; that registration was withdrawn on March 7, 2018. QYU Holdings Corporation was registered with the CFTC as a CPO on September 11, 2015; that registration was withdrawn on March 7, 2018. QYU Holdings Corporation has not been registered with the CFTC in any capacity since March 7, 2018.

17. **Dwight A. Foster** (“Foster”) is a dual citizen of the United States and Canada. Foster’s last known residence is in West Bloomfield, Michigan. Foster holds himself out as the President and CEO of K.E.L. Enterprises, Inc. Foster has never been registered with the CFTC in any capacity. Foster is a defendant in a suit recently filed by the Commission. *CFTC v. Foster*, Case No. 2:23-cv-11552-SFC-EAS (E.D. Mich. June 28, 2023).

18. **K.E.L. Enterprises, Inc.** (“KEL”) is a company organized and operated pursuant to the laws of Michigan on or about November 19, 1984. Foster is identified in the records of the Michigan Secretary of State, Corporations Division, as the President, Vice President, Treasurer and Secretary of KEL, as well as its registered agent. The records of the Michigan Secretary of State,

Corporations Division, identifies KEL's principal place of business as located in West Bloomfield, Michigan. KEL has never been registered with the CFTC in any capacity. KEL is also a defendant in *CFTC v. Foster*.

V. STATUTORY BACKGROUND

19. Section 2(c)(2)(C)(i)(I)(aa) and (bb) of the Act, 7 U.S.C.

§ 2(c)(2)(C)(i)(I)(aa), (bb), provides in relevant part that the Act applies to, and the CFTC shall have jurisdiction over, an agreement, contract or transaction in forex that is offered to, or entered into with, a person that is not an eligible contract participant ("ECP"), unless the counterparty, or the person offering to be the counterparty, of the person is one of the enumerated exceptions not applicable here, and is offered, or entered into, 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.

20. An ECP is defined by Section 1a(18)(A)(xi) of the Act, 7 U.S.C.

§ 1a(18)(A)(xi), in relevant part, as an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$10,000,000, or \$5,000,000 and who enters into the agreement, contract or transaction to manage the risk associated with an asset owned or a liability incurred, or reasonably likely to be owned or incurred, by the individual.

21. A commodity pool operator is defined by Section 1a(11)(A)(i-ii) of the Act, 7 U.S.C. § 1a(11)(A)(i-ii), in relevant part, as a person engaged in a business that is in the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who in connection therewith, solicits, accepts, or receives from others, funds, securities or property, either directly or through capital contributions, the sale of stock, or other forms of securities, or otherwise, for the purpose of trading commodity interests, including any agreement, contract, or transaction described in Section 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(C)(i).

22. A commodity pool is defined by Section 1a(10)(A) of the Act, 7 U.S.C. § 1a(10)(A), in relevant part, as any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests, including commodities for future delivery, and transactions, agreements or contracts in foreign currency as described by 7 U.S.C. § 2(c)(2)(C)(i).

23. A commodity trading advisor is defined by Section 1a(12)(A)(i-iii) of the Act, 7 U.S.C. § 1a(12)(A)(i-iii), in relevant part, as any person who for compensation or profit engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery, and agreements, contracts, or transactions in foreign currency as described by 7 U.S.C. § 2(c)(2)(C)(i).

VI. FACTS

A. The Fraudulent Scheme

a. Defendants' Solicitations to Participants and False Statements

24. Beginning in at least January 2017, Robinson, via his network of unregistered APs that he referred to as “client managers” that he supervised in his capacity as an officer of QYUHI, (hereafter referred to as “unregistered APs”), solicited members of the public in the Eastern District of Michigan and elsewhere to participate in a commodity pool purportedly operated by QYUHI for the purpose of trading in commodity interests, including retail forex and forex futures contracts. Robinson, through QYUHI’s unregistered APs, supervised and targeted the solicitations to participants who were not ECPs, and who were generally not sophisticated financially. Many of the individuals who were solicited by Robinson and QYUHI’s unregistered APs, and who ultimately become participants in Defendants’ Pool, were friends and family members of Robinson or QYUHI’s unregistered APs and had little to no experience trading forex or commodity interests.

25. Throughout the Relevant Period, Robinson, through QYUHI’s unregistered APs, solicited current and prospective pool participants through direct, person-to-person solicitations, and referrals from current pool participants. As part of the solicitation process, QYUHI’s unregistered APs provided actual and

prospective pool participants with written solicitation materials—drafted and/or approved by Robinson—from QYU Holdings Corporation, which was described in the solicitation materials as “a boutique professional trading firm which specializes in the commodities and foreign exchange market.”

26. Robinson, through QYUHI’s unregistered APs, represented to actual and prospective pool participants that Defendants pooled participants’ funds at a trading account in the name of QYU Holdings Corporation. However, such representations were false because no participant funds were sent by Defendants to a bank account carried in the name of QYU Holdings Corporation or traded in a pool operated by Defendants or QYU Holdings Corporation. Pool participants’ funds were ultimately misappropriated when deposited into QYUHI’s bank account, and thereafter transferred to other QYU entities’ bank accounts. At no time were participant funds used to trade forex in a pooled trading account on behalf of the pool participants.

27. As part of the fraudulent scheme, Robinson, individually and as the agent of QYUHI, provided written solicitation material he drafted, purportedly from QYU Holdings Corporation to actual and prospective participants via QYUHI’s unregistered APs, that touted QYU Holding Corporation’s trading experience and the “QYU Edge.” For example, the solicitation material stated:

QYU’s strength in trading, or QYU’s “Edge,” is built on our exceptional understanding and analysis of the nuances of the US

economy and our expert skill in dealing with financial markets...To summarize, the majority of our trades involve pairing the US Dollar with one of the seven major currencies.

The average person does not understand the great influence that trade agreements have on the world's countries because only an elite few benefit directly from those trade relationships. Those elite few may argue that the masses also gain a benefit from these agreements, but those benefits are only through ancillary effects.

Part of our success in the foreign currency markets comes from our ability to understand and analyze all of these economic components and relationships. The other part of our success comes from our trading skill which is based on our expert understanding of market behavior.

28. Defendants never operated a commodity pool as an entity cognizable as a separate legal entity and never had accounts at any registered FCM or RFED. QYU Holdings Corporation never operated a commodity pool or held accounts at any registered FCM or RFED, and Defendants never transferred participant funds from their bank accounts to any commodity interest trading account. There are no commodity interest accounts operated or controlled by Defendants at any registered FCM and/or RFED.

29. After accepting participants' funds, Defendants, through Robinson or QYUHI's unregistered APs, provided participants with electronic statements via online account access which falsely showed each participant's purported account in Defendants' Pool. These statements were false: there was no Pool and there was no trading taking place.

30. These accounts were purportedly held at QYU Holdings Corporation and purportedly traded by Robinson on behalf of the Pool. These statements, provided to participants through interstate commerce via the Internet, purported to show that Defendants' Pool traded at a profit each month during the Relevant Period. These statements were false, and no trading took place on behalf of the pool participants.

b. Omissions of Material Facts

31. In furtherance of the fraudulent scheme, Robinson, individually and as the agent of QYUHI, made fraudulent omissions of material facts in solicitations to actual and prospective pool participants either directly by Robinson and/or through QYUHI's unregistered APs who were supervised by Robinson, including but not limited to, failing to disclose that: Defendants were misappropriating participants' funds; Defendants were using later-in-time participants' funds to pay purported "profits" and/or "redemptions" to earlier-in-time participants, in the nature of a "Ponzi" scheme; Defendants were not registered with the Commission as a CPO or AP of a CPO; there was no QYU account in participant funds traded on behalf of the Pool; participants' funds were not used for trading forex futures contracts on any lawfully operating exchange; participants' funds were not used for trading retail forex with any registered FCM or RFED; and, the account "statements"

provided to participants showing profitable trading activity were created by Robinson and not reflective of actual trading.

32. Defendants' omissions of facts were, and are, material. Defendants failed to advise participants that at no time throughout the Relevant Period did Defendants transfer any participant funds to a commodity pool trading account or bank account in the name of QYU Holdings Corporation, or to any commodity trading account carried in the name of a CPO and/or RFED registered with the Commission. Rather than have participants send their funds directly to an FCM and/or RFED carrying a forex trading account in the name of the Pool, Defendants accepted participants' funds, either directly from participants or from bank accounts controlled by the unregistered APs, by depositing them into a bank account ending in *4708 carried in the name of QYUHI at Bank of America ("BOA") ("QYUHI BOA account"). These funds were misappropriated upon receipt, and were subsequently transferred by Defendants to other bank accounts carried in the name of other QYU entities at other foreign or domestic banking institutions. Robinson was, and remains, the primary signatory on the QYUHI BOA account.

33. For example, during the period December 13, 2018 to August 30, 2021, Robinson and QYUHI accepted more than \$6.7 million sent by pool participants into the QYUHI BOA account for the purpose of participating in

Robinson and QYUHI’s purported forex trading pool. All of this \$6.7 million came from related parties Foster and KEL, as KEL’s pool participants participated in Defendants’ Pool. In addition, during the period February 3, 2017 to November 8, 2018, the QYUHI BOA account received an additional \$469,000 from a bank account ending in *5733 carried in the name of QYUHI at Wells Fargo Bank (“WFB”)—all funds from pool participants. All of these funds were misappropriated.

34. Robinson and QYUHI also fraudulently used pool participant funds to pay more than \$1,272,850 to earlier-in-time participants in the form of purported “redemptions.” Because Robinson and QYUHI did not actually operate a forex trading pool on behalf of the pool participants, the “redemption” payments were actually Ponzi-like scheme payments made from funds that Robinson and QYUHI obtained from later-in-time pool participants.

c. Commingling Pool Funds

35. In addition, no participant funds that were originally transferred from the QYUHI BOA account to other QYU entities’ bank accounts were deposited into a pool trading account or used for trading commodity interests on behalf of pool participants.

36. Throughout the Relevant Period, Robinson and QYUHI commingled participants’ funds with third party funds by accepting participants’ funds into

bank accounts which were carried in the name of QYUHI, and controlled by Robinson. Robinson and QYUHI subsequently transferred participants' funds into bank accounts of third parties, unrelated to Robinson and QYUHI's Pool. At no time during the Relevant Period did Robinson and QYUHI deposit participant funds into an account carried in the name of the Pool at a registered FCM or RFED.

B. Failure to Provide Required Disclosures and Reports and Keep and Maintain Required Books and Records

37. Throughout the Relevant Period, QYUHI, as the CPO, failed to provide certain required disclosures and reports to prospective and/or actual participants and keep and maintain books and records required to be maintained by a CPO pursuant to Part 4 of the Commission's Regulations, 17 C.F.R. pt. 4 (2022). During the Relevant Period, QYUHI, as the CPO, failed to deliver to each prospective participant in the Pool the Disclosure Document required to be delivered pursuant to Regulation 4.21(a)(1), 17 C.F.R. § 4.21(a)(1) (2022), by each CPO registered or required to be registered with the Commission, by no later than the time the CPO delivers to the prospective participant a subscription agreement for the pool. At no time did QYUHI deliver a Disclosure Document to any prospective or actual participant in the Pool.

38. For each of the participants in the Pool, QYUHI failed to provide required reports to participants pursuant to Regulation 4.22(a), 17 C.F.R. § 4.22(a)

(2022), by a CPO registered, or required to be registered, with the Commission, including but not limited to: an Account Statement, presented in the form of a Statement of Operations and a Statement in Changes in Net Assets. The purported account statements Defendants provided to participants were not presented and computed in accordance with generally accepted accounting principles, as required by 17 C.F.R. § 4.22(a), and further failed to set-forth the information required by 17 C.F.R. § 4.22(a)(1)-(2), including, but not limited to:

- (i) the total amount of realized net gain or loss on commodity interest positions liquidated during the reporting period;
- (ii) the change in unrealized net gain or loss on commodity interest positions during the reporting period;
- (iii) the total amount of net gain or loss from all other transactions in which the pool engaged during the reporting period, including interest and dividends earned on funds not paid as premiums or used to margin the pool's commodity interest positions;
- (iv) the total amount of all management fees during the reporting period;
- (v) the total amount of all advisory fees during the reporting period;
- (vi) the total amount of all brokerage commissions during the reporting period;
- (vii) the total amount of other fees for commodity interest and other investment transactions during the reporting period; and
- (viii) the total amount of all other expenses incurred or accrued by the pool during the reporting period.

39. The purported account statements Defendants provided to participants during the Relevant Period also failed to include an Account Statement that must be presented in the form of a Statement of Changes in Net Assets that separately itemized certain information as required by 17 C.F.R. § 4.22(a)(2), and further failed to disclose information required by 17 C.F.R. § 4.22(a)(3), including but not limited to any material business dealings between the pool, the pool's operator, commodity trading advisor, futures commission merchant, retail foreign exchange dealer, swap dealer, or the principals thereof that previously have not been disclosed in the pool's Disclosure Document or any amendment thereto, other Account Statements, or Annual Reports.

40. QYUHI failed to keep and maintain books and records required to be kept and maintained pursuant to Regulation 4.23(a) and (b), 17 C.F.R. § 4.23(a)-(b) (2022), by a CPO registered, or required to be registered, with the Commission, including but not limited to:

(a) concerning the commodity pool:

(1) an itemized daily record of each commodity interest transaction of the pool, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying commodity, swap type and counterparty, the futures commission merchant and/or retail foreign exchange dealer carrying the account and the introducing broker, if any, whether the commodity interest was purchased, sold (including, in the case of a retail forex transaction, offset), exercised, expired (including, in the case of a retail forex

transaction, whether it was rolled forward), and the gain or loss realized;

- (2) a journal of original entry or other equivalent record showing all receipts and disbursements of money, securities and other property;
- (3) a subsidiary ledger or other equivalent record for each participant in the pool showing the participant's name and address and all funds, securities and other property that the pool received from or distributed to the participant;
- (4) adjusting entries and any other records of original entry or their equivalent forming the basis of entries in any ledger;
- (5) a general ledger or other equivalent record containing details of all asset, liability, capital, income and expense accounts;
- (6) copies of each confirmation or acknowledgment of a commodity interest transaction of the pool, and each purchase and sale statement and each monthly statement for the pool received from a futures commission merchant, retail foreign exchange dealer or swap dealer;
- (7) cancelled checks, bank statements, journals, ledgers, invoices, computer generated records, and all other records, data and memoranda prepared or received in connection with the operation of the pool;
- (8) the original or a copy of each report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice (including the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations) distributed or caused to be distributed by the commodity pool operator to any existing or prospective pool participant or received by the pool operator from any commodity trading advisor of the pool, showing the first date of distribution or receipt if not otherwise shown on the document;
- (9) a Statement of Financial Condition as of the close of (i) each regular monthly period if the pool had net assets of \$500,000 or more at the

beginning of the pool's fiscal year, or (ii) each regular quarterly period for all other pools;

(10) a Statement of Income (Loss) for the period between (i) the later of: (A) the date of the most recent Statement of Financial Condition furnished to the Commission pursuant to § 4.22(c), (B) April 1, 1979, or (C) the formation of the pool, and (ii) the date of the Statement of Financial Condition required by paragraph (a)(10) of this section; and

(11) a manually signed copy of each Account Statement and Annual Report provided pursuant to §§ 4.22, 4.7(b) or 4.12(b), and records of the key financial balances submitted to the National Futures Association for each commodity pool Annual Report, which records must clearly demonstrate how the key financial balances were compiled from the Annual Report; and

(b) Concerning the commodity pool operator:

(1) An itemized daily record of each commodity interest transaction of the commodity pool operator and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying commodity, swap type and counterparty, the futures commission merchant or retail foreign exchange dealer carrying the account and the introducing broker, if any, whether the commodity interest was purchased, sold, exercised, or expired, and the gain or loss realized;

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant or retail foreign exchange dealer to: (i) The commodity pool operator relating to a personal account of the pool operator; and (ii) Each principal of the pool operator relating to a personal account of such principal.

QYUHI failed to keep and maintain any of these records during the Relevant Period.

41. Defendants did not inquire, and failed to keep or maintain any records, as to whether a prospective customer was an ECP or about a prospective participant's savings and investments.

42. For example, QYUHI did not inquire or keep any records as to whether a prospective participant had assets in excess of \$5 million, nor did it inquire if the prospective participant was seeking to engage in forex transactions to manage the risk of an asset or liability already owned, or about to be owned, by the prospective participant.

C. Failure to Register

43. Throughout the Relevant Period, QYUHI acted in a capacity as a CPO by soliciting, accepting, and receiving funds from the public while engaged in a business that was, and is, of the nature of an investment trust, syndicate, or similar form of enterprise, for the purpose of, among other things, trading in commodity interests, including retail forex and forex futures contracts, without being registered with the Commission as a CPO. At no time during the Relevant Period did QYUHI seek an exemption from the requirement to register with the Commission as a CPO. At no time during the Relevant Period did QYUHI qualify for an exemption from the requirement to register with the Commission as a CPO.

44. Throughout the Relevant Period, Robinson acted, and continues to act, in a capacity as an AP of QYUHI by, in his capacity as a partner, officer, employee, consultant or agent of the CPO (QYUHI), soliciting or supervising the solicitation of funds for participation in the Pool, without being registered with the Commission as an AP of a CPO.

D. Robinson is the Controlling Person of QYUHI

45. Throughout the Relevant Period, Robinson acted, and continues to act, as the controlling person of QYUHI. Robinson was, and is, the President, Treasurer, and a Director of QYUHI, and solely possessed the power and authority to control all day-to-day business operations of QYUHI. As the primary signatory on the QYUHI BOA account, Robinson controlled, and continues to control, all credits and debits in the QYUHI BOA account. Robinson also solely controlled, and continues to control, all solicitations to actual and prospective participants through QYUHI's unregistered APs.

46. Throughout the Relevant Period, Robinson was, and continues to be, the owner and controlling person of QYUHI. Robinson was, and continues to be, the primary officer and director of QYUHI, he operated and controlled the day-to-day operations of QYUHI's business activities, and he controlled the QYUHI BOA account. Therefore, Robinson was, and continues to be, de facto and de jure solely in charge of the operations of QYUHI throughout the Relevant Period.

47. As the controlling person of QYUHI, Robinson was aware of the activities that form the violations of the Act and Regulations set-forth herein. Further, Robinson failed to act in good faith at all times throughout the Relevant Period because he failed to create and/or implement any supervisory controls over the daily operations of QYUHI throughout the Relevant Period.

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

COUNT ONE

**Violations of Sections 4b(a)(1)(A)-(C) and 4b(a)(2)(A)-(C) of the Act,
7 U.S.C. §§ 6b(a)(1)(A)-(C), 6b(a)(2)(A)-(C), and Regulation 5.2(b)(1)-(3),
17 C.F.R. § 5.2(b)(1)-(3) (2022)**

**(Fraud in Connection with Retail Forex Transactions and Forex
Futures Contracts—Both Defendants)**

48. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

49. 7 U.S.C. § 6b(a)(1)(A)-(C) makes 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 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.”

50. As described herein, by and through Robinson, Defendants cheated or defrauded, or attempted to cheat or defraud, actual and prospective pool participants; willfully made, or caused to be made, false account statements; and willfully deceived, or attempted to deceive, actual and prospective pool participants in connection with Defendants’ Pool that purportedly traded forex futures contracts, by, among other things: (i) omitting material facts in solicitations to and/or accepting funds from actual and prospective participants, including but not limited to, failing to disclose that Defendants never traded pool participant funds as promised; (ii) misappropriating participants’ funds; and (iii) providing participants with false account statements showing purported profits from fictitious trading activity created by Robinson and not reflective of actual trading, all in violation of 7 U.S.C. § 6b(a)(1)(A)-(C).

51. 7 U.S.C. § 6b(a)(2)(A)-(C) makes 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, or swap, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market: “(A) to cheat or defraud or attempt to cheat or defraud

the other person; (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 an order or contract for or . . . with the other person.”

52. Section 2(c)(2)(C)(ii)(I) of the Act, 7 U.S.C. § 2(c)(2)(C)(ii)(I), makes agreements, contracts, or transactions described in Section 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(C)(i), and accounts or pooled investment vehicles described in Section 2(c)(2)(C)(vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(vii), “subject to” Section 4b, 7 U.S.C. § 6b. Additionally, Section 2(c)(2)(C)(iv) of the Act, 7 U.S.C. § 2(c)(2)(C)(iv), in part, provides that 7 U.S.C. § 6b applies to such agreements, contracts, or transactions, including those offered by Defendants, “as if” they were contracts of sale of a commodity for future delivery. Furthermore, 7 U.S.C. § 2(c)(2)(C)(vii) states that the CFTC has jurisdiction over an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in 7 U.S.C. § 2(c)(2)(C)(i) of the Act.

53. 17 C.F.R. § 5.2(b)(1)-(3) makes it unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or

indirectly, in or in connection with any retail forex transaction: (1) to cheat or defraud or attempt to cheat or defraud any person; (2) willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or (3) willfully to deceive or attempt to deceive any person by any means whatsoever.

54. As described herein, Defendants cheated or defrauded, or attempted to cheat or defraud, actual and prospective pool participants; willfully made, or caused to be made, false account statements; and willfully deceived, or attempted to deceive, actual and prospective pool participants in connection with Defendants' Pool that offered, or entered into, agreements, contracts, or transactions in foreign currency described in 7 U.S.C. § 2(c)(2)(C)(i) of the Act by, among other things: (i) omitting material facts in solicitations to and/or accepting funds from actual and prospective participants, including but not limited to, failing to disclose that Defendants never traded pool participant funds as promised; (ii) misappropriating participants' funds; and (iii) providing participants with false account statements showing purported profits from fictitious trading activity created by Robinson and not reflective of actual trading, all in violation of 7 U.S.C. § 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b)(1)-(3).

55. The foregoing acts, omissions, and failures by Robinson occurred within the scope of his employment, agency, or office with QYUHI during the

Relevant Period. Therefore, QYUHI is liable for Robinson's violations of 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b)(1)-(3), 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).

56. During the Relevant Period, Robinson held and exercised, and holds and exercises, direct and indirect control over QYUHI's daily business operations and either did not act in good faith or knowingly induced QYUHI's violations of 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b)(1)-(3). As a controlling person of QYUHI, Robinson is liable for QYUHI's violations of 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b)(1)-(3), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

57. Each omission or misrepresentation of a material fact, false statement, and act of deceiving pool participants or misappropriation made during the Relevant Period in connection with forex futures contracts, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 6b(a)(1)(A)-(C).

58. Each omission or misrepresentation of a material fact, false statement, and act of deceiving pool participants or misappropriation made during the Relevant Period in connection with off-exchange leveraged, margined or financed forex transactions, including, but not limited to, those specifically alleged herein, is

alleged as a separate and distinct violation of 7 U.S.C. § 6b(a)(2)(A)-(C) and 17 C.F.R. § 5.2(b)(1)-(3).

COUNT TWO

**Violations of Section 4o(1)(A)-(B) of the Act, 7 U.S.C. § 6o(1)(A)-(B)
(Fraud by a CPO—QYUHI; Fraud by an AP of a CPO—Robinson)**

59. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

60. A CPO is defined in Section 1a(11) of the Act, 7 U.S.C. § 1a(11), in relevant part as any person 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 through capital contributions for the purpose of trading in commodity interests, including any commodity for future delivery, or agreement, contract, or transaction described in Section 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(C)(i).

61. Throughout the Relevant Period, QYUHI acted, and continues to act, as a CPO by soliciting, accepting or receiving funds from others for the purpose of trading commodity interests in a pooled investment vehicle.

62. An AP of a CPO is defined by Regulation 1.3, 17 C.F.R. § 1.3 (2022), as any person who is associated with a CPO as a 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.

63. Throughout the Relevant Period, Robinson acted and continues to act as an AP of CPO QYUHI because while he was an officer and owner of QYUHI, Robinson solicited funds from pool participants through QYUHI's unregistered APs for a participation in Defendants' Pool or supervised QYUHI's unregistered APs who solicited funds from pool participants for a participation in Defendants' Pool.

64. 7 U.S.C. § 6o(1)(A)-(B) prohibits CPOs and APs of CPOs, whether registered with the CFTC or not, "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."

65. Section 2(c)(2)(C)(ii)(I) of the Act, 7 U.S.C. § 2(c)(2)(C)(ii)(I), makes transactions, agreements, or contracts described in Section 2(c)(2)(C)(i) of the Act, 7 U.S.C. § 2(c)(2)(C)(i), and accounts or pooled investment vehicles described in Section 2(c)(2)(C)(vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(vii), "subject to" Section

40, 7 U.S.C. § 60. Additionally, 7 U.S.C. § 2(c)(2)(C)(vii) states that the CFTC has jurisdiction over an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in Section 2(c)(2)(C)(i) of the Act.

66. As alleged herein, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, Defendants employed or are employing a device, scheme, or artifice to defraud actual and prospective participants or engaged or are engaging in transactions, practices, or a course of business which operated or operates as a fraud or deceit upon any actual or prospective participant, including without limitation: misappropriation of participants' funds, providing false statements to participants via online account access, and omitting material facts in soliciting participants through QYUHI's unregistered APs and/or accepting participant funds, all in violation of 7 U.S.C. § 60(1)(A)-(B).

67. The foregoing acts, omissions, and failures by Robinson occurred within the scope of his employment, agency, or office with QYUHI during the Relevant Period. Therefore, QYUHI is liable for Robinson's violations of 7 U.S.C. § 60(1)(A)-(B) 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).

68. During the Relevant Period, Robinson held and exercised, and holds

and exercises, direct and indirect control over QYUHI's daily business operations and either did not act in good faith or knowingly induced QYUHI's violations of 7 U.S.C. § 6o(1)(A)-(B). As a controlling person of QYUHI, Robinson is liable for QYUHI's violations of 7 U.S.C. § 6o(1)(A)-(B), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

69. Each omission of material fact, false statement, act of misappropriation, employment of a device, scheme, or artifice to defraud, and transaction, practice, or course of business which operated as a fraud or deceit made during the Relevant Period, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. § 6o(1)(A)-(B).

COUNT THREE
Violations of Regulations 4.20(a)(1), (b), and (c), and 5.4,
17 C.F.R. § 4.20(a)(1), (b), (c), 5.4 (2022)
(Failure to Operate Commodity Pool as a Separate Legal Entity,
Failure to Receive Funds in the Pool's Name, and Commingling of Pool
Funds—Both Defendants)

70. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

71. 17 C.F.R. § 5.4 states that 17 C.F.R. pt. 4 applies to any person required pursuant to 17 C.F.R. pt. 5 to register as a CPO, and that “[f]ailure by any such person to comply with the requirements of part 4 will constitute a violation of

this section and the relevant section of part 4.”

72. 17 C.F.R. § 4.20(a)(1) requires a CPO to operate his or her commodity pool as an entity cognizable as a legal entity separate from that of the pool operator, with certain specified exceptions not applicable here.

73. Throughout the Relevant Period, QYUHI, while acting as a CPO, violated 17 C.F.R. §§ 4.20(a)(1) and 5.4 by failing to operate the commodity pool as a legal entity separate from itself.

74. 17 C.F.R. § 4.20(b) provides: “All funds, securities or other property received by a commodity pool operator from an existing or prospective pool participant for the purchase of an interest or as an assessment (whether voluntary or involuntary) on an interest in a pool that it operates or that it intends to operate must be received in the pool’s name.”

75. During the Relevant Period, QYUHI, while acting as a CPO, violated 17 C.F.R. §§ 4.20(b) and 5.4 by receiving funds from existing or prospective pool participants for the purchase of an interest in the Pool without receiving the same in the Pool’s name.

76. 17 C.F.R. § 4.20(c) provides: “No commodity pool operator may commingle the property of any pool that it operates or that it intends to operate with the property of any other person.”

77. During the Relevant Period, QYUHI, while acting as a CPO, violated

17 C.F.R. §§ 4.20(c) and 5.4 by commingling Pool funds with the personal funds of Robinson and the corporate funds of QYUHI.

78. During the Relevant Period, Robinson held and exercised, and holds and exercises, direct and indirect control over QYUHI's daily business operations and either did not act in good faith or knowingly induced QYUHI's violations of 17 C.F.R. §§ 4.20(a)(1), (b), and (c), and 5.4. As a controlling person of QYUHI, Robinson is liable for QYUHI's violations of 17 C.F.R. §§ 4.20(a)(1), (b), and (c), and 5.4 pursuant to 7 U.S.C. § 13c(b).

COUNT FOUR

**Violations of Sections 2(c)(2)(C)(iii)(I)(cc), 4m(1), and 4k(2) of the Act,
7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6m(1), 6k(2), and Regulation 5.3(a)(2)(i)
and (ii), 17 C.F.R. § 5.3(a)(2)(i), (ii) (2022)
(Failure to Register as a CPO—QYUHI; Failure to Register as an AP of a
CPO—Robinson)**

79. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

80. 7 U.S.C. § 6m(1) makes it unlawful for any CPO, unless registered with the CFTC, to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO. Similarly, 17 C.F.R. § 5.3(a)(2)(i) requires anyone acting as a CPO for a pooled investment vehicle that engages in retail forex transactions to register as a CPO, as defined in 17 C.F.R. § 5.1(d)(1).

81. Subject to certain exceptions not relevant here, 7 U.S.C.

§ 2(c)(2)(C)(iii)(I)(cc) states in part that:

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

....

(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with [agreements, contracts, or transactions described in 7 U.S.C. § 2(c)(2)(C)(i)].

82. Except in circumstances not relevant here, 7 U.S.C.

§ 2(c)(2)(C)(iii)(I)(cc) and 17 C.F.R. § 5.3(a)(2)(i) require those that meet the definition of a retail forex CPO under 17 C.F.R. § 5.1(d)(1) to register as a CPO with the Commission. A CPO is defined in Regulation 5.1(d)(1), 17 C.F.R.

§ 5.1(d)(1) (2022), as any person who operates or solicits funds, securities, or property for a pooled investment vehicle that is not an eligible contract participant as defined in section 1a(18) of the Act, and that engages in retail forex transactions.

83. During the Relevant Period, QYUHI acted, and continues to act, as a CPO by engaging in a business that was in the nature of a commodity pool, investment trust, syndicate, or similar enterprise, and in connection therewith, solicited, accepted, or received from others, funds, securities, or property, either directly or otherwise, for the purpose of trading retail forex and forex futures

contracts, while failing to register with the Commission as a CPO in violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R. § 5.3(a)(2)(i). During the Relevant Period, QYUHI was not exempt from registration as a CPO.

84. 7 U.S.C. § 6k(2) makes it unlawful for any person to be associated with a CPO as an officer or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves the solicitation of funds, securities, or property for participation in a commodity pool, or the supervision of any person so engaged, unless such person is registered with the Commission as an AP of a CPO. Similarly, 17 C.F.R. § 5.3(a)(2)(ii) requires anyone acting as an AP of a CPO for a pooled investment vehicle that engages in retail forex transactions to register as an AP.

85. Except in certain circumstances not relevant here, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(cc) and 17 C.F.R. § 5.3(a)(2)(ii) require those that meet the definition of an AP of a retail forex CPO under 17 C.F.R. § 5.1(d)(2) to register as an AP of a CPO with the Commission. An AP of a retail forex CPO is defined by Regulation 5.1(d)(2), 17 C.F.R. § 5.1(d)(2) (2022), as any person who is associated with a CPO as defined in subsection (d)(1) as a 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 pooled investment vehicle; or (ii) the supervision of any person or persons so engaged.

86. Throughout the Relevant Period, Robinson was associated, and continues to be associated, with CPO QYUHI as an officer or agent in a capacity that involved, and continues to involve, the solicitation of funds, securities, or property, through QYUHI's unregistered APs, for participation in a commodity pool, for the purpose of trading retail forex and forex futures contracts, and the supervision of QYUHI's unregistered APs so engaged, while failing to register with the Commission as an AP of QYUHI in violation of 7 U.S.C.

§§ 2(c)(2)(C)(iii)(I)(cc) and 6k(2) and 17 C.F.R. § 5.3(a)(2)(ii). Throughout the Relevant Period, Robinson was not exempt from the requirement to register as an AP of a CPO in connection with QYUHI.

87. The foregoing acts, omissions, and failures by Robinson occurred within the scope of his employment, agency, or office with QYUHI during the Relevant Period. Therefore, QYUHI is liable for Robinson's violations of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6k(2) and 17 C.F.R. § 5.3(a)(2)(ii), pursuant to 7 U.S.C. § 2(a)(1)(B) and 17 C.F.R. § 1.2.

88. During the Relevant Period, Robinson held and exercised, and holds and exercises, direct and indirect control over QYUHI and either did not act in good faith or knowingly induced QYUHI's violations of 7 U.S.C.

§§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R. § 5.3(a)(2)(i). As a controlling person of QYUHI, Robinson is liable for QYUHI's violations of 7 U.S.C.

§§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R. § 5.3(a)(2)(i), pursuant to 7 U.S.C. § 13c(b).

89. Each instance during the Relevant Period in which QYUHI acted as an unregistered CPO, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6m(1) and 17 C.F.R. § 5.3(a)(2)(i).

90. Each instance during the Relevant Period in which Robinson acted as an AP of QYUHI, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc) and 6k(2) and 17 C.F.R. § 5.3(a)(2)(ii).

COUNT FIVE
Violations of Regulations 4.21, 4.22, 4.23, and 5.4,
17 C.F.R. §§ 4.21, 4.22, 4.23, 5.4 (2022)
(Failure to Provide Required Disclosures and Reports and Keep and Maintain
Required Books and Records—Both Defendants)

91. The allegations set forth in the preceding paragraphs are re-alleged and incorporated herein by reference.

92. As noted above, 17 C.F.R. § 5.4 states that 17 C.F.R. pt. 4 applies to any person required pursuant to 17 C.F.R. pt. 5 to register as a CPO, and that

“[f]ailure by any such person to comply with the requirements of part 4 will constitute a violation of this section and the relevant section of part 4.”

93. 17 C.F.R. §§ 4.21, 4.22, and 4.23, in relevant part, require that each CPO registered with the Commission, or required to be registered with the Commission, provide required disclosures and reports to prospective and/or actual participants and keep and maintain the books and records in an accurate, current and orderly manner, including without limitation, Disclosure Documents, Account Statements, and Statements of Operations.

94. As set forth above, during the Relevant Period, QYUHI acted, and continues to act, as an unregistered CPO by soliciting and accepting funds from U.S. resident non-ECPs for participation in a Pool operated by QYUHI. Throughout the Relevant Period, Robinson was associated with CPO QYUHI as an officer or agent in a capacity that involves the solicitation of funds, securities, or property, through QYUHI’s unregistered APs, for participation in a commodity pool, or the supervision of QYUHI’s unregistered APs so engaged, while failing to register with the Commission as an AP of CPO QYUHI, and controlled QYUHI’s daily business operations.

95. At no time during the Relevant Period did QYUHI, in accordance with 17 C.F.R. §§ 4.21, 4.22, 4.23, and 5.4, provide required disclosures and reports to prospective and/or actual participants and keep and maintain the books

and records identified herein, and/or in the required format, in violation of 17 C.F.R. §§ 4.21, 4.22, 4.23, and 5.4.

96. Each failure by QYUHI during the Relevant Period to provide required disclosures and reports to prospective and/or actual participants in accordance with 17 C.F.R. §§ 4.21, 4.22, and 5.4, and each day during the Relevant Period that QYUHI failed to maintain the required books and records in accordance with 17 C.F.R. §§ 4.23 and 5.4, is alleged as a separate and distinct violation of 17 C.F.R. §§ 4.21, 4.22, or 4.23, and 5.4.

97. During the Relevant Period, Robinson held and exercised, and holds and exercises, direct and indirect control of QYUHI's daily business operations and either did not act in good faith or knowingly induced QYUHI's violations of 17 C.F.R. §§ 4.21, 4.22, 4.23, and 5.4. Therefore, pursuant to 7 U.S.C. § 13c(b), Robinson is liable as a controlling person for each of QYUHI's violations of 17 C.F.R. §§ 4.21, 4.22, 4.23, and 5.4.

VIII. RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by 7 U.S.C. § 13a-1, and pursuant to its own equitable powers, enter:

A. An order finding that Defendants violated and are violating Sections 2(c)(2)(C)(iii)(I)(cc), 4b(a)(1)(A)-(C), 4b(a)(2)(A)-(C), 4k(2), 4m(1), and 4o(1)(A)-(B) Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6b(a)(1)(A)-(C), 6b(a)(2)(A)-

(C), 6k(2), 6m(1), 6o(1)(A)-(B), and Regulations 4.20(a)(1), (b), and (c), 4.21, 4.22, 4.23, 5.2(b)(1)-(3), 5.3(a)(2)(i) and (ii), and 5.4, 17 C.F.R. §§ 4.20(a)(1), (b), (c), 4.21, 4.22, 4.23, 5.2(b)(1)-(3), 5.3(a)(2)(i), (ii), 5.4 (2022);

B. An order of permanent injunction restraining, enjoining, and prohibiting Defendants and any other person or entity in active concert with them, from engaging in conduct in violation of 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6b(a)(1)(A)-(C), 6b(a)(2)(A)-(C), 6k(2), 6m(1), and 6o(1)(A)-(B), and 17 C.F.R. §§ 4.20(a)(1), (b), and (c), 4.21, 4.22, 4.23, 5.2(b)(1)-(3), 5.3(a)(2)(i) and (ii), and 5.4;

C. An order of permanent injunction prohibiting Defendants and any other person or entity 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 by 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 Defendants or for accounts in which Defendants have a direct or indirect interest;
- 3) Having any commodity interests traded on Defendants’ behalf;

- 4) Controlling or directing the trading for, or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
- 5) Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling of any commodity interests;
- 6) Applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the 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) (2022);

D. An order requiring Defendants, as well as any successors thereof, to disgorge, pursuant to such procedures 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 and Regulations as described herein, including post-judgment interest;

E. An order requiring Defendants, as well as any successors thereof, to make full restitution, pursuant to such procedures as the Court may order, to every person or entity who sustained losses proximately caused by Defendants' violations described herein, including post-judgment interest;

F. An order directing Defendants, as well as 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 participants whose funds were received by Defendants as a result of the acts and practices that constituted violations of the Act and Regulations, as described herein;

G. An order directing Defendants, as well as any successors thereof, to pay a civil monetary penalty, to be assessed by the Court, in an amount not to exceed the penalty prescribed by 7 U.S.C. § 13a-1(d)(1)), as adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, tit. VII, § 701, 129 Stat. 584, 599-600, *see* 17 C.F.R. § 143.8 (2022), or subsequent annually adjusted amounts, for each violation of the Act and Regulations, as described herein;

H. An order directing that Defendants, and any successors thereof, make an accounting to the Court of all of their assets and liabilities, together with all funds they received from and paid to participants and other persons in connection with commodity interests and all disbursements for any purpose whatsoever of funds received from commodity interests, including salaries, commissions, interest, fees, loans, and other disbursement of money or property of any kind from at least January 1, 2017 to the date of such accounting;

I. An order requiring Defendants, and any successors thereof, to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2413(a)(2); and

J. Such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Dated: September 28, 2023

Respectfully submitted,

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Commodity Futures Trading
Commission
Division of Enforcement
1155 21st Street, NW
Washington, DC 20581

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COMMISSION**

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