United States District Court
for the
Southern District of Florida

Commodity Futures Trading Commission, Plaintiff,	)	
v.	)	
Systematic Alpha Management, LLC, and others, Defendants,	)	Civil Action No. 23-21527-Civ-Scola
and	)	
Jersey City Partners, LLC, and Thor Enterprises International, Inc., Relief Defendants	)	

Consent Order and Final Judgment for Permanent Injunction and Other Equitable Relief

I. Introduction

On April 24, 2023, Plaintiff Commodity Futures Trading Commission ("CFTC") filed its Complaint against Defendants Systematic Alpha Management, LLC and Peter Kambolin ("Defendants") seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1-26, and CFTC Regulations ("Regulations") promulgated thereunder, 17 C.F.R. pts. 1-190 Additionally, the Complaint sought disgorgement from Relief Defendants Jersey City Partners, LLC ("Jersey City") and Thor Enterprises International, Inc. ("Thor") of all benefits received from acts or practices which constituted violations of the Act and Regulations. The Court entered an ex parte statutory restraining order against Defendants and Relief Defendants on April 24, 2023. A Consent Order of Preliminary Injunction against Defendants and Relief Defendant Jersey City (hereinafter "Relief Defendant") was entered on May 23, 2023. Thor was dismissed without prejudice from this action on July 24, 2023. The parties now jointly move for the entry of this Consent Order (ECF No. 55). No opposition to the motion has been filed and the time to do so has expired. Based on the Court's review of the motion, the record, and the relevant legal authorities, the Court **grants** the parties' motion (**ECF No. 55**) and enters this Consent Order and judgment as follows.

II. Consents and Agreements

To effect settlement of all charges alleged in the Complaint against Defendants and Relief Defendant Jersey City, without a trial on the merits or any further judicial proceedings, Defendants and Relief Defendant:

1. Consent to the entry of this Consent Order for Permanent Injunction and Other Equitable Relief Against Defendant Systematic Alpha Management, LLC, Defendant Peter Kambolin, and Relief Defendant Jersey City Partners, LLC ("Consent Order");

2. Affirm that they have read and agreed to this Consent Order voluntarily, and that no promise, other than as specifically contained herein, or threat, has been made by the CFTC or any member, officer, agent or representative thereof, or by any other person to induce consent to this Consent Order;

3. Acknowledge service of the summons and Complaint;

4. Admit the jurisdiction of the Court over them and the subject matter of this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), and 28 U.S.C. §§ 1331, 1345;

5. Admit the jurisdiction of the CFTC over the conduct and transactions at issue in this action pursuant to the Act;

6. Admit that venue properly lies with this Court pursuant to 7 U.S.C. § 13a-1(e) and 28 U.S.C. § 1391(c)(3);

7. Waive:

   a. Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the rules promulgated by the CFTC in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148, relating to, or arising from, this action;

   b. Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201-253, 110 Stat. 847, 857-74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this action;

   c. Any claim of Double Jeopardy based upon the institution of this action or the entry in this action of any order imposing a civil monetary penalty or any other relief, including this Consent Order; and

   d. Any and all rights of appeal from this action;

8. Agree that for purposes of the wavier of any and all rights under the Equal Access to Justice Act specified in subpart (a) of Paragraph 7 above, Defendants are not the prevailing parties in this action because the parties have reached a good faith settlement;

9. Consent to the continued jurisdiction of this Court over them for the purpose of implementing and enforcing the terms and conditions of this Consent Order and for any other purpose relevant to this action, even if Defendants or Relief Defendant now or in the future reside outside of the jurisdiction of this Court;

10. Agree that they will not oppose enforcement of this Consent Order on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and hereby waives any objection based thereon;

11. Agree that neither they, nor any of their agents or employees under their authority or control, shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or the Findings of Fact or Conclusions of Law in this Consent Order, or creating or tending to create the impression that the Complaint and/or this Consent Order is without a factual basis; provided, however, that nothing in this provision shall affect their: (a) testimonial obligations, or (b) right to take legal positions in other proceedings to which the CFTC is not a party. Defendants and Relief Defendant shall comply with this agreement, and shall undertake all steps necessary to ensure that all of their agents and employees under their authority or control understand and comply with this agreement;

12. Neither admit nor deny the findings of fact made in this Consent Order and all of the allegations made in the Complaint and First Amended Complaint, except that Defendants acknowledge that in *United States v. Peter Kambolin,* No. 23-20372-CR-HUCK/BECERRA (S.D. Fla.) (the "Criminal Action"), Defendant Peter Kambolin pleaded guilty on October 11, 2023 to one count of conspiracy to commit commodities fraud (18 U.S.C. § 371), and in connection with that plea admitted, among other things:

a. From in or around January 2019 through November 2021, Kambolin operated two commodity pools. Kambolin claimed that one of the pools focused on trading cryptocurrency futures and the other pool focused on trading foreign exchange ("FX") futures;

b. Kambolin executed trades for these pools together with trades that he executed on behalf of proprietary accounts, allocating profits and losses from these trades among all the accounts;

c. Kambolin defrauded pool participants;

d. Kambolin unfairly and inequitably allocated trades between customer pool accounts and his proprietary accounts;

e. Kambolin allocated trades that he knew were profitable to the proprietary accounts while allocating unprofitable trades and losses to the pool accounts, seeking to benefit at the expense of pool participants;

f. Kambolin misrepresented to pool participants that he would allocate trades fairly and equitably and concealed from pool participants that he was misappropriating profitable trades at their expense and allocating unprofitable trades to pool accounts;

g. Kambolin misled pool participants by omitting that approximately half of his trading for the cryptocurrency and FX pools involved equity index futures contracts;

h. Kambolin transferred some of the proceeds of this scheme to bank accounts beneficially owned by him, other proceeds to foreign bank accounts beneficially owned by another, and also used the proceeds to fund personal and living expenses.

The complete factual statement to which Kambolin admitted is set forth in paragraph 11 of his Plea Agreement, which can be found at docket entry 16 in the Criminal Action. All facts admitted by Kambolin in the Plea Agreement are admitted herein as if set forth in this Order;

13. Consent to the use of the findings and conclusions in this Consent Order in this proceeding and in any other proceeding brought by the CFTC or to which the CFTC is a party or claimant, and agree that they shall be taken as true and correct and be given preclusive effect therein, without further proof;

14. Do not consent, however, to the use of this Consent Order, or the findings and conclusions herein, as the sole basis for any other proceeding brought by the CFTC or to which the CFTC is a party, other than: a statutory disqualification proceeding; a proceeding in bankruptcy or receivership; or, a proceeding to enforce the terms of this Order;

15. Agree that no provision of this Consent Order shall in any way limit or impair the ability of any other person or entity to seek any legal or equitable relief against them in any other proceeding.

III. Findings of Fact and Conclusions of Law

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of the following Findings of Fact, Conclusions of Law, permanent injunction and equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

The parties agree to the following:

A. Findings of Fact

The Parties to this Consent Order

16. CFTC is an independent federal regulatory agency that is charged by Congress with administering and enforcing the Act and the Regulations.

17. Defendant Systematic Alpha Management, LLC ("SAM") is a New York limited liability company, with its principal place of business at 18201 Collins Ave., Apt. 2008, Sunny Isles Beach, Florida 33160. SAM is registered with the Commission as a commodity pool operator ("CPO") and as a commodity trading advisor ("CTA").

18. Defendant Kambolin is an individual who resides in Sunny Isles Beach, Florida. Kambolin co-founded SAM and is the owner, managing member, and Chief Executive Officer of SAM. Kambolin was registered with the CFTC as an Associated Person ("AP") of SAM from January 7, 2008 through April 25, 2023, but currently is not registered with the CFTC in any capacity.

19. Relief Defendant Jersey City is a New York limited liability company, with its principal place of business at 18201 Collins Ave., Suite 2008, Sunny Isles Beach, FL 33160. Kambolin is the sole owner of Jersey City and makes all decisions on behalf of the company. Jersey City has never been registered with the CFTC in any capacity.

Summary

20. Kambolin held out his company, SAM, as a successful CPO and CTA. For more than a decade, Defendants solicited customers, including both individuals and institutional asset managers to contribute to commodity pools operated by SAM. Defendants marketed SAM as offering customers a fully-automated, algorithm-based trading strategy involving futures contracts that purportedly offered customers returns that were not correlated to traditional investments. Defendants cultivated a strong reputation for SAM's trading as a CTA and CPO, winning a number of awards from a variety of industry publications.

21. However, beginning as early as January 2019 through November 2021 (the "Relevant Period"), Defendants fraudulently allocated trades between: (1) two commodity pools, the Cryptocurrency Pool and the FX Pool (defined in Paragraphs 43 & 50 *infra*), (collectively, the "Customer Accounts"); and (2) certain trading accounts owned by entities controlled by and/or benefiting Kambolin or members of his family (the "Proprietary Accounts"). As a result, Defendants generated trading profits for the Proprietary Accounts at the expense of the Customer Accounts. Defendants generated at least $1,633,119 in trading profits for the Proprietary Accounts while causing Customer Accounts to incur at least $1,208,503 in net losses.

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

23. It is a common practice for CPOs and CTAs that manage multiple accounts to execute trades through bunched orders and then allocate these trades among multiple accounts. CFTC Regulations, however, require that CPOs and CTAs engaging in this practice allocate trades on a fair and equitable basis, with no account or group of accounts receiving consistently favorable or unfavorable treatment.

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

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

26. Defendants further defrauded participants in the Cryptocurrency Pool and the FX Pool by misrepresenting to them in Private Placement Memoranda ("PPMs") that Defendants would allocate investment opportunities

fairly and equitably among Defendants' various commodity pools and the Proprietary Accounts. In these PPMs, as well as other marketing materials and solicitations, Defendants also misrepresented to participants in the Cryptocurrency Pool and the FX Pool the investment strategies Defendants would pursue on behalf of each pool, creating the false impression that each pool would employ a trading strategy that focused on cryptocurrency futures contracts and foreign exchange futures contracts, respectively, when in fact approximately 45% of Defendants' trading for each pool involved various equity index futures contracts, which Defendants allocated unfairly.

Industry Background

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

28. A futures commission merchant, or FCM, is an individual, association, partnership, corporation, or trust that, among other things, is engaged in soliciting or in accepting orders for regulated transactions including futures, swaps, commodity options, or retail commodity transactions; and which, in connection with these activities, "accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom." Section 1a(28)(A) of the Act, 7 U.S.C. § 1a(28)(A).

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

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

31. A "commodity trading advisor" or CTA is any person who "for compensation or profit, engages in the business of advising others . . . as to the advisability of trading" in futures contracts. Section 1a(12)(A) of the Act 7 U.S.C. § 1a(12)(A). Commodity trading advisors that direct trading in client accounts typically are required to register with the CFTC.

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

33. A "bunched order" is a single order placed by a CPO or CTA on behalf of multiple commodity pools. The CPO or CTA subsequently allocates the executed trades resulting from a bunched order among the participating pool accounts.

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

<u>Solicitations</u>

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

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

37. Defendants typically solicited prospective pool participants directly.

38. Defendants in some instances worked directly with employees at the FCMs with which they had relationships to set up the trading accounts

they would use for their commodity pools. In other instances, Defendants worked with an Introducing Broker ("IB") to set up trading accounts for the commodity pools.

The Commodity Pools

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

The Cryptocurrency Pool

40. The Cryptocurrency Pool was a Cayman Islands exempted company established in or around January 2018. The Cryptocurrency Pool was funded through a master-feeder structure. Pool participants contributed funds either to the Systematic Alpha Cryptocurrency Fund, LP (a Delaware Limited Partnership) or the Systematic Alpha Cryptocurrency Offshore Fund, Ltd (a Cayman Island exempted company). Both the Systematic Alpha Cryptocurrency Fund, LP, and the Systematic Alpha Cryptocurrency Offshore Fund, Ltd "fed" pool participant funds to the Cryptocurrency Pool, which owned the trading accounts used to trade futures contracts.

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

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

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

44. In marketing materials for the Cryptocurrency Pool prepared and disseminated to pool participants and prospective pool participants in 2018, Defendants stated that they intended use pool assets to trade cryptocurrency

futures contracts. In these marketing materials, Defendants described the Cryptocurrency Pool's trading strategy as seeking to "take advantage of the price predictability of cryptocurrency futures, related to the unusually high concentration of trading in retail hands" and "to achieve its investment objective of delivering positive returns while significantly dampening the volatility of underlying cryptocurrency markets . . . while trading exclusively regulated futures markets on the CME and CBOE exchanges, thus eliminating the risk of potential principal loss related to hacking, or to infrastructural problems often associated with the unregulated private exchanges."

45. Defendants gave pool participants a PPM that stated that the Cryptocurrency Pool would "seek to achieve its investment objective by systematically trading exchange traded futures contracts on major liquid 'cryptocurrencies.'"

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

<u>The FX Pool</u>

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

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

49. Defendants began receiving contributions from pool participants to the FX Pool beginning October 2019. Between October 2019 and November 2021, when Defendants ceased trading for and operating the FX Pool,

Defendants received at least $680,000 from at least 9 pool participants in the FX Pool.

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

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

The Proprietary Accounts

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

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

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

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

56. At various times during the Relevant Period, Thor maintained trading accounts at FCMs 1 and 3. At various times during the Relevant Period, Jersey City maintained trading accounts at FCM 3 and another U.S.-based FCM ("FCM 4").

Fraudulent Allocation of Trades

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

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

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

60. For the Cryptocurrency Pool, Defendants executed bunched orders in a suspense account at a U.S.-based FCM ("FCM 5"). Defendants then sent instructions to FCM 5 to "give up" the executed trades and allocate them between the Cryptocurrency Pool account and the Thor account held at FCM 1. Specifically, Kambolin, or others employed by SAM acting at Kambolin's direction, uploaded a data file onto FCM 5's allocation portal that instructed FCM 5 as to which trades in which futures contracts should be allocated to the Cryptocurrency Pool account and to the Thor account. In accordance with these instructions, FCM 5 gave up and allocated trades between the Cryptocurrency Pool account and the Thor account held at FCM 1 between January 2019 and January 2020.

61. For the Cryptocurrency Pool and the FX Pool, Defendants executed bunched orders in a suspense account at FCM 3. Defendants sent instructions to FCM 3 to allocate the executed trades in this account among the Cryptocurrency Pool, FX Pool, Thor, and Jersey City accounts held at FCM 3. Specifically, at the end of each trading day, Kambolin sent an email to FCM 3 that attached a data file that set forth exactly which trades in which futures contracts executed that day should be allocated to each of the Proprietary Accounts or Customer Accounts. In accordance with these instructions, FCM 3

gave up and/or allocated trades among these accounts between March 2020 and November 2021.

62. For both the suspense account at FCM 5 and the suspense account at FCM 3 Defendants had until the end of the trading day, after they had executed all of that day's trades in the suspense account, to instruct either FCM 5 or FCM 3 to allocate particular trades to particular Customer Accounts or Proprietary Accounts at the same or other FCMs at which Defendants maintained these accounts.

63. Defendants instructed FCM 5 and FCM 3 to set up the suspense accounts held by each FCM to allocate trades on an average price basis. This meant that FCM 5 and FCM 3, when allocating trades to the Customer Accounts and Proprietary Accounts, first calculated the average price of all of the trades executed as part of a bunched order for a particular futures contract. FCM 5 and FCM 3 then allocated trades to individual Customer Accounts or Proprietary Accounts at this average price.

64. By setting up and instructing FCM 5 and FCM 3 to allocate on an average price basis, Defendants created the appearance that the trades they were executing through bunched orders were being allocated on a fair and equitable basis, as required by the Regulations.

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

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

67. Although Defendants instructed FCM 5 and FCM 3 to allocate trades between the Customer Accounts and the Proprietary Accounts on an average price basis, Defendants allocated trades in a way that consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts.

68. During the Relevant Period, when trading using bunched orders in the suspense accounts at FCM 5 and FCM 3, Defendants typically opened a position in a particular futures contract and closed, or offset, that same position on the same day. By opening and closing a futures contract position on the same day, Defendants realized a gain or loss on their trades for that futures contract before the end of the trading day.

69. Because Defendants instructed FCM 5 and FCM 3 to allocate trades on an average price basis, all of Defendants' trades for a particular futures contract in a single bunched order received the same price. However, Defendants realized profits on their trades for some of the futures contracts they traded while realizing losses on others.

70. Defendants therefore knew at the end of each trading day, and before instructing FCM 5 or FCM 3 to allocate particular futures contracts and trades to either the Proprietary Accounts or the Customer Accounts, which futures contracts in the suspense accounts at either FCM 5 or FCM 3 resulted in profitable trades and which did not. During the Relevant Period, Defendants consistently instructed FCM 5 or FCM 3 to allocate the trades in those futures contracts that were profitable to the Proprietary Accounts. Defendants instructed FCM 5 or FCM 3 to allocate the trades in those futures contracts that were unprofitable or less profitable futures contract trades to the Customer Accounts.

71. By trading and allocating trades in this manner, Defendants achieved consistently high profits during the Relevant Period, month over month, in the Proprietary Accounts. For example, the Proprietary Accounts were profitable in 31 of the 34 months during the Relevant Period when Defendants allocated trades to the Proprietary Accounts, or over 91% of the time. During the Relevant Period, Defendants' trading generated total profits of $1,633,119 for the Proprietary Accounts.

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

73. Similarly, at the beginning of December 2019, the Thor account at FCM 1 had a beginning balance of only $444.50 and received no additional incoming cash. During December 2019, as a result of receiving allocations of profitable trades, the balance in the Thor account grew to $60,847.39, a rate of return of 13,559.8%. $60,051.48 was withdrawn from the Thor account at FCM 1 by the end of December 2019 to Thor's bank account at a non-U.S. financial institution.

74. Defendants were able to achieve these rates of return and net profits for the Proprietary Accounts in part because they aggregated their

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

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

76. Specifically, between January 2019 through October 2020, when Defendants allocated trades to the Cryptocurrency Pool from the suspense accounts at FCM 5 and FCM 3, the Cryptocurrency Pool account that received allocations from the bunched orders Defendants executed at FCM 5 or FCM 3 was profitable in only 2 of 22 months, or approximately 9% of the time; and suffered net realized trading losses of at least $1,159,657.

77. Between January 2021 through November 2021, when Defendants allocated trades to the FX Pool from the suspense account at FCM 3, the FX Pool account that received allocations from the bunched orders Defendants executed at FCM 3 was profitable in only 2 of the 10 months when Defendants allocated trades to that account, or approximately 20% of the time; and suffered net realized trading losses of at least $48,846.

78. This disparity between the profits generated for the Proprietary Accounts versus the profits generated for the Customer Accounts is inconsistent with a fair and equitable allocation of trades executed via bunched orders and post-trade allocation. By knowingly or recklessly allocating the trades they executed in the suspense accounts at FCM 5 and FCM 3 in a manner that consistently generated trading profits for the Proprietary Accounts and disadvantaged the Customer Accounts, Defendants defrauded participants in the Cryptocurrency Pool and FX Pool.

79. This is further illustrated by the fact that, even though Defendants fraudulently allocated trades to the Cryptocurrency Pool and the FX Pool for only a portion of the time for which Defendants traded on their behalf, Defendants' fraudulent allocations reduced the overall profitability of the

Cryptocurrency Pool and the FX Pool. The Cryptocurrency Pool as a whole was profitable only in 13 of 34 months Defendants operated it, or approximately 37% of the time. The FX Pool as a whole was profitable only in 11 of 26 months Defendants operated it, or approximately 30% of the time.

80. By knowingly or recklessly allocating the trades they executed in the suspense accounts at FCM 5 and FCM 3 in this manner, Defendants also contradicted the express representations they made to participants in the Cryptocurrency Pool and the FX Pool in the PPMs; specifically, the representation that Defendants would "act in a manner that it considers fair and equitable in allocating investing opportunities" among the various pools, managed accounts, and Proprietary Accounts Defendants were trading for.

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

82. During the Relevant Period, Thor and Jersey City received improper allocations of profitable trades into their trading accounts, transferring the profits from these trades into their bank accounts or otherwise used the funds.

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

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

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

Examples of Fraudulent Allocations

May 20, 2019

86. On May 20, 2019, Defendants placed multiple bunched orders in the suspense account at FCM 5. As a result, executed round-trip trades in three different equity index futures contracts, the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and E-mini S&P 500 Index, all traded on CME. Defendants also executed trades through these bunched orders that resulted in small (1 or 2 lot) positions in the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and E-mini Nasdaq-100 Index (also traded on CME) futures contracts that remained open at the end of the trading day.

87. By the end of the trading day on May 20, 2019, Defendants had realized profits of $7,157.14 on their round-trip trades in the E-mini S&P Midcap 400 Index contract and profits of $1,150 on their round-trip trades in the E-mini Russell 2000 Index contract. Defendants realized losses of $6,937.50 on their round-trip trades in the E-mini S&P 500 Index contract.

88. At the end of the day, after Defendants had realized these profits and losses, Kambolin or an employee of SAM acting at Kambolin's direction, uploaded a file to FCM 5's customer portal containing Defendants' instructions to FCM 5 on how to allocate the trades between the Thor account and the Cryptocurrency Pool account. Pursuant to these instructions, FCM 5 allocated the round-trip trades in the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract to the Thor account. Pursuant to these instructions, FCM 5 allocated the round-trip trades in the E-mini S&P 500 Index to the Cryptocurrency Pool account. As a result of this allocation, the Thor account obtained $8,307.14 in profits from the E-mini S&P Midcap 400 Index contract and the E-mini Russell 2000 Index contract round-trip trades. The Cryptocurrency Pool incurred the $6,937.50 loss from the E-mini S&P 500 Index contract round-trip trades.

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

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

October 6, 2020

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

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

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

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

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

January 12, 2021

94. On January 12, 2021, Defendants placed multiple bunched orders in the suspense account at FCM 3. As a result, Defendants executed round-trip trades in four different equity index futures contracts, the E-mini S&P Midcap 400 Index, E-mini Russell 2000 Index, and the E-mini Nasdaq-100 Index, and the E-mini S&P 500 Index; as well as round-trip trades in the Japanese Yen

futures contract listed on CME. Defendants also executed trades in two additional FX futures, the Swiss Franc contract and Euro FX contract traded on CME, that closed positions in those contracts Defendants had opened on a previous day.

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

96. At the end of the day, after Defendants had realized these profits and losses, Kambolin sent an email to FCM 3 containing instructions on how to allocate these trades between the Jersey City account, the FX Pool account, and one of Defendants' managed accounts. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the Japanese Yen contract to the Jersey City account. Pursuant to these instructions, FCM 3 allocated the round-trip trades in the E-mini Nasdaq-100 Index contract, the E-mini S&P 500 Index contract, the E-mini Russell 2000 Index contract, and the E-mini S&P Midcap 400 contract to the FX Pool account. Pursuant to these instructions, FCM 3 allocated the trades in the Swiss Franc contract and the Euro FX contract that closed previously-opened positions, to the FX Pool account and the managed account. As a result of this allocation, the Jersey City account obtained $5,125 in profits from the Japanese Yen contract round-trip trades. The FX Pool incurred a total of $13,030 in losses from the allocation of the remaining trades.

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

1/12/2021	**Jersey City**			**FX Pool**			**Managed Account**		
	Long	**Short**	**P/L**	**Long**	**Short**	**P/L**	**Long**	**Short**	**P/L**
Yen Futures (J1)	20	20	$5,125.00						
E-mini Nasdaq-100 Index (NQ)				4	4	$620.00			

E-mini S&P 500 Index (ES)				3	3	$375.00			
E-mini Russell 2000 Index (RTY)				5	5	$(2,350.00)			
E-mini S&P Midcap 400 Index (ME)				11	10	$(6,500.00)			
Swiss Franc Futures (E1)					3	$(2,437.50)		3	$(2,237.50)
Euro FX Futures (EC)					3	$(2,737.50)		2	$(1,350.00)

<u>Fraudulent Misrepresentations of Trading Strategies</u>

98. Defendants marketed the Cryptocurrency Pool and the FX Pool as employing trading strategies focused on cryptocurrency futures and FX futures, respectively. Nevertheless, Defendants regularly traded a variety of futures contracts other than cryptocurrency futures and FX futures, such as various equity index futures, when trading for the Customer Accounts and Proprietary Accounts using bunched orders in the suspense accounts at FCM 5 and FCM 3.

99. The PPMs for the Cryptocurrency Pool (as amended by the April 2019 supplement) and the FX Pool stated that Defendants may trade a variety of financial futures contracts other than cryptocurrency futures and FX futures "to provide further diversification" or "broaden its investment processes." However, contrary to the impression Defendants' created through their representations regarding the investment strategy particular to each commodity pool, Defendants traded large quantities of equity index futures contracts relative to cryptocurrency futures and FX futures, using bunched orders in the suspense accounts at FCM 5 and FCM 3.

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

Agency and Control Person

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

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

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

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

B. Conclusions of Law

Jurisdiction and Venue

105. 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). Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), provides that the CFTC may bring actions for injunctive relief or to enforce compliance with the Act or any rule, regulation, or order thereunder in the proper district court of the United States whenever it shall appear to the CFTC that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

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

because Kambolin resides in this District and SAM's principal place of business is within this District.

107. By the conduct described in paragraphs 1 through 112 above, Defendants violated Sections 4b(a)(1)(A)-(C) and 4*o*(1)(A)-(B) of the Act, 7 U.S.C. §§6b(a)(1)(A)-(C), 6*o*(1)(A)-(B), and Regulation 1.35(b)(5)(iv)(B), 17 C.F.R. §1.35(b)(5)(iv)(B).

<u>Fraud in Connection with Futures</u>

108. 7 U.S.C. § 6b(a), in relevant part, 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.

7 U.S.C. § 6b.

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

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

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

Fraud by a Commodity Pool Operator and Commodity Trading Advisor

112. 7 U.S.C. § 6*o*(1), in relevant part, makes it unlawful for a CPO, CTA, or AP of a CPO or CTA to use:

> [T]he mails or any means or instrumentality of interstate commerce, directly or indirectly—
> (A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or
> (B) to engage in any transaction, practice, or course of business which operates a fraud or deceit upon any client or participant or prospective client or participant.

7 U.S.C. § 6*o*(1).

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

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

115. During the Relevant Period, SAM was registered with the CFTC as a CPO and therefore a CPO as defined by 7 U.S.C. §1a(11)(A)(ii).

116. During the Relevant Period, Kambolin was registered with the CFTC as an AP of SAM. Kambolin acted as an AP of a CPO because he was a partner, officer, employee and/or agent of SAM, a registered CPO, and he solicited and accepted funds, securities, or property from pool participants for SAM for participation in a commodity pool.

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

118. Defendants further violated 7 U.S.C. §6*o*(1)(A)-(B) by knowingly or recklessly: (1) misrepresenting to pool participants in PPMs that Defendants would allocate investment opportunities fairly and equitably among Defendants' various commodity pools, managed accounts, and the Proprietary Accounts; and (2) misrepresenting to participants in the Cryptocurrency Pool

and the FX Pool the trading strategies that Defendants would employ and the types of trades Defendants would execute in the course of trading for each respective commodity pool.

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

Inequitable Allocation of Orders

120. 17 C.F.R. §1.35(b)(5)(iv) states, in relevant part, that "Orders eligible for post-execution allocation must be allocated by an eligible account manager in accordance with the following: . . . Allocations must be fair and equitable. No account or group of accounts may receive consistently favorable or unfavorable treatment." 17 C.F.R. §1.35(b)(5)(iv).

121. During the Relevant Period, SAM was an eligible account manager under Regulation 1.35(b)(5)(i)(A), 17 C.F.R. §1.35(b)(5)(i)(A), as a CTA registered with the Commission. The bunched orders Defendants placed collectively on behalf of the Customer Accounts and the Proprietary Accounts were eligible for post-execution allocation.

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

Liability as a Control Person and a Principal for Acts of the Agent

123. Kambolin controlled SAM, directly or indirectly, and did not act in good faith or knowingly induced, directly or indirectly, SAM's act or acts in violation of the Act and Regulations. Therefore, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Kambolin is liable for SAM's violations of 7 U.S.C. § 6b(a)(1)(A)-(C) and 6*o*(1)(A)-(B) and 17 C.F.R. §1.35(b)(5)(iv)(B).

124. The foregoing acts, omissions, and failures of Kambolin occurred within the scope of his agency, employment, and office at SAM; 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, SAM is liable for Kambolin's acts, omissions, and failures in violation of 7 U.S.C. §§ 6b(a)(1)(A)-(C) and 6*o*(1)(A)-(B) and 17 C.F.R. §1.35(b)(5)(iv)(B).

125. Unless restrained and enjoined by this Court, there is a reasonable likelihood that Defendants will continue to engage in the acts and practices

alleged in the Complaint and in similar acts and practices in violation of the Act and Regulations.

IV. Permanent Injunction

The Court orders as follows:

126. Based upon and in connection with the foregoing conduct, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, Defendants are permanently restrained, enjoined and prohibited from directly or indirectly,

a. 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 to (1) cheat or defraud or attempt to cheat or defraud the other person; (2) willfully 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; and (3) willfully deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or in regard to any act of agency performed, with respect to any order or contract for the other person, in violation of 7 U.S.C. § 6b(a)(1)(A)-(C);

b. While acting as a CPO or CTA, or as an AP of a CPO or CTA, using the mails or any means or instrumentality of interstate commerce, directly or indirectly: (1) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or (2) 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 in violation of 7 U.S.C. § 6*o*(1)(A)-(B); and

c. Allocating orders eligible for post-execution allocation unfairly or inequitably in violation of 17 C.F.R. §1.35(b)(5)(iv)(B).

127. Defendants also are restrained, enjoined and prohibited for a period of six (6) years from:

a. 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));

b. Entering into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3), or digital asset commodities, including bitcoin, for accounts held in the name of any Defendant or for accounts in which any Defendant has a direct or personal interest;

c. Having any commodity interest or digital asset commodity traded on any Defendant's behalf.

128. Defendants also are permanently restrained, enjoined and prohibited from directly or indirectly:

a. 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;
b. Soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity interests or digital asset commodities;
c. Applying for registration or claiming any 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); and
d. Acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a)), agent or any other officer or employee of any person registered, exempted from registration, or required to the registered with the CFTC, except as provided for in 17 C.F.R. § 4.14(a)(9).

V. Restitution and Disgorgement

A. Restitution

129. Defendants shall pay, jointly and severally, restitution in the amount of one million two hundred eight thousand five hundred and three dollars ($1,208,503) ("Restitution Obligation"), representing the net losses to pool participants in connection with Defendants' violations.

130. In the Criminal Action, Kambolin has been sentenced to twenty-four (24) months imprisonment and ordered to pay $1,208,503 in restitution in connection with the misconduct at issue in this matter. For amounts disbursed as a result of Defendants' satisfaction of the restitution ordered in the Criminal Action, Defendants shall receive dollar-for-dollar credit against the Restitution Obligation. Within ten days of disbursement in the Criminal Action, Defendants shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity

Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington D.C. 20581, copies of the form of payment.

131. The amounts payable to each pool participant shall not limit the ability of any pool participant from proving that a greater amount is owned from any Defendant or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any pool participant that exist under state or common law.

132. Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each pool participant who suffered a loss is explicitly made an intended beneficiary of this Consent Order and may seek to enforce the obedience of this Consent Order to obtain satisfaction of any portion of the Restitution Obligation that has not been paid by Defendants to ensure continued compliance with any provision of this Consent Order and to hold Defendants in contempt for any violations of any provisions of this Order.

133. To the extent any funds accrue to the U.S. Treasury for satisfaction of the Restitution Obligation, such funds shall be transferred to the Clerk of Court, United States District Court, Southern District of Florida, 400 N. Miami Avenue, Rm. 8N09, Miami, FL 33128 for disbursement in accordance with the procedures set forth in the Criminal Action.

B. Disgorgement

134. Defendants shall pay, jointly and severally, disgorgement in the amount of one million six hundred thirty-three thousand one hundred and nineteen dollars ($1,633,119) ("Disgorgement Obligation"), representing the gains received in connection with Defendants' violations.

135. Relief Defendant Jersey City shall disgorge, and is jointly and severally liable with Defendants in the amount of, seven hundred one thousand six hundred and forty-seven dollars and sixty-seven cents ($701,647.67) of the Disgorgement Obligation, which is the amount of ill-gotten gains it received as a result of Defendants' violations.

136. In the Criminal Action, criminal forfeiture of $1,633,119 was ordered. Defendants and Relief Defendant shall receive dollar-for-dollar credit against the Disgorgement Obligation for any amount forfeited in satisfaction of the criminal forfeiture. Within ten days of forfeiture of any amounts in the Criminal Action, Defendants and Relief Defendant shall, under a cover letter that identifies the name and docket number of this proceeding, transmit to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington D.C. 20581, documentation of the forfeited amounts.

C. Provisions Related to Monetary Sanctions

137. Partial Satisfaction: Acceptance by the CFTC of any partial payment of the Restitution Obligation or Disgorgement Obligation shall not be deemed a waiver of Defendants' or Relief Defendant's obligation to make further payments pursuant to this Consent Order, or a waiver of the CFTC's right to seek to compel payment of any remaining balance.

138. Asset Freeze: On April 24, 2023, the Court entered an asset freeze order prohibiting the transfer, removal, dissipation and disposal of Defendants' and Relief Defendant's assets ("Asset Freeze Order"), which was continued pursuant to the preliminary injunction order entered on May 23, 2023. All assets currently frozen under the Asset Freeze Order (which does not include the insurance proceeds or other funds released to Kambolin under previous orders of this Court) will be disbursed to the Clerk of the Court for the Southern District of Florida for application towards Kambolin's judgment in the Criminal Matter. Disbursement of funds shall be made in the form of a check made payable to the "U.S. Courts," referencing "*United States of America v. Peter Kambolin,* No. 23-20372-CR-HUCK/BECERRA (S.D. Fla.), and addressed to:

Clerk of the Court
United States District Court
Southern District of Florida
400 N. Miami Ave., Rm. 8N09
Miami, Florida 33128

Defendants shall execute any documents necessary to facilitate the release of these assets. Subject to the surrender of the frozen assets, the Court hereby lifts the Asset Freeze Order.

VI. Cooperation

139. Defendants shall cooperate fully and expeditiously with the CFTC, including the CFTC's Division of Enforcement ("Division"), in this action, and in any current or future investigation or action related to the subject matter of this action.

140. Defendants shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action, including but not limited to any investigation or action by any self-regulatory organization related to or arising from this action.

VII. Miscellaneous Provisions

141. Until such time as Defendants and Relief Defendant satisfy in full their respective Restitution Obligation and Disgorgement Obligation under this Consent Order, upon the commencement by or against Defendants or Relief Defendant of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Defendants' or Relief Defendant's debts, all notices to creditors required to be furnished to the CFTC under Title 11 of the United States Code or other applicable law with respect to insolvency, receivership, bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

142. Notice: All notices required to be given by any provision in this Consent Order, except as set forth in paragraph 141, above, shall be sent certified mail, return receipt requested, as follows:

Notice to CFTC:
Charles Marvine
Deputy Director
Commodity Futures Trading Commission
2600 Grand Blvd., Ste. 210
Kansas City, Missouri 64108

Notice to Defendants and Relief Defendants:
Peter Kambolin
c/o Kendall B. Coffey and Jeffrey B. Crockett
Coffey Burlington, P.L.
2601 South Bayshore Drive, Penthouse
Miami, FL 33133

All notices to the CFTC shall reference the name and docket number of this action.

143. Change of Address/Phone: Until such time as Defendants and Relief Defendant satisfy in full their respective Restitution Obligation and Disgorgement Obligation as set forth in this Consent Order, they shall provide written notice to the CFTC by certified mail of any changes to their telephone number and mailing address within ten calendar days of the change.

144. Entire Agreement and Amendments: This Consent Order incorporates all of the terms and conditions of the settlement among the parties hereto to date. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (a) reduced to writing; (b) signed by all parties hereto; and (c) approved by order of this Court.

145. Invalidation: If any provision of this Consent Order or if the application of any provision or circumstance is held invalid, the remainder of this Consent Order and the application of this provision to any other person or circumstance shall not be affected by the holding.

146. Waiver: The failure of any party to this Consent Order or of any pool participant at any time to require performance of any provision of this Consent Order shall in no manner affect the right of the party or of the pool participant at a later time to enforce the same or any other provision of this Consent Order. No waiver in one or more instances of the breach of any provision contained in this Consent Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Consent Order.

147. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this action to ensure compliance with this Consent Order and for all other purposes related to this action, including any motions by Defendants or Relief Defendant to modify or for relief from the terms of this Consent Order.

148. Injunctive and Equitable Relief Provisions: The injunctive and equitable relief provisions of this Consent Order shall be binding upon the following persons who receive actual notice of this Consent Order, by personal service or otherwise: (1) Defendants and Relief Defendant; (2) any officer, agent, servant, or attorney of the Defendants or Relief Defendant; and (3) any other persons who are in active concert or participation with any persons described in subsections (1) and (2) above.

149. Authority: Defendant Peter Kambolin hereby warrants that he is the sole owner of Defendant Systematic Alpha Management, LLC and Relief Defendant Jersey City Partners, LLC, that this Consent Order has been duly authorized by Defendant Systematic Alpha Management, LLC and Relief Defendant Jersey City Partners, LLC, and that he is authorized to sign and submit this Consent Order on behalf of Defendant Systematic Alpha Management, LLC and Relief Defendant Jersey City Partners, LLC.

150. Counterparts and Facsimile Execution: This Consent Order may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered (by facsimile, e-mail or otherwise) to the other party, it being understood that all parties need

not sign the same counterpart. Any counterpart or other signature to this Consent Order that is delivered by any means shall be deemed for all purposes as constituting good and valid execution and delivery by such party of this Consent Order.

151. Contempt: Defendants and Relief Defendant understand that the terms of the Consent Order are enforceable through contempt proceedings, and that, in any such proceedings they may not challenge the validity of this Consent Order.

152. Agreements and Undertakings: Defendants and Relief Defendant shall comply with all of the undertakings and agreements set forth in this Consent Order.

The Clerk is directed to **close** this case and any pending motions are **denied as moot**.

Done and ordered at Miami, Florida on September 4, 2025.

Robert N. Scola, Jr.
United States District Judge