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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
APR 07 2009
at 9 o'clock and 23 min. a M.
SUE BEITIA, CLERK

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES COMMODITY FUTURES TRADING COMMISSION,	
Plaintiff,	Civil Action No. CV09-00153 HG KSC
v.	**FILED UNDER SEAL**
WECORP, INC., a Hawaii company; STUART W. JONES, an individual; AND PAYTON LOWE, an individual,	**COMPLAINT FOR PERMANENT INJUNCTION, CIVIL MONETARY PENALTIES, AND OTHER EQUITABLE RELIEF**
Defendants,	

GARY V. DUBIN, an individual;	)
GARY DUCK, an individual; AND	)
NATHAN P. RAMOS, an individual.	)
	)
Relief Defendants.	)
	)

Plaintiff, the United States Commodity Futures Trading Commission ("Commission" or CFTC"), by and through its attorneys, alleges as follows:

I. SUMMARY

1. From at least June 2008 to the present, WeCorp, Inc. ("WeCorp"), through its principals and control persons, Stuart W. Jones ("Jones") and Payton Lowe ("Lowe") (hereinafter collectively "Defendants"), operated a Ponzi scheme in which they solicited approximately $1.5 million from approximately 20 members of the general public for the purported purpose of investing in off-exchange foreign currency contracts ("forex"). Defendants told prospective investors that, among other things, WeCorp had an automated forex trading system with "built in loss prevention codes," which generated 100% monthly returns, and that investors would earn unparalleled returns on their funds virtually risk-free. In reality, WeCorp does not have an automated forex trading system.

In fact, Defendants had never traded forex before 2008, let alone generated 100% monthly returns trading forex. In addition, rather than invest all investor funds in forex, Defendants have invested only some of the investor funds in forex.

2. To conceal and perpetuate their fraud, Defendants provide WeCorp investors with false account statements misrepresenting the earnings in their WeCorp accounts, *i.e.* that their WeCorp accounts are increasing by as much as twenty percent per month. Instead of using all WeCorp investor funds to trade forex, Defendants have only used some of investor funds. The remainder of WeCorp investor funds are not being used exclusively for forex trading but are instead being used to pay back early WeCorp investors, fund Defendants' luxurious lifestyles in the Hawaiian Islands, and pay for Jones's, Lowe's and others' personal expenses.

3. By virtue of this conduct and the further conduct described herein, Defendants have engaged, are engaging, or are about to engage in acts and practices in violation of provisions of the Commodity Exchange Act (the "Act"), 7 U.S.C. §§ 1 *et seq.* (2006), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat.

1651 (enacted June 18, 2008), and certain CFTC Regulations ("Regulations"), 17 C.F.R. §§ 1.1 *et seq.* (2008).

4. Jones and Lowe, as well as other WeCorp employees, have committed the acts and omissions described herein within the course and scope of their employment at WeCorp. Therefore, WeCorp is liable under Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2(2008), as principal for its agents' violations of the Act and Regulations.

5. Jones and Lowe are liable under Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), as controlling persons of WeCorp for its violations of the Act and Regulations, because they did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations.

6. The Relief Defendants received ill-gotten gains from Defendants' fraudulent conduct and provided no legitimate services to the Defendants and otherwise have no legitimate entitlement to WeCorp investors' funds, therefore, they must disgorge all ill-gotten gains regardless of whether any of them actually violated the anti-fraud provisions of the Act and/or the Act as amended by the CRA and the Regulations.

7. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2), 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-related activity. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief, including, but not limited to, trading and registration bans, restitution, disgorgement, rescission, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

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

II. JURISDICTION AND VENUE

9. Section 6c(a) of the Act, 7 U.S.C. § 13a-1 (2006), authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder.

10. The Commission has jurisdiction over this matter as alleged herein pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2).

11. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), because Defendants transacted business in the District of Hawaii and certain of the transactions, acts, practices, and courses of business alleged occurred, are occurring, and/or are about to occur within this District.

III. PARTIES

12. **Plaintiff U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with the administration and enforcement of the Act, 7 U.S.C. §§ 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* The CFTC maintains its principal office at Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

13. **Defendant WeCorp Inc.** is a Hawaii company that was incorporated on December 17, 2007 with its principal place of business at 308 Kamehameha Avenue, Suite 215, Hilo, Hawaii 96720 and a mailing

address of 200 Kanoelehua Avenue, Box 389, Hilo, Hawaii 97271. WeCorp has never been registered with the Commission in any capacity.

14. **Defendant Stuart W. Jones** resides in Hilo, Hawaii and is WeCorp's President and Chief Executive Officer ("CEO"). Jones has never been registered with the Commission in any capacity.

15. **Defendant Payton Lowe** resides in Honolulu, Hawaii and is WeCorp's Senior Vice President and Trading Consultant. Lowe has never been registered with the Commission in any capacity.

16. **Relief Defendant Gary V. Dubin** resides in Honolulu, Hawaii and is WeCorp's legal counsel. Dubin has never been registered with the Commission in any capacity.

17. **Relief Defendant Gary Duck** resides in Vista, California and is WeCorp's Director of Finance. Duck has never been registered with the Commission in any capacity.

18. **Relief Defendant Nathan Ramos** resides in Hilo, Hawaii and oversees WeCorp's Real Estate Management. Ramos has never been registered with the Commission in any capacity.

IV. FACTS

19. From at least June 2008 to the present Defendants have been soliciting members of the general public to invest money with WeCorp for forex trading.

20. WeCorp is owned and operated by Jones who holds himself out to the public as the President and CEO of WeCorp and who has solicited members of the public to invest with WeCorp. As WeCorp's president and CEO, Jones controls WeCorp's bank and trading accounts, solicits and interacts with WeCorp investors and prospective investors, and makes all decisions about how WeCorp funds have and will be spent. He also is a signatory on and has received statements for WeCorp's bank and trading statements.

21. As WeCorp's Vice President, Lowe is in charge of all forex trading for WeCorp, has access to WeCorp trading accounts, and solicits and interacts with WeCorp investors and prospective investors.

22. Jones and Lowe not only know of the fraud being perpetrated by WeCorp, they are running the fraudulent operation including misappropriating WeCorp investor funds.

23. From at least June 2008 and continuing through the present, Defendants and other WeCorp employees have solicited approximately $1.5 million from approximately twenty members of the general public to invest in forex.

24. Among other things, Defendants made the following misrepresentations while soliciting members of the general public to invest in forex:

- That forex trading at WeCorp happens "automatically, 24 hours a day, round the clock, never sleeping;"
- That WeCorp "always has sufficient liquidity to pay off all of its investors completely and still have cash left over;"
- That WeCorp "has never lost money – not one dollar;"
- That WeCorp "is experiencing exponential growth without risk to our investment capital;"
- That "in 1999 WeCorp began to explore the Foreign Currency exchange market as a place to make . . . investments;"

- that WeCorp's traders had a deep understanding of the forex market; and
- that WeCorp had created an entirely automated forex trading system that was generating exorbitant monthly returns from which WeCorp investors would receive 20% monthly returns.

25. The statements set forth in paragraph 24, above, are false.

26. Defendants and other WeCorp employees instructed investors to wire or send money directly to a bank account in the name of WeCorp.

27. Only a portion of the approximately $1.5 million received by WeCorp from investors was deposited into WeCorp forex trading accounts at FXDirectDealer, LLC ("FXDD") and MIG Investments, SA ("MIG"), both forex dealers.

28. These WeCorp forex trading accounts at FXDD and MIG have traded forex from August 2008 to the present. Less than $40,000 remains in either of these accounts.

29. The Defendants traded forex on a margined or leveraged basis in the FXDD and MIG accounts.

30. The forex transactions conducted by Defendants at FXDD and MIG neither resulted in delivery within two days nor created an enforceable obligation to deliver between a seller and a buyer that had the ability to deliver and accept delivery, respectively, in connection with their lines of business. Rather, these forex contracts remained open from day to day and ultimately were offset without anyone making or taking delivery of actual currency (or facing an obligation to do so).

31. Rather than invest all of WeCorp investors' funds in forex, Defendants used a portion of WeCorp investor funds to pay back earlier investors purported profits and for personal expenses and items, such as:

- $25,000 per month for the rental of a house for Lowe (and others) on Oahu;
- $6,000 on a Jaguar automobile lease for Jones and/or Lowe;
- $6,000 on a BMW automobile lease for Jones and/or Lowe;
- a mortgage payment for Duck;
- $772 per month for a rental unit for Jones at the Wild Ginger Inn in Hilo;
- Jones's travel (including inter-island trips, and trips to California, Utah, Nevada, Arizona, Mexico and China);

- Gifts, such as purchases at a store called Sensually Yours;
- manicures for Jones; and
- gas, meals, and other living expenses for Jones and Lowe.

32. Defendants failed to disclose that they were experiencing trading losses in WeCorp's forex account, misappropriating WeCorp investor funds and that any returns on investment provided to WeCorp investors came from either existing WeCorp investors' original investments or money invested by subsequent WeCorp investors.

33. Dubin, Ramos and Duck (collectively, "the Relief Defendants") received payments from WeCorp totaling at least $75,000.00. The Relief Defendants provided no legitimate services to WeCorp and otherwise have no legitimate entitlement to investor funds.

34. In order to conceal and perpetuate their fraud, Defendants reported to investors consistent monthly profits. Not a single negative month was reported.

35. This false information was reported to investors in the form of, among other things, monthly account statements that were sent by U.S. mail and/or were made available on WeCorp's website, www.wecorpincforex.com.

36. Neither the Defendants, FXDD, nor MIG were registered broker dealers, insurance companies, bank holding companies, or investment bank holding companies or the associated persons of registered broker dealers, insurance companies, bank holding companies, or investment bank holding companies.

37. Some or all of the WeCorp investors were not "eligible contract participants" as that term is defined in the Act. *See* Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12) (2006).

38. Pursuant to federal common law, Dubin, Ramos and Duck are relief defendants because they received ill-gotten gains from Defendants' fraudulent conduct to which they are not legitimately entitled, and, therefore, they must disgorge all ill-gotten gains regardless of whether any of them actually violated the anti-fraud provisions of the Act and/or the Act as amended by the CRA and the Regulations.

V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND REGULATIONS

COUNT

Violations of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulations 1.1(b)(1)-(3), 17 C.F.R. §§ 1.1(b)(1)-(3) (2008) (Fraud in Connection with Forex)

39. The allegations set forth in paragraphs 1 through 38 are realleged and incorporated herein by reference.

40. Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(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, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), 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; (C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person.

Sections 4b(a)(2)(A)-(C) of the Act, as amended by the CRA, apply to Defendants' foreign currency transactions "as if" they were a contract of sale of a commodity for future delivery. Section 2(c)(2)(C)(iv) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iv).

41. Regulations 1.1(b)(1)-(3), 17 C.F.R. §§ 1.1(b)(1)-(3) (2008), similarly make it unlawful for any person, in connection with foreign currency transactions subject to the Act

> (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.

42. As set forth above, from at least June 18, 2008 through the present in or in connection with forex contracts, made or to be made, for or on behalf of, or with, other persons, Defendants cheated or defrauded or attempted to cheat or defraud investors or prospective investors and willfully deceived or attempted to deceive investors or prospective investors by, among other things, knowingly (i) misappropriating investor funds, (ii) issuing false account statements; (iii) failing to disclose, among other things, WeCorp's trading losses, Defendants' misappropriation and operation of WeCorp as a Ponzi scheme, and (iv) misrepresenting that

- forex trading at WeCorp happens "automatically, 24 hours a day, round the clock, never sleeping;"

- WeCorp "always has sufficient liquidity to pay off all of its investors completely and still have cash left over;"
- WeCorp "has never lost money – not one dollar;"
- WeCorp "is experiencing exponential growth without risk to our investment capital;"
- "in 1999 WeCorp began to explore the Foreign Currency exhhange [sic] market as a place to make . . . investments;"
- WeCorp's traders had a deep understanding of the forex market; and
- WeCorp had created an entirely automated forex trading system that generating exorbitant monthly returns from which WeCorp investors would receive 20% monthly returns,

all in violation of Sections 4b(a)(2)(A) and (C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A) and (C), and Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2008).

43. As set forth above, from at least June 18, 2008 through the present in or in connection with forex contracts, made or to be made, for or on behalf of other persons, Defendants willfully made or caused to be made false reports to investors or prospective investors by, among other things,

knowingly providing investor fraudulent monthly account statements that misrepresented the value of investors' accounts and investors' holdings, in violation of Section 4b(a)(2)(B) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(2)(B), and Regulation 1.1(b)(2), 17 C.F.R. § 1.1(b)(2) (2008).

44. Defendants engaged in the acts and practices described above knowingly or with reckless disregard for the truth.

45. Dubin, Ramos and Duck are relief defendants. They received ill-gotten gains as a result of the fraud committed by Defendants to which they have no legitimate interest, and, therefore, they must disgorge these funds.

46. Stuart and Lowe control (or during the relevant period controlled) WeCorp, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, WeCorp's conduct alleged in this Count. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Stuart and Lowe are liable for WeCorp's violations of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulations 1.1(b)(1) through (3), 17 C.F.R. §§ 1.1(b)(1)-(3) (2008).

47. The foregoing acts, misrepresentations, omissions, and failures of Stuart and Lowe, as well as other WeCorp employees, occurred within the scope of their employment with WeCorp; therefore, WeCorp is liable for these acts pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2008).

48. Each misappropriation, issuance of a false account statement, misrepresentation or omission of material fact, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulations 1.1(b)(1)-(3), 17 C.F.R. §§1.1(b)(1)-(3) (2008).

VI. RELIEF REQUESTED

WHEREFORE, the CFTC respectfully requests that the Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and pursuant to its own equitable powers, enter:

a) An order finding that Defendants violated Section 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulations 1.1(b)(1)-(3), 17 C.F.R. §§1.1(b)(1)-(3) (2008);

b) 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 Defendant, including any successor thereof from engaging, directly or indirectly:

(i) in conduct in violation of Sections 4b(a)(2)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(2)(A)-(C), and Regulations 1.1(b)(1)-(3), 17 C.F.R. §§1.1(b)(1)-(3) (2008); and

(ii) in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) (2006) ("commodity interest"), including but not limited to, the following:

(aa) trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29) (2006);

(bb) entering into any commodity interest transactions for his own personal account, for any account in which he has a direct or indirect interest and/or having any commodity interests traded on his behalf;

(cc) engaging in, controlling or directing the trading for any commodity interest account for or on behalf of any other person or entity, whether by power of attorney or otherwise;

(dd) soliciting, receiving, or accepting any funds in connection with the purchase or sale of any commodity interest contract;

(ee) from applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2008), or acting as a principal, agent, or any other officer or employee of any person registered, exempted from registration or required to be registered with the CFTC, except as provided for in Regulation 4.14(a)(9); and

(ff) from engaging in any business activities related to commodity interest trading.

c) An order directing Defendants and Relief Defendants, as well as any successors to any Defendant and/or Relief Defendant, to disgorge,

pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act and Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

d) An order directing Defendants to make full restitution to every person or entity whose funds they received or caused another person or entity to receive as a result of acts and practices that constituted violations of the Act and Regulations, as described herein, and pre- and post-judgment interest thereon from the date of such violations;

e) An order rescinding, pursuant to such procedures as the Court may order, all contracts and agreements, whether implied or express, entered into between Defendants and any of the investors whose funds were received by them as a result of the acts and practices which constituted violations of the Act, as described herein;

f) An order directing each Defendant to pay a civil monetary penalty in the amount of the higher of (1) triple the monetary gain to Defendant for each violation of the Act and/or Regulations or (2) $130,000 for each violation of the Act and/or Regulations from October 23, 2004

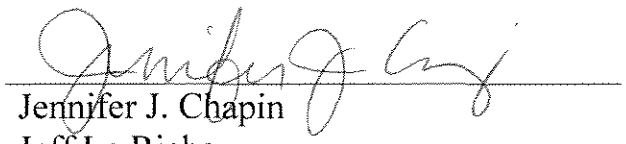
through October 22, 2008, and $140,000 for each violation of the Act and/or Regulations on or after October 23, 2008, plus post-judgment interest;

g) An order requiring Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (2006); and

h) Such other and further relief as the Court deems proper.

Dated this 7th day of April, 2009

Respectfully Submitted,



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