

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R.J. ZAYED, In His Capacity As Court-Appointed Receiver For The Estates of Trevor G. Cook, Patrick J. Kiley, Jason Bo-Alan Beckman, UBS Diversified Growth, LLC, Market Shot, LLC, Oxford Global Advisors, LLC, Oxford Global Partners, LLC, Oxford Global FX, LLC, Oxford Growth FX L.P., And Other Receivership Entities,)	
)	Civil Action
)	File No.: 12-cv-00269-RHK/JSM
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)	
)	<u>COMPLAINT</u>
)	
The Receiver,)	JURY TRIAL DEMANDED
)	
v.)	
)	
PEREGRINE FINANCIAL GROUP, INC.)	
)	
Defendant.)	

R.J. Zayed, in his capacity as court-appointed receiver (the “Receiver”) for the estates of Trevor G. Cook, Patrick J. Kiley, Jason Bo-Alan Beckman, UBS Diversified Growth, LLC d/b/a UBS Diversified, Market Shot, LLC, Oxford Global Advisors, LLC, Oxford Global Partners, LLC, Oxford Global FX, LLC, Oxford Growth FX, L.P., and various other individuals and entities controlled by them (the “Receivership Entities”)¹ files this Original Complaint against Defendant, Peregrine Financial Group, Inc. (“Defendant” or “PFG”) and alleges as follows:

¹ When necessary to distinguish between entities, the full name of the individual entities will be used.

I. NATURE OF THE ACTION

1. R.J. Zayed is the Court-appointed Receiver for the estates of Trevor G. Cook, Patrick J. Kiley, Jason Bo-Alan Beckman, UBS Diversified Growth, LLC d/b/a UBS Diversified, Market Shot, LLC, Oxford Global Advisors, LLC, Oxford Global Partners, LLC, Oxford Global FX, LLC, Oxford FX Growth, L.P., and various other entities controlled by them. The Receiver brings this action, pursuant to section 513.44 of the Minnesota Uniform Fraudulent Transfer Act (“MUFTA”), to recover actual fraudulent transfers made from Receivership Entities to Peregrine Financial Group, Inc.

2. Trevor Cook (“Cook”), along with others, operated one of the largest Ponzi schemes in Minnesota history. Cook is presently serving a 25-year prison sentence after having admitted his “guilt for a large fraud scheme that caused great financial harm to many victims.” Cook and his confederates stole more than \$190 million from over one thousand investors, many of whom were completely ruined financially. The Receivership Entities were among the many victims of Cook’s Ponzi scheme.

3. From at least July 2006 through July 2009, Cook, Patrick J. Kiley (“Kiley”), Jason Bo-Alan Beckman (“Beckman”), and others raised money by selling investments in a supposed foreign currency program (collectively, the “Ponzi Principals”). Among other things, the Ponzi Principals represented falsely that the foreign currency trading program would generate annual returns of 10% to 12% and that each investor’s principal would be fully protected (the “Currency Program”).

4. In fact, the Currency Program was nothing but an elaborate web of lies. To the extent the Ponzi Principals engaged in trading at all, the trading bore little, if any,

resemblance to the supposed features of the Currency Program, and it resulted in massive net losses. The Ponzi Principals ultimately lost more than \$30 million in trading accounts at PFG that Defendant permitted Cook to open, maintain, and manage in the face of overwhelming red flags of fraud or insolvency. In doing so, Defendant acted contrary to or violated industry rules, regulations, guidelines, and practices.

5. Defendant is a futures commission merchant, or “FCM.” An FCM is a firm that solicits and/or handles orders for the purchase or sale of futures contracts, subject to the rules of a futures exchange. An FCM accepts money or securities to provide margin for trades or contracts. FCMs must register with the Commodity Futures Trading Commission (the “CFTC”). PFG is also a Forex dealer. “Forex” is the term used in the financial industry to refer to foreign currency trading. PFG has touted itself on its website as being a “leader” in Forex trading.

6. PFG is a member of the National Futures Association (the “NFA”). The NFA is the self-regulatory organization for the futures industry in the United States. Among other things, the NFA promulgates rules and guidelines that apply to all of its members. As PFG emphasizes on its website, as an NFA member, PFG is “required to... follow rules and guidelines of high professional and ethical business conduct.”

7. PFG holds itself out as being focused on the “diligent and respectful care” of its customers. As recently as November 2, 2011, PFG issued a press release that said, among other things, that the firm “is concerned about the sanctity of the marketplace.” <http://www.pfgbest.com/about/press/ReleaseCustomerFunds.asp>, last accessed January 5, 2012.

8. Beginning in mid-2005 and continuing through at least June 2009, Cook traded Receivership funds in both the commodity futures and the over-the-counter (“OTC”) Forex markets at PFG through various accounts that he owned or controlled. All the trading Cook did through these accounts was related to and in furtherance of the overall Ponzi scheme. In all, Cook and the Ponzi Principals transferred tens of millions of dollars, totaling approximately \$48 million, to PFG accounts from Receivership Entities.

9. The accounts at issue in this action were opened in the name of individual Ponzi Principals or in the name of Receivership Entities. The accounts were of two types: futures trading accounts and Forex trading accounts. Trading in futures and options is executed on regulated exchanges. Forex trades, like the ones entered into by Cook, occur “over-the-counter,” with the customer on one side of the transaction and the FCM on the other. In the case of futures trading, the FCM makes money off the customer by charging commissions on trades while acting as a broker and guarantor for the customer vis-à-vis the exchange. In the case of OTC Forex trading, the FCM is the counterparty to the transaction. An FCM can earn money from OTC Forex trading a number of ways, including by charging the customer a mark-up on the price of currency over what the FCM paid to obtain the currency.

10. The Receiver brings this lawsuit to recover the transfers of money from Receivership Entities to PFG (collectively, the “Challenged Transfers”). Because Cook’s fraudulent scheme was a Ponzi scheme in nature, as a matter of law, each and every one of the Challenged Transfers was made with actual fraudulent intent. Under the well-established and widely-recognized “Ponzi scheme presumption,” all transfers made in the course of a Ponzi scheme are presumed to have been made with the actual intent to hinder, defraud or delay the creditors of the entity. Thus, the actual intent element of a cause of action for actual fraudulent transfer under the MUFTA is effectively already established in this case, as a matter of law.

11. As set forth in more detail within, Defendant was a “transferee” under the MUFTA of the Receivership Funds transferred to PFG accounts. PFG demanded, and received, broad rights to the Challenged Transfers in the express terms of the customer account agreements that governed each of the accounts into which the Challenged Transfers were deposited. Accordingly, PFG is a transferee under the MUFTA from which the Receiver is entitled to recover the Challenged Transfers.

12. Although it is not the Receiver’s burden to plead or prove that PFG did not receive the Challenged Transfers in good faith, as set forth within, even the partial and incomplete information obtained by the Receiver to date is sufficient to illustrate that PFG could never succeed in carrying its burden of proof of establishing that it received each and every one of the Challenged Transfers in objective good faith. In other words, PFG cannot establish that it acted as a reasonable FCM would have acted under the facts and circumstances. Rather, Defendant did not receive the Challenged Transfers in

objective good faith because, in permitting the accounts to be opened, and then in permitting the accounts to remain open and under Cook's management, Defendant violated industry rules, regulations, guidelines, and practices, as well as its own compliance policies and procedures. PFG ignored or failed to discern a myriad of objective red flags of fraud and insolvency that would have caused a reasonable FCM in PFG's position to refuse to open the accounts or, if the accounts were opened, to close them and prohibit any further trading.

13. Accordingly, the Receiver brings this action under the MUFTA to recover each of the Challenged Transfers from PFG.

II. JURISDICTION AND VENUE

14. This Court has original jurisdiction under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00 and there is complete diversity of citizenship between the parties. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 754, 1692, 1367 and Federal Rule of Civil Procedure 4(k)(1)(C).

15. Further, within ten days of his appointment, the Receiver filed the original Complaint and Order Appointing the Receiver in all United States District Courts pursuant to 28 U.S.C. §§ 754 and 1692, giving this Court *in rem* and *in personam* jurisdiction in each district where the Complaint and Order have been filed.

16. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claim occurred, and the resulting damages were sustained, in Minnesota.

17. Venue is also proper in the District of Minnesota because (1) the SEC and CFTC Proceedings referenced in paragraphs 18–19 are pending in this district and this action is supplemental to it; (2) the Receiver was appointed in this district to marshal, preserve, account for, and liquidate the assets subject to the Receivership Orders; and (3) the damages at issue in this action are Receivership Assets.

III. THE PARTIES AND THE PONZI PRINCIPALS

18. R.J. Zayed was appointed the Receiver for the estates of Cook, Kiley, Beckman, UBS Diversified Growth, LLC d/b/a UBS Diversified, Market Shot, LLC, Oxford Global Advisors, LLC, Oxford Global Partners, LLC, Oxford Global FX, LLC, Oxford Growth, L.P., and various other entities controlled by them, by the United States District Court for the District of Minnesota, Chief Judge Michael J. Davis presiding, on November 23, 2009 in the cases of *SEC v. Cook et al.*, 09-cv-3333, and *CFTC v. Cook et al.*, 09-cv-3332, and on March 8, 2011 in the case of *SEC v. Beckman et al.*, 11-cv-574. *Order Appointing Receiver*, No. 09-cv-3333, Doc. 13 (Nov. 23, 2009); *Ex Parte Statutory Restraining Order*, No. 09-cv-3332, Doc. 21 (Nov. 23, 2009); *Second Amended Order Appointing Receiver*, No. 09-cv-3333, Doc. 68 (Dec. 11, 2009); *Order Continuing Appointment of the Temporary Receiver*, No. 09-cv-3332, Doc. 96 (Dec. 11, 2009); *Order Appointing Receiver*, No. 11-cv-574, Doc. 10 (Mar. 8, 2011) (collectively, the “Receivership Orders”).

19. Pursuant to the Court’s Receivership Orders, the Receiver stands in the place of the Receivership Entities and is authorized to pursue all suits which may be brought by the Receivership Entities. *Second Amended Order Appointing Receiver*, No.

09-cv-3333, Doc. 68 at 3 (Dec. 11, 2009); *Order Continuing Appointment of the Temporary Receiver*, No. 09-cv-3332, Doc. 96, at 4 (Dec. 11, 2009); *Order Appointing Receiver*, No. 11-cv-574, Doc. 10, at 3 (Mar. 8, 2011).

20. **Market Shot, LLC (“Market Shot”), a Receivership Entity**, is a limited liability company formed under the laws of Minnesota by Cook in March 2005. Cook funneled assets of the Receivership Entities through Market Shot and to accounts maintained at PFG in the name of Market Shot. Market Shot has never been registered with the CFTC in any capacity. Multiple Forex accounts were opened and maintained at PFG in the name of Market Shot, either singly or jointly with Trevor Cook, including account XX-XXX-X6034 and XX-XXX-X5791 (the “Market Shot Forex Accounts”). Between June 2006 and March 2007, approximately \$5.25 million was transferred from Receivership Entities to the Market Shot Forex Accounts at PFG. Additionally, a futures trading account was opened at PFG in the name of Market Shot LLC, account X-XXX-XX-X6156, into which Receivership Entities deposited at least \$1 million (the “Market Shot Futures Account”).

21. **Oxford FX Growth, LP (“Oxford FX Growth”), a Receivership Entity**, is a limited partnership that was formed by Beckman and Pettengill under the laws of Minnesota in September 2007. At all times relevant to this Complaint, its principal place of business was 1900 LaSalle Avenue, Minneapolis, Minnesota. Oxford FX Growth has never been registered with the CFTC in any capacity. Account number XX-XXX-XC364 was opened and maintained at PFG in the names of Jason B. Beckman and Oxford FX Growth LLP (“Beckman Oxford Growth Forex Account”). Between December 2007 and

September 2008, approximately \$13 million was transferred from Receivership Entities to the Beckman Oxford FX Growth Forex Account at PFG. In addition, two futures accounts were opened in the name of Oxford FX Growth at PFG, accounts X-XXX-XX-X6264 and X-XX-XX-X6325, into which Receivership Entities deposited approximately \$2.6 million (the “Beckman Oxford FX Growth Futures Accounts”).

22. **Oxford Global FX, LLC (“Oxford Global FX”), a Receivership Entity,** is a limited liability company formed by Cook under the laws of Minnesota in September 2008. At all times relevant to this Complaint, its principal place of business was located at 1900 LaSalle Avenue, Minneapolis, Minnesota. Oxford Global FX has never been registered with the CFTC in any capacity. Account XX-XXX-XL145 was opened and maintained at PFG in the names of Trevor Cook and Oxford Global FX (the “Oxford Global FX Account”). Between January 2008 and January 2009, approximately \$1.5 million was transferred from Receivership Entities to the Oxford Global FX Account.

23. **Trevor G. Cook,** is serving a 25-year sentence after pleading guilty to crimes he committed in furtherance of an admitted fraudulent scheme. At various times relevant to this Complaint, Cook owned, operated, and was the managing partner of Oxford Global Advisors, LLC (“Oxford Global Advisors”) and Oxford Global Partners, LLC (“Oxford Global Partners”). Cook held himself out publicly as the chief investment director of Oxford Global Partners. Cook also owned and operated Oxford Global FX and Market Shot and held himself out to be a partner and managing director of UBS Diversified Growth, LLC d/b/a UBS Diversified (“UBS Diversified”). Cook opened and maintained PFG Account XX-XXX-X5464 in his own name (the “Cook Account”).

Between November 2006 and September 2008, Receivership Entities transferred approximately \$21 million to the Cook Account.

24. **Christopher Pettengill** (“Pettengill”), pleaded guilty on June 20, 2011 to crimes that he committed in connection with the fraudulent scheme described herein. Pettengill is currently awaiting sentencing. Pettengill was an owner and founder of Oxford Global Advisors and Oxford FX Growth. Beginning at least as early as mid-2007, assets of the Receivership Entities were funneled through Pettengill’s personal bank account and to various accounts at PFG that were managed by Cook, including accounts XX-XXX-X5633 and XX-XXX-X5634, in the amount of at least \$1.5 million (the “Pettengill Forex Accounts”). A futures trading account was also opened in Pettengill’s name, into which the Receivership Entities transferred approximately \$1.5 million (the “Pettengill Futures Account”).

25. **UBS Diversified, a Receivership Entity**, is a limited liability corporation with its principal place of business at 12644 Tiffany Court, Burnsville, Minnesota 55337. UBS Diversified was used by Cook and Kiley as an unregistered introducing broker and an entity through which they solicited people to invest in the Currency Program. UBS Diversified has never been registered with the CFTC in any capacity.

26. Defendant **Peregrine Financial Group, Inc.** is an FCM and Forex dealer with its principal place of business located at 311 West Monroe, Suite 1300, Chicago, Illinois 60603. At all relevant times, PFG was registered with the CFTC as an FCM and was a member of the NFA.

27. **Patrick J. Kiley** is currently under indictment for crimes he is alleged to have committed in connection with the Ponzi scheme described herein. Kiley is the owner and founder of UBS Diversified and Universal Brokerage FX management, LLC (“Universal Brokerage”). At all times relevant to this Complaint, Kiley hosted a financial-themed radio show that he used to market the Currency Program. Kiley has never been registered with the CFTC and has never been associated with any registered entity.

28. **Jason Bo-Alan Beckman** is currently under indictment for crimes he is alleged to have committed in connection with the Ponzi scheme described herein. Beckman is an owner and founder of Oxford Global Advisors and Oxford FX Growth.

IV. STATEMENT OF FACTS

A. Cook and the Ponzi Principals Operated a Ponzi Scheme

29. Cook and the Ponzi Principals operated a Ponzi scheme that involved selling investments in the Currency Program to investors. Cook and his cohorts marketed the Currency Program using fraudulent representations that read like a laundry list of the classic hallmarks of a Ponzi scheme. These sorts of representations, by themselves, are a sufficient red flag of potential fraud to any sophisticated finance industry professional that is vigilant against such schemes. The marketing materials for the Currency Program included the following misrepresentations:

- Guaranteed annual returns ranging from 10.5% to 12% of the principal investment, even in bad markets.

- The Currency Program employs an investment strategy that eliminates all market risk to the customer's principal.
- Customer funds will be deposited in segregated accounts, in the client's name, at a commercial bank, and not commingled with other customer funds.
- Customer funds will be 100% liquid on a 24-hour basis, such that customers can withdraw their funds at anytime.

30. The Ponzi Principals, led by Cook, claimed they could accomplish these amazing results by executing what they called a "fully hedged carry trade." They claimed that, by fully hedging every investment, they would protect the customer's principal at all times while still generating substantial returns. The returns were supposedly going to be generated by the interest generated by "carrying" fully hedged currency positions.

31. The Ponzi Principals told customers they would use Shariah compliant banks to hold one side of the hedged transaction. They claimed that Shariah compliant banks are prohibited by religious doctrine from charging interest on currency loans. Therefore, the Ponzi Principals claimed, the Currency Program would earn interest on one side of the hedge, but would not be required to pay the interest on the other.

32. In fact, to the extent the Ponzi Principals traded foreign currency at all, they did so via accounts at United States-based firms, such as PFG, under circumstances that were riddled with red flags of fraud and insolvency. Had Defendant acted as a reasonable FCM, and in compliance with the rules, regulations, guidelines, and practices of its

industry, it would have refused to do business with Cook and the other Ponzi Principals and the Ponzi scheme would have been halted much earlier. Instead, driven by a profit motive, PFG did business with Cook and the Ponzi Principals under circumstances that would have caused a reasonable FCM to halt trading – and possibly even alert the authorities of suspected criminal activity.

B. PFG’s Profit Motive for Ignoring Objective Evidence of Fraud or Insolvency

33. Cook’s trading in foreign currencies and futures at PFG was related to, and in furtherance of, the overall Ponzi scheme. Cook personally opened, or caused others to open, at least 26 trading accounts at PFG in the names of Receivership Entities UBS Diversified, Market Shot, Oxford FX Growth, Oxford Global FX, and in his own name, including the Market Shot Forex Accounts; Market Shot Futures Account; Beckman Oxford Growth Forex Account; Beckman Oxford FX Growth Futures Accounts; Oxford Global FX Account; Cook Account; Pettengill Forex Accounts; and Pettengill Futures Account. These accounts were funded with assets of the Receivership Entities, which consisted of the pooled assets of the investors in the Currency Scheme.

34. Cook’s business relationship with PFG was not limited to his opening and managing accounts in the names of Receivership Entities. During the period from at least July 2005 until June 2009, Cook had a multi-faceted relationship with PFG. In addition to opening accounts and interacting with PFG as the investment manager for the accounts of Receivership Entities, Cook introduced customers to PFG through UBS Diversified, which acted as a non-guaranteed introducing broker – or “IB” in the parlance of the

financial industry – to PFG. Cook also acted as the Commodity Trading Adviser (or “CTA”) for accounts that were opened in the names of individual investors.

35. Upon information and belief, Cook was a very important client relationship for PFG. According to the version of PFG’s website that was available online as of March 18, 2008 (last accessed via www.archive.org on January 5, 2012), PFG had approximately \$203 million in customer equity in 2006. Thus, the \$48 million that Cook directed to PFG over the course of 2006 through 2009 represented a very significant portion of PFG’s overall business.

36. However, from the outset of its relationship with Cook, PFG knew about Cook’s past disciplinary record in the financial industry, which marked him as a suspicious and high-risk customer and business partner. As PFG knew or should have known, in 2001, Cook was subject to a registration denial proceeding brought by the NFA for conduct reflecting a lack of honesty. Four years later, in 2005, Cook was sanctioned by the NFA in the context of a disciplinary action in which he had been charged with making misleading statements, failing to uphold high standards of commercial honor, failing to give appropriate risk disclosures, inflating a customer’s annual income and net worth, and converting customer funds.

37. A reasonable FCM would have proceeded with extreme caution in dealing with Cook if, indeed, a reasonable FCM would have agreed to deal with him at all. At a minimum, a reasonable FCM would have required that all compliance procedures be followed to the letter without any shortcuts. Yet, despite knowing about Cook’s past disciplinary and regulatory issues, PFG continually failed to apply its own compliance

procedures – let alone the rules, regulations, guidelines, and practices of its industry – in its highly-lucrative dealings with Cook.

38. Nolan Schiff (“Schiff”) and Ryan Peterson (“Peterson”) were Cook’s primary contacts at PFG. At all relevant times herein, Schiff was the Director of Managed Foreign Exchange at PFG. PFG hired Schiff away from another FMC during the summer of 2005 as part of its plan to grow its Managed Foreign Exchange Division. Upon information and belief, Cook was one of Schiff’s first – and largest – clients at a time when PFG was aggressively trying to expand its Forex operation, and Schiff was trying to succeed as the new Director of that area of the business. Upon information and belief, a substantial portion of Schiff’s compensation was directly tied to how much money PFG earned from Cook’s trading in PFG accounts.

39. Peterson worked in Business Development under Schiff. Peterson handled most of the day-to-day contacts with Cook, which included providing Cook with whatever information he requested about any of the accounts Cook was managing. Upon information and belief, a substantial portion of Peterson’s compensation was directly tied to how much money PFG earned from Cook’s trading in PFG accounts.

40. Schiff and Peterson met with Cook and the other Ponzi Principals on a number of occasions. Upon information and belief, Schiff visited Cook’s offices at the Van Dusen Mansion several times. While there, Schiff met Pettengill and Beckman, whom he understood to be Cook’s business partners. (In fact, Schiff was familiar enough with Pettengill that he allowed him to place a trade on Cook’s behalf, via telephone, in a futures account at PFG that was either owned or managed by Cook and for which

Pettengill had not been legally empowered to act.) Thus, Schiff and Peterson had ample opportunities to ask questions about, review documents concerning, and become familiar with, the Currency Program and the business and financial condition of the Receivership Entities that had accounts at PFG.

C. Cook Opened a Multitude of Accounts at PFG

41. Beginning in 2005, Cook solicited customers, through UBS Diversified, to open both Forex and futures trading accounts at PFG. Beginning in 2006, Cook began trading the assets of the Receivership Entities at PFG through multiple futures and Forex accounts held in the names of several of the Receivership Entities. The assets traded through these accounts were comprised of the pooled funds of the victims of the Ponzi scheme.

1. UBS Diversified Accounts

42. Cook opened multiple accounts in the name of UBS Diversified. At all times relevant herein, Cook was a signatory on and managed the trading activity in each account held in the name of UBS Diversified.

43. Although UBS Diversified has never been registered with the CFTC in any capacity, PFG permitted UBS Diversified effectively to act as an IB for both futures and Forex accounts. An IB essentially functions as a salesperson for an FCM. The IB solicits customers and introduces them to the FCM, where they open an account. The IB receives a percentage of the commissions the FCM earns on the trading by the customer. The relationship between an IB and an FCM is governed by a written agreement.

44. The CFTC requires that all futures IBs be registered. With a few limited exceptions not relevant here, it is unlawful for unregistered persons to act as a futures IB on behalf of customers. *See* 7 U.S.C. § 6D(a).

45. Similarly, pursuant to NFA Bylaw 1101, any person who transacts futures business with the public in the capacity of an IB is required to be a member of the NFA and to adhere to its rules and bylaws. NFA Bylaw 1101 also strictly prohibits members to carry accounts for a non-registered IB, like UBS Diversified. Specifically, Bylaw 1101 provides:

No Member may carry an account, accept an order or handle a transaction in commodity futures contracts for or on behalf of any non-Member of the NFA, or suspended Member, that is required to be registered with the [CFTC] as an FCM, IB, CPO, CTA or LTM, and that is acting in respect to the account, order or transaction for a customer, a commodity pool or participant therein, a client of a commodity trading advisor, or any other person

46. At all relevant times, PFG was an FCM registered with the CFTC and a member of the NFA. As a member, PFG was subject to the regulatory oversight of the NFA and was required, under penalty of disciplinary measures ranging from monetary sanctions to suspension or revocation of its trading privileges, to follow its compliance rules and bylaws. As a self-regulatory organization formed to oversee the futures markets and participants therein, NFA's compliance rules and bylaws set the minimum professional and compliance standards for its members.

47. PFG and UBS Diversified entered into a written IB agreement concerning Forex accounts. However, since UBS Diversified was not registered with the CFTC or the NFA, PFG could not enter into a written agreement with UBS Diversified to act as a

futures IB. Yet, in practice, PFG permitted UBS Diversified to function in the same role with respect to futures accounts as it did with respect to Forex accounts.

48. PFG knew, or should have known, that it was violating the rules, regulations, guidelines, and practices of the industry by opening and carrying accounts for an unregistered IB. PFG failed to act as a reasonable FCM in opening and carrying futures accounts introduced by UBS Diversified.

2. Cook's "Personal" Accounts

49. Cook also opened at least six trading accounts in his own name at PFG: four Forex accounts and two futures accounts. Between November 2006 and September 2008, Receivership Entities transferred approximately \$21 million to the Cook Accounts.

3. Market Shot Accounts

50. In 2006, Cook opened at least 6 trading accounts – four Forex and two futures accounts – in the name of Market Shot, a company he owned. Cook funded these accounts with money from bank accounts held in the names of Receivership Entities. At all times, Cook managed the trading in these accounts. Between June 2006 and March 2007, approximately \$5.25 million was transferred from Receivership Entities to the Market Shot Forex Accounts at PFG. Additionally, Receivership Entities deposited at least \$1 million into the Market Shot Futures Account.

4. Pettengill's Accounts

51. During 2006, Pettengill opened three Forex accounts and one futures account at PFG in his own name. Pettengill granted Cook, through Cook's role at UBS

Diversified, a Limited Power of Attorney to manage and place trades in his personal accounts.

52. By at least September 2007, Cook began trading Receivership funds through the Pettengill Forex Accounts and the Pettengill Futures Accounts. At least \$1.5 million in Receivership Funds was deposited in the Pettengill Forex Accounts and at least another \$1.5 million was deposited in the Pettengill Futures Account.

5. Oxford FX Growth Accounts

53. From December 2006 to July 2008, Beckman opened at least six Forex accounts and two futures accounts in the name of Oxford FX Growth.

54. Although no power of attorney appears to have been executed for this account, PFG allowed Cook to manage, and place trades on behalf of, these accounts.

55. Between December 2007 and September 2008, approximately \$13 million was transferred from Receivership Entities to the Beckman Oxford FX Growth Forex Account. Approximately \$2.6 million were transferred from the Receivership Entities to the Beckman Oxford FX Growth Futures Accounts.

6. Oxford Global FX Accounts

56. In late 2008 and early 2009, Cook opened two Forex accounts in the name of Oxford Global FX, a company he appears to have created specifically to trade the funds of the Receivership Entities. Cook was the signatory on these accounts.

57. Cook granted PFG a Limited Power of Attorney over at least one of the Oxford Global FX accounts that permitted PFG's registered Commodity Trading Advisors (known in the industry as "CTAs") to manage the account and execute trades.

A CTA manages customer accounts for a fee, which is typically a percentage of the assets under management and/or an amount that is linked to the performance of the assets under management. Thus, PFG garnered another income stream from Cook when he gave PFG the Limited Power of Attorney to act as a CTA.

58. Between January 2008 and January 2009, approximately \$1.5 million was transferred from Receivership Entities to the Oxford Global FX Account.

D. COOK'S TRADING AT PFG – FUTURES AND FOREX

59. Cook managed the trading in the Forex and futures accounts described above. In addition to managing all of the accounts held in the name of Receivership Entities, Cook managed accounts at PFG that were held in the names of individual investors in the Currency Program (the "Individual Futures and Forex Accounts"). The investors who owned the Individual Futures and Forex Accounts granted UBS Diversified, which was managed by Cook, a Limited Power of Attorney to conduct trades in their accounts, meaning that UBS Diversified was acting as a CTA on behalf of these investors. When the Individual Futures and Forex Accounts were funded with initial deposits, the customers paid a "sales load fee" equal to 6% of the total amount deposited, which was accomplished by PFG's either crediting the amount to an account held in Cook's name or to an account Cook controlled in the name of UBS Diversified.

60. However, UBS Diversified was not registered with either the CFTC or the NFA to act as a futures CTA, and Cook was not registered as an associated person with UBS Diversified. PFG knew, or should have known, that Cook was using UBS Diversified as an unregistered futures CTA. In permitting Cook to act through UBS

Diversified as an unregistered CTA, PFG violated industry rules, regulations, guidelines, and practices.

61. Cook treated the money held in the Individual Futures and Forex Accounts he managed as part of the same pool of money as that held in the accounts of Receivership Entities. Cook often directed PFG to move funds from the account of a Receivership Entity to one of the Individual Futures and Forex Account. This kind of routine commingling of funds between accounts with different owners is a major red flag of potential fraud or insolvency. It was a violation of industry rules, regulations, guidelines and practices for PFG to permit this kind of routine commingling of funds.

62. PFG knew, or should have known, that Cook was essentially operating as an unregistered commodity pool operator (or “CPO”) through UBS Diversified. CPOs that handle futures accounts are required to be registered with the CFTC and NFA. However, neither Cook nor UBS Diversified was registered with either the CFTC or the NFA to act in the capacity of a futures CPO. In permitting Cook to act as an unregistered futures CPO, PFG violated industry rules, regulations, guidelines, and practices.

63. It is no accident that Cook chose to do a substantial amount of his trading in retail Forex: at the time, Forex was less regulated than futures trading. However, the fact that Forex was less regulated does not mean that it was not regulated at all. Nor does it mean that PFG was given a license to ignore the objective red flags of fraud and insolvency that were flying up over all of its dealings with Cook.

64. Entities that acted as Forex-only IBs, CTAs, and CPOs were not required to register with the CFTC or become members of the NFA during the time period relevant

to this Complaint. Thus, the NFA had no direct regulatory authority over such persons and entities to the extent their activities were limited to Forex. However, the NFA created a strict liability standard for NFA members, like PFG, that transacted OTC Forex business with non-members. NFA compliance rule 2-36 effectively created a duty for NFA members to oversee the conduct of the non-members they did business with by imposing strict liability on the member for the actions of the non-member.

65. NFA's Interpretive Notice Regarding Forex Transactions with Forex Dealer Members, as it existed in 2004, makes this point clear. Regarding compliance rule 2-36, the interpretive notice provides, in relevant part:

If a customer is solicited or introduced by a non-Member of NFA, or if the customer's account is managed by a non-Member, ***the Forex Dealer Member is subject to discipline for the non-Member's conduct if that conduct would violate NFA requirements when engaged in by a NFA Member.*** In other words, a Forex Dealer Member is subject to an NFA disciplinary action for the non-Member's activities when soliciting, introducing, or managing accounts for the Forex Dealer Member's retail customers even if the non-Member was not the Forex Dealer Member's agent. (Emphasis added.)

66. At all times relevant to this Complaint, PFG was a Forex Dealer Member of the NFA. As such, pursuant to NFA compliance rule 2-36, PFG was held to a standard of strict liability for any violations of NFA requirements by non-members Cook, Beckman, or any of the other Ponzi Principals with which PFG elected to transact business, including entities like UBS Diversified that were controlled by Cook and the other Ponzi Principals.

67. Cook and the other Ponzi Principals repeatedly violated civil and criminal laws by making false and misleading statements to investors in "soliciting, introducing,

or managing accounts” that were carried by PFG. For instance, the Ponzi Principals represented in public marketing materials that Oxford Global Partners had over \$4 billion in assets and was a world-class provider of risk management services. Had PFG taken even minimal steps to confirm the accuracy of this extraordinary representation – such as requesting a financial statement, which is a routine request that a corporate customer should always meet – PFG would have discovered that Cook and the other Ponzi Principals were running an investment scheme. PFG can be held strictly liable under NFA Rule 2-36 for those, and other, false statements by Cook and the Ponzi Principals.

68. PFG’s liability under NFA Rule 2-36 establishes and underscores PFG’s failure to act as a reasonable Forex dealer would have under the circumstances, in accordance with industry rules, regulations, guidelines and practices. A reasonable FCM in PFG’s position would have taken steps to ensure that the non-members it was trading tens of millions of dollars worth of foreign currency with were not insolvent or engaged in fraud. PFG failed to behave as a reasonable FCM would have under the circumstances. The reason is simple: PFG’s profit motive to ignore the objective red flags of fraud and insolvency was simply too strong.

69. Unlike futures contracts, where an exchange acts as a matchmaker between counterparties, OTC Forex transactions are entered into between the investor and a Forex dealer. In this case, the Forex accounts at issue were the “customer” and PFG was the “counterparty,” as made clear by section 7 of PFG’s standard customer account agreement, which governs each of the Forex accounts at issue:

PFG shall act as a principal and it is the counterparty in each Currency Forex contract or transaction with Customer. Customer acknowledges, understands and agrees that PFG is not acting as a broker, intermediary agent, advisor, or in any fiduciary capacity to Customer in Currency Forex transactions.

70. Trading in the OTC Forex market is done in currency pairs. One party buys (goes long in) a currency by selling (shorting) the counter-currency. The counterparty necessarily takes the exact opposite positions in corresponding amounts. In entering into a Forex trade, a customer is betting that the currency he bought will rise in value relative to the currency he sold, or vice versa. OTC Forex trading is often referred to as a zero-sum game played between the trader and the dealer; when one side profits from a transaction, it does so at the other's expense.

71. The exchange rates, or relative prices of the currencies being traded by Cook in the Forex accounts at issue, were set by PFG. As set forth in PFG's standard account agreement:

Prices and valuations for Currency Forex are set by PFG and may be different from prices reported elsewhere. PFG will provide prices to be used in trading, valuations of Customer positions, and determination of margin requirements.

72. As an OTC Forex dealer, PFG acted as a retailer of foreign currencies. PFG's relationships with banks across the globe and its ability to buy currencies in large lots allowed it to purchase currency positions at rates lower than what its customers could get. Thus, one way PFG earned a profit on Forex was by simply marking up the rates at which it sold the currency positions to its customers.

73. As the counterparty to the Forex trades entered into by the Receivership Entities, PFG could also earn a profit when Cook bet wrong on currency. However, PFG did not necessarily lose when Cook and the Receivership Entities were on the winning side of a Forex trade, since PFG would have entered into hedging transactions to minimize, or eliminate, its risk of loss on the trade.

74. Given the amount of Forex trading Cook conducted, the sums of money involved, and the enormity of the trading losses in the accounts at issue here, it is fair to say that PFG and its brokers profited enormously from Cook's OTC Forex trading.

E. PFG WAS ON NOTICE OF POTENTIAL INSOLVENCY OR FRAUD

75. PFG received the Challenged Transfers under circumstances that would have put a reasonable FCM on notice of possible insolvency or fraud. As such, PFG did not receive the Challenged Transfers in objective good faith.

1. Cook commingled funds between different accounts owners.

76. Each Receivership Entity that opened an account at PFG submitted an "own funds" letter along with its account application. This short form letter stated, on behalf of the entity opening the account, that we "do not solicit customer funds." The letters also stated that the corporate account was being traded with corporate funds only. Putting aside the blatant falsity of the statement that no customer funds were involved – which PFG knew or should have known to be false, had it known absolutely anything at all about the companies and the people behind these multi-million dollar accounts – the manner in which the funds of the various accounts were commingled was a red flag of fraud.

77. Cook routinely transferred money between and among the accounts of the various Receivership Entities to cover margin calls and losses. Moreover, on multiple occasions, he openly stated in e-mails to Schiff and/or Peterson that all of the money in the various Receivership Accounts was effectively the same money. This commingling of money among different corporate entities, each of which had provided an “own funds letter,” was an objective red flag of fraud. Companies that are legitimately separate companies, and that are trading their own money, do not casually and repeatedly contribute funds to accounts held by other companies.

78. For example, on or about November 26, 2007, Cook observed that one of the UBS Diversified Forex accounts was getting close to falling below the required margin amount. In an attempt to avoid a margin call, or be required to close out any open trades, Cook sent an e-mail to Schiff saying he would wire in an additional \$2 million. Cook said that, while the wire would not arrive for a day or two, he had just sent \$1 million to an Oxford FX Growth account the previous week, plus another \$2 million to an account maintained in the name of JDFX. Cook argued in his e-mail that since “this is basically all of the same money,” the funds in those accounts should be considered as being sufficient to cover any margin deficiency in the UBS Diversified account until the new wire transfer arrived. In the alternative, Cook suggested that Schiff could transfer open positions from the UBS Diversified Forex account to either the Oxford FX Growth account or the JDFX Account. Cook’s suggestions make it plain that PFG treated the different corporate entities, and the different trading accounts, as a fiction. In fact, PFG

permitted Cook to act as though all of the accounts under his management were one vast, unregistered, illegal pool.

79. PFG continued to put its imprimatur on Cook's conduct throughout 2008, even as Cook's commingling of funds became a transparent – and increasingly desperate – effort to stave off financial collapse. As Cook's trading losses mounted, he scrambled to use funds from one account to cover a margin deficiency in another. Once again, Cook was robbing Peter to pay Paul, and PFG not only let him do it, but seemed to actually encourage the behavior. So long as PFG avoided being stuck with a financial loss from a customer who could not meet a margin call, it really did not seem to care what Cook did, or where the money came from.

80. On March 5, 2008, the Beckman Oxford FX Growth Forex Account was hit with a \$6 million margin call. On March 7, 2008, Cook sent Schiff an e-mail saying that “[t]here is plenty of money to send.” However, according to Cook, “we just need to clear it in the Oxford account.” Cook continued by assuring Schiff that, “[w]orst case scenario is I could wire more on Monday/Tuesday .. or send money from Trevor Cook, UBS Diversified, Marketshot, etc..” (Ellipses in original.) Thus, Cook's answer for how he could cover a margin call in the Beckman Oxford FX Growth Forex Account was that he could take money from his personal account, from UBS Diversified or from Market Shot, among others. What Cook was suggesting was truly extraordinary; he was saying he would take money from one company and give it to another, without offering any particular reason or purpose why one supposedly independent company that was trading its own money would use that money to cover a margin call for a different supposedly

independent company. Any reasonable FCM would have recognized this sudden cash flow emergency as a red flag not only of fraud, but of insolvency on the part of the company scrambling to meet its margin call.

81. Cook was still scrambling on March 10, 2008. First, Cook instructed Schiff to transfer \$1,000,000 from the Cook Account to the Pettengill Forex Account to cover a margin deficit in the account. Cook then e-mailed Schiff to say that he had sent two more wires, each for \$500,000, to the Beckman Oxford FX Growth Forex Account, and that he planned to send another \$5 million. Yet, the next day, Cook e-mailed Schiff to say that Pettengill was wiring \$300,000 to \$500,000, but again stalling on the \$5 million Cook claimed he intended to send. Cook played for time, saying he had moved \$5 million “from other accounts,” and would be sending it for “the Oxford account.”

82. On Saturday, March 15, 2008, Cook reached new levels of desperation. He tried to convince Schiff not to liquidate the open positions in the Beckman Oxford FX Growth Forex Account and JDFX Accounts by sending him what he claimed was the login information for a UBS Diversified account held at Crown Forex S.A. Cook urged Schiff to look at the account online, where he could verify for himself that the account had \$50 million in it. Thus, Cook suggested that PFG should consider money held in Switzerland in the name of UBS Diversified as some kind of security against an open margin call against the Beckman Oxford FX Growth Forex Account.

83. Schiff did not respond by asking Cook why he would even suggest that one company would cover the margin call of another. Far to the contrary: Schiff suggested in a March 16th e-mail that Cook liquidate positions in the UBS Diversified account at

Crown Forex S.A. and transfer the money to PFG. Thus, PFG's Director of Managed Foreign Exchange suggested to Cook that he use the assets of one company to cover margin calls in the accounts of two different companies. Meanwhile, Schiff did not ask to see financial information to demonstrate that Oxford FX Growth remained a solvent entity. Schiff did say that Cook would be suspended from placing any trades until further notice in the Oxford FX Growth accounts, though, until the margin call was met. In other words, PFG would reduce its own exposure to financial loss by exercising its contractual rights to halt trading and close out positions, but it would not – and, in fact, did not – take any other steps designed to act upon the obvious indications of insolvency or fraud.

84. Ever more frantic, Cook sent Schiff a screen shot of a UBS Diversified checking account that contained approximately \$249,000, plus the login information to his personal bank account, which Cook claimed had a balance of \$305,000. Cook also promised to use those funds to send \$500,000 to PFG first thing Monday morning. Cook then sent another e-mail with a screen shot of an Oxford FX Growth bank account which showed a balance of about \$330,000, and told Schiff that he personally had another \$250,000 in an account at Associated Bank.

85. A reasonable FCM would have recognized the objective evidence that the entities struggling to meet their margin calls were insolvent and, further, Cook's means of trying to satisfy the margin calls were objective evidence of fraud in Cook's handling of the accounts under his management. However, PFG ignored the objective evidence of fraud and insolvency and focused on one thing only: limiting its own financial exposure.

86. On March 17, 2008, Cook sent an e-mail to assure Schiff that \$500,000 would hit soon for the JDFX Account, \$280,000 would be coming in from his personal account, \$220,000 had been requested from a UBS Diversified account, and \$500,000 was coming from “two other accounts.” That same day, Schiff sent Cook an e-mail pleading for the reference numbers for the supposed wire transfers. Cook responded by informing Schiff that money was coming in from Universal Brokerage FX, Oxford FX Growth, JDFX, and Cook’s personal account.

87. By March 18, 2008, Cook had been scrambling for over a week to meet margin requirements and losses in the JDFX and Oxford FX Growth accounts, but the accounts were still short. Cook e-mailed Schiff, and in an attempt to buy additional time, said that \$2 million should hit from “our” accounts this week. Cook went on to say that, by his calculation, “there is over \$1 mill in the Pettengill cash and Forex accounts” which he hoped was sufficient cash equity to buy “us” another day or so. Thus, Cook treated the JDFX and Oxford FX Growth accounts as being part of the same “us” as two personal accounts held in Pettengill’s name. Notably, Pettengill and Cook both executed “own funds letters,” too, claiming that the funds they traded in their personal accounts were their own. This treatment of all funds – even those in personal accounts – as being part of one large pool was contrary to the “own funds letters” submitted to PFG and proof that Cook was operating an unregistered and illegal pool. Any reasonable FCM would have understood that this conduct was a strong indicator not only of fraud, but of the possible insolvency of the corporate entities that were unable to promptly meet margin calls, and that ultimately did so only by cobbling money together from unrelated accounts.

88. More specifically, PFG's own compliance policies and procedures identified such conduct as "suspicious activit[y]" that must be immediately reported to the PFG Director of Compliance. Included among the examples of suspicious activities required to be reported pursuant to PFG's Compliance and Procedures Manual are when (i) "[a] customer's account has a large number of wire transfers to or from third parties who have no family or fiduciary relationship"; and (ii) "[a] customer engages in excessive journal entries between unrelated accounts without any apparent business purpose." Nevertheless, as described above, PFG routinely ignored such suspicious activity when performed by Cook.

89. Cook's suspicious behavior did not end in March of 2008, but continued throughout the year. For instance, on April 16, 2008, Cook transferred \$2,146,238.75 from the Cook Account to the Beckman Oxford FX Growth Forex Account. On September 9, 2008, Cook again transferred \$3.3 million from the Cook Account to the Beckman Oxford FX Growth Forex Account.

90. Even after the events of March 2008, PFG permitted itself to be used to funnel funds from one Receivership Entities to another company without requiring any explanation for why the funds were being run through PFG to accomplish the transfer. On July 2, 2008, Cook told Schiff to look for a \$1.7 million wire to PFG from "Oxford" for the benefit of Cook's commission account. Cook instructed Schiff to send that money to JDFX's bank account as soon as it was received. Thus, Cook used PFG to accomplish a transfer of \$1.7 million from "Oxford" to "JDFX," which was washed through Cook's

commission account. A reasonable FCM would not have agreed to permit itself to be used in this manner without confirming the reason for, and legitimacy of, the transfers.

2. Cook blatantly interfered with the communications between PFG and the owners of the Individual Forex and Futures Accounts, with PFG's knowledge and acquiescence.

91. Given that Cook treated all of the accounts under his management as one unregistered, illegal pool, his refusal to permit PFG to communicate directly with any owners of the Individual Forex and Futures Accounts was an obvious, and ominous, indication of fraud.

92. Cook was empowered to manage trading in the Individual Futures and Forex Accounts. One of the ways he exercised his authority was to make sure that PFG did not send any hard copy communications to the owners of the Individual Futures and Forex Accounts. In an April 11, 2006 e-mail, Cook wrote to Schiff and Peterson: "This is important. . . . We do not want anything hard copy going to these clients."

93. Cook insisted that all communications from PFG to the clients who owned the Individual Futures and Forex Accounts had to be via e-mail. But that was not all. Cook further insisted that, even where a client had provided an e-mail address on the account application, if Cook directed PFG to use a different e-mail address for the client, PFG had to do so. Thus, it was often the case that a client would provide an e-mail address on the account application, but a different e-mail address would appear on the "PFG supplemental email page" that Cook claimed the client had also signed.

94. Cook would rage when PFG used the e-mail address provided by the client on the account application. For instance, in an October 5, 2006 e-mail, Cook wrote to

Peterson saying, “please let your new accounts know that I am f-----g p-----d off. They keep f-----g up the email addresses. Tell them to get their heads out of their a--.” The cause of Cook’s extreme ire? PFG had been using the e-mail addresses the clients provided on page 3 of the client application, instead of the one on the PFG supplemental e-mail page.

95. A reasonable FCM would have had its suspicions aroused that Cook was actually trying to divert communications away from the clients whose accounts he managed. A reasonable FCM would have checked with clients directly to confirm the proper e-mail address, but Cook sufficiently cowed PFG that it was willing to do anything to placate him and avoid his taking his multi-million dollar accounts to another FCM. Thus, despite the transparent evidence that Cook was taking steps to interfere with communications from PFG to the owners of the Individual Futures and Forex Accounts, PFG turned a blind eye to this obvious red flag of potential fraud.

96. But even that is not all. For at least thirty different Individual Futures and Forex Accounts, Cook sent e-mails to Peterson and/or Schiff instructing them to change the e-mail address on file. Each time, Cook claimed there had been an error of some kind on PFG’s part. Yet, every single time, the “correct” e-mail address provided by Cook was a yahoo account with a particular naming convention using the account owner’s name. Moreover, on more than one occasion, Cook asked PFG to provide him with a master list of all of the e-mail addresses PFG had on file for the owners of the Individual Futures and Forex Accounts under Cook’s management. After receiving the lists, Cook

sent multiple e-mails instructing PFG to “correct errors” on the list. In each instance, Cook instructed PFG to change the e-mail address on the list to a yahoo address.

97. A reasonable FCM would not have ignored this obvious evidence that Cook was taking steps to interfere with e-mail communications between PFG and the owners of the Individual Futures and Forex Accounts. Yet, PFG chose profits over professionalism, and failed to act as reasonable FCM would have under the circumstances.

3. In the hallmark fashion of a Ponzi scheme, Cook used corporate or other funds to provide phony returns to investors, and PFG let him.

98. Given the fact that Cook was obviously trying to control the flow of information from PFG to the clients whose accounts he managed, PFG should have immediately reacted the first time Cook used funds from a personal account, or an account owned by a Receivership Entity, to make up a shortfall or provide a return to an Individual Futures and Forex Account. Indeed, any reasonable FCM would have immediately recognized that any use of other funds to provide a return to an investor is the very hallmark of a Ponzi scheme. Yet, PFG refused to act in accordance with industry rules, regulations, guidelines and practices, and its own compliance policies and procedures, which would have meant cutting off its Cook gravy train.

99. For example, on May 12, 2006, Cook instructed Peterson by e-mail to move money from the Cook Account to cover any margin call in the account of Customer A.

100. On November 28, 2006, Cook instructed Schiff to transfer \$125,000 from the Cook Account to cover a margin call in the account of Customer B.

101. On January 31, 2007, Cook sent an e-mail to Peterson, copying Schiff, informing him that a wire was being sent from UBS Diversified for the benefit of the Cook Account in the amount of \$230,000. Cook instructed Peterson to credit those funds to several client accounts: \$200,000 to Customer C; \$8,500 to Customer D; \$10,500 to Customer E; and \$11,000 to Customer F. Cook also instructed Peterson to close out the accounts of Customer C, Customer D and Customer E after making the deposits and return their money to them.

102. About a week later, Cook followed up with Peterson to find out how much money was ultimately wired to Customer C and Customer D. When Peterson informed Cook that the funds wired from both of their accounts was slightly less than the amount they originally deposited, Cook was upset. His response began, “this is totally f---d up.” Peterson responded by saying that he knew that Cook “*wanted to get them a little bit more than they invested*” and asked Cook how he wanted to “*handle the difference*,” effectively admitting that Peterson knew Cook was moving money around to create the illusion that an account had earned a certain return, and offering to help Cook achieve his goal. By this point, if not before, PFG was no longer merely choosing to ignore the obvious fraud by Cook, but was actually participating in it.

103. On October 31, 2007, Cook instructed Peterson by e-mail to wire \$1,500 dollars from the accounts of Customer G and Wife to their personal bank account. Peterson responded that Customer G’s accounts did not have sufficient funds to transfer \$1,500. Peterson then suggested that he could wire the money from Cook’s commission account. Thus, Peterson has now become the person proposing the source of the funds

that will be used to create the false illusion of profits. Cook instructed Peterson to close Customer G's accounts, wire \$1,500 and the "IB would cover the difference," meaning that the money should be taken from an account held by UBS Diversified.

104. On April 1, 2008, Cook instructed Peterson by e-mail, copying Schiff, to credit the account of Customer H from the Cook Account, and then close out Customer H's account. Once again, despite Cook's clear effort and intent to create the illusion of phony profits and/or protected principal, PFG followed his instructions without question or qualms.

105. PFG failed to act as a reasonable FCM would have acted under the facts and circumstances. Cook's efforts to conceal losses from Customers A through H, among others, was an obvious hallmark that a Ponzi scheme was underway.

4. PFG acted contrary to its own compliance procedures and policies.

106. As required by the NFA, PFG had a Compliance and Procedures Manual designed to ensure compliance with the applicable laws and regulations. With respect to its dealings with Cook, however, PFG routinely ignored its own guidelines and compliance procedures. Had it adhered to them from the beginning of their relationship with Cook, PFG would have quickly discovered Cook's fraud and the insolvency of the Receivership Entities.

a. PFG violated its compliance policies and procedures when it accepted deposits in Receivership Entity accounts and the Individual Futures and Forex Accounts from unrelated entities.

107. PFG's compliance policies prohibited PFG from allowing Cook to use the funds of one Receivership Entity to satisfy a debit in the account of another, or to deposit

funds from his own account or a UBS Diversified account into the Individual Futures and Forex Accounts.

108. For example, section 2.4.A. of the PFG Compliance and Procedures Manual, regarding how customers may fund their accounts, provides:

All checks should be written from an account of the same name in which the account is (will be) opened. For example, a check written to fund John Smith's trading account must be drawn off of John Smith's checking account. It cannot come from Smith Farms or the John Smith P.C. checking account.

109. Similarly, section 34.2.7. of the PFG Compliance and Procedures Manual, entitled "Accepted Forms of Deposits" provides that "[c]hecks drawn on a business account for deposit in an individual account are not acceptable"

110. PFG failed to act as a reasonable FCM would have acted under the facts and circumstances, as illustrated by the fact that PFG even failed to adhere to its own compliance policies in its dealings with Cook. As such, PFG did not receive the Challenged Transfers in good faith.

b. PFG did not review all of the marketing material used by UBS Diversified

111. PFG's Compliance and Procedures Manual required all non-members of the NFA who transacted OTC Forex Business with PFG to provide their promotional material and websites to PFG's compliance department for review. UBS Diversified was not a member of the NFA and was therefore required to provide its promotional material to PFG.

112. Upon information and belief, PFG either did not receive, or failed to review, the promotional material and website of UBS Diversified. If it had done so, or even performed a simple Internet search, PFG would have quickly discovered the marketing materials for the Currency Scheme. Any experienced and reasonable FCM would have recognized the probability of a fraudulent scheme from reading the marketing materials.

c. PFG failed to perform a proper Know Your Customer inquiry regarding Cook or the accounts at issue.

113. PFG's Compliance Manual and Procedures charges the person responsible for a customer's account with the responsibility for knowing the identity of the customer, the nature of the customer's business, and the source of the customer's assets. PFG obviously failed to perform a sufficient Know Your Customer inquiry, as required by its own internal procedures.

114. Upon information and belief, PFG never requested or obtained financial statements for any of the Receivership Entities that opened and maintained trading accounts. Even after certain entities experienced substantial problems in meeting margin calls, PFG did not ask for financial statements or bank statements confirming the solvency of the entity, even though it had the right to do so.

115. Indeed, pursuant to the terms of the Forex IB Agreement entered into between PFG and UBS Diversified, UBS Diversified was required to provide PFG with a copy of its yearly audited financial report accompanied by a notarized statement from UBS Diversified certifying the accuracy of the information contained in the report. The

agreement required UBS Diversified's annual financial reports to be audited by an independent certified public accounting firm. Additionally, the terms of the IB Agreement also required UBS Diversified to provide PFG with its quarterly financial statements. But PFG did not review the financials of UBS Diversified, even after it became clear that Cook was treating the UBS Diversified Accounts as part of one vast, unregistered and illegal pool.

116. Furthermore, PFG did not take steps to confirm the solvency of Oxford FX Growth after Cook spent weeks trying to satisfy or delay having to meet a margin call in one of its accounts by providing bank statements for *other* companies.

117. Had PFG complied with its own internal procedures and taken reasonable steps to comply with its Know Your Customer obligations, the probability of fraud or insolvency would have been immediately revealed.

F. PFG HAD DOMINION AND CONTROL OVER THE CHALLENGED TRANSFERS

118. Each of the Challenged Transfers was made from a Receivership Entity to an account that was subject to PFG's standard customer agreement (the "PFG Customer Agreement"). Pursuant to the terms of the PFG Customer Agreement, PFG exercised dominion and control over all of the Challenged Transfers.

119. For example, under the PFG Customer Agreement, PFG had (and actually exercised on multiple occasions) the right to demand that the Receivership Entities transfer additional funds to a Forex or futures account to satisfy margin and/or collateral requirements set by PFG. Section 3 the PFG Customer Agreement provides, in part:

Customer shall provide to and maintain with PFG margin and/or collateral in such amounts and in such forms as PFG, **in its sole and absolute discretion, may from time to time require.** . . . (Emphasis added.)

120. Section 3 of the PFG Customer Agreement further provides that “[m]argin requirements may be increased at PFG’s sole and absolute discretion.” The agreement further provides that “[s]uch margin requirements may exceed margins established by an exchange.” Section 3 also states that “PFG will exercise considerable discretion in setting and collection margin associated with foreign currency transactions.”

121. The PFG Customer Agreement also gave PFG the right to satisfy any obligations owed to it out of the Receivership Entities’ accounts without prior notice.

Section 8 provides:

All funds . . . and other property of Customer which PFG or its affiliates may at any time be carrying for Customer . . . , or **which may at any time be in PFG’s possession, control,** or carried on PFG’s books for any purpose, including safekeeping, **are to be held by PFG as security and subject to a general lien and right of setoff against liabilities of Customer to PFG.** . . . At any time, PFG may in its discretion, with or without notice to Customer, apply and/or transfer any or all funds or other property of Customer between any of Customer’s accounts. (Emphasis added).

122. Section 10 of the PFG Customer Agreement grants PFG almost unlimited rights to decide unilaterally when and how to exercise dominion and control over the customer’s funds and property:

In the event of . . . (d) **Customer’s failure to maintain sufficient margin;** or (e) PFG’s determination, regardless of current market quotations, that any collateral deposited to protect one or more accounts of Customer is inadequate to secure the account; (f) Customer’s failure to provide PFG any information requested pursuant to this Agreement; (g) Customer’s failure to pay any amount due to PFG; or (h) **any other circumstances or developments that PFG deems appropriate for its protection, PFG, in**

its sole discretion, may take one or more, or any portion of the following actions: (1) satisfy any obligation Customer may have to PFG either directly or by way of guaranty or suretyship out of any of Customer's funds or property in PFG's custody or control; (2) liquidate Customer's positions by offsetting any or all commodity futures contracts, futures options, commodities, securities, or securities options held or carried for Customer; and/or (3) cancel any or all outstanding order or contract, or any other commitments made on behalf of Customer. Any of the above actions may be taken without demand for margin or additional margin, without prior notice of sale or purchase or other notice to Customer In liquidation of Customers positions, PFG may, in its sole discretion, offset in the same contract month or it may initiate new long or short positions in order to establish a spread or straddle which in PFG's sole judgment may be advisable to protect or reduce existing positions in Customer account. (Emphasis added.)

123. Thus, under the PFG Customer Agreement, PFG had the ability to require the Receivership Entities to transfer additional funds (through margin calls); the ability to seize funds in any account with the same corporate ownership to satisfy a debit; the ability to transfer funds between accounts; the ability to liquidate positions (Forex or futures) without notice; the ability to increase margin requirements as it deemed necessary; the right to initiate new positions which PFG, in its sole discretion, decided were advisable to reduce the risk of the customer's open positions; and the right to prevent the Receivership Entities from withdrawing any funds being used to margin or collateralize an open trading position. In other words, after the Challenged Transfers were made, PFG had, in some instances, greater rights to the use of the funds than did the account owner.

124. Thus, the PFG Customer Agreement provided PFG with so many ways to protect its own financial interests that it preferred earning additional profits to calling a halt to the obvious fraud it was effectively assisting.

125. In addition to the rights granted by the PFG Customer Agreement, PFG had the right, as defined by applicable regulations, to invest all customer funds deposited in accounts at PFG by the Receivership Entities. Upon information and belief, PFG exercised its ability to invest such customer funds, and retained for its own benefits any interest or return earned on the investment of the Receivership Entities' funds.

126. Based on the foregoing, the Receiver seeks to avoid and recover the Challenged Transfers from PFG under the MUFTA because each of the Challenged Transfers was fraudulent under MUFTA §513.44; PFG was the transferee on each of the Challenged Transfers; and PFG did not receive any of the Challenged Transfers in good faith.

**COUNT ONE: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE MARKET SHOT FUTURES ACCOUNT
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

127. The Receiver repeats and re-alleges herein each and every allegation made above.

128. Cook opened the Market Shot Futures Account.

129. The following transfer of funds was made from the Receivership Entities to the Market Shot Futures Account (the “Market Shot Futures Transfer”):

Date of Transfer	Amount of Transfer
X XXX XX X6156 Market Shot LLC	
6/20/2006	\$1,000,000.00

130. The Market Shot Futures Transfer was made with property in which the Receivership Entities had an interest.

131. PFG did not receive the Market Shot Futures Transfer in good faith.

132. PFG had dominion and control over the Market Shot Futures Transfer.

133. The Market Shot Futures Transfer was made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Market Shot Futures Transfer was fraudulent pursuant to M.S.A. § 513.44(a)(1).

134. The claims of the creditors of the Receivership Entities exceed the total amount of the Market Shot Futures Transfer.

135. Thus, pursuant to M.S.A. § 513.47(a)(1), the Market Shot Futures Transfer may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT TWO: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE MARKET SHOT FOREX ACCOUNTS
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

136. The Receiver repeats and re-alleges herein each and every allegation made above.

137. Cook opened the Market Shot Forex Accounts.

138. The following transfers of funds were made from the Receivership Entities to the Market Shot Forex Accounts (the “Market Shot Forex Transfers”):

Date of Transfer	Amount of Transfer
XX XXX X6034 Market Shot LLC/Trevor Cook	
10/20/2006	\$600,000.00
2/15/2007	\$1,000,000.00
3/2/2007	\$1,000,000.00
3/4/2007	\$500,000.00
3/5/2007	\$500,000.00

3/5/2007	\$250,000.00
3/7/2007	\$750,000.00
XX XXX X5791	
Market Shot LLC/Trevor Cook	
6/30/2006	\$650,000.00

139. The Market Shot Forex Transfers were made with property in which the Receivership Entities had an interest.

140. PFG did not receive the Market Shot Forex Transfers in good faith.

141. PFG had dominion and control over the Market Shot Forex Transfers.

142. The Market Shot Forex Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Market Shot Forex Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

143. The claims of the creditors of the Receivership Entities exceed the total amount of the Market Shot Forex Transfers.

144. Thus, pursuant to M.S.A. § 513.47(a)(1), the Market Shot Forex Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT THREE: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE BECKMAN OXFORD FX GROWTH FUTURES ACCOUNTS
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

145. The Receiver repeats and re-alleges herein each and every allegation made above.

146. Beckman opened the Beckman Oxford FX Growth Futures Accounts.

147. The following transfers of funds were made from the Receivership Entities to the Beckman Oxford FX Growth Futures Accounts (the “Oxford FX Growth Futures Transfers”):

Date of Transfer	Amount of Transfer
X XXX XX X6264	
Jason B. Beckman Oxford FX Growth LP	
2/28/2008	\$1,000,000.00
X XXX XX X6325	
Jason B. Beckman Oxford FX Growth LP	
2/28/2008	\$100,000.00
5/12/2008	\$500,000.00

148. The Oxford FX Growth Futures Transfers were made with property in which the Receivership Entities had an interest.

149. PFG did not receive the Oxford FX Growth Futures Transfers in good faith.

150. PFG had dominion and control over the Oxford FX Growth Futures Transfers.

151. The Oxford FX Growth Futures Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Oxford FX Growth Futures Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

152. The claims of the creditors of the Receivership Entities exceed the total amount of the Oxford FX Growth Futures Transfers.

153. Thus, pursuant to M.S.A. § 513.47(a)(1), the Oxford FX Growth Futures Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT FOUR: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE BECKMAN OXFORD FX GROWTH FOREX ACCOUNT
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

154. The Receiver repeats and re-alleges herein each and every allegation made above.

155. Beckman opened the Beckman Oxford FX Growth Forex Account.

156. The following transfers of funds were made from the Receivership Entities to the Beckman Oxford FX Growth Forex Account (the “Oxford FX Growth Forex Transfers”):

Date of Transfer	Amount of Transfer
XX XXX XC364	
Jason B. Beckman Oxford FX Growth LP	
12/6/2007	\$1,000,000.00
1/3/2008	\$1,000,000.00
2/29/2008	\$1,000,000.00
3/4/2008	\$2,000,000.00
3/6/2008	\$2,100,000.00
3/10/2008	\$1,000,000.00
3/10/2008	\$500,000.00
3/13/2008	\$500,000.00
3/14/2008	\$500,000.00
3/17/2008	\$250,000.00
3/27/2008	\$1,000,000.00
4/15/2008	\$1,000,000.00
7/3/2008	\$1,700,000.00
9/2/2008	\$257,862.06

157. The Oxford FX Growth Forex Transfers were made with property in which the Receivership Entities had an interest.

158. PFG did not receive the Oxford FX Growth Forex Transfers in good faith.

159. PFG had dominion and control over the Oxford FX Growth Forex Transfers.

160. The Oxford FX Growth Forex Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Oxford FX Growth Forex Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

161. The claims of the creditors of the Receivership Entities exceed the total amount of the Oxford FX Growth Forex Transfers.

162. Thus, pursuant to M.S.A. § 513.47(a)(1), the Oxford FX Growth Forex Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT FIVE: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE OXFORD GLOBAL FX ACCOUNT
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

163. The Receiver repeats and re-alleges herein each and every allegation made above.

164. Cook opened the Oxford Global FX Account.

165. The following transfers of funds were made from the Receivership Entities to the Oxford Global FX Account (the “Oxford Global FX Forex Transfers”):

Date of Transfer	Amount of Transfer
XX XXX XL145 Trevor Cook Oxford Global FX LLC	
1/31/2008	\$1,000,000.00
1/13/2009	\$1,000,000.00
1/21/2009	\$500,000.00

166. The Oxford Global FX Forex Transfers were made with property in which the Receivership Entities had an interest.

167. PFG did not receive the Oxford Global FX Forex Transfers in good faith.

168. PFG had dominion and control over the Oxford Global FX Forex Transfers.

169. The Oxford Global FX Forex Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Oxford Global FX Forex Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

170. The claims of the creditors of the Receivership Entities exceed the total amount of the Oxford Global FX Forex Transfers.

171. Thus, pursuant to M.S.A. § 513.47(a)(1), the Oxford Global FX Forex Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

COUNT SIX: AVOIDANCE OF FRAUDULENT TRANSFERS TO THE COOK ACCOUNT
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)

172. The Receiver repeats and re-alleges herein each and every allegation made above.

173. Cook opened the Cook Account.

174. The following transfers of funds were made from the Receivership Entities to the Cook Account (the “Cook Forex Transfers”):

Date of Transfer	Amount of Transfer
XX XXX X5464 Trevor Cook	
11/27/2006	\$125,000.00
2/1/2007	\$230,000.00

8/16/2007	\$3,000,000.00
8/17/2007	\$1,400,000.00
8/17/2007	\$400,000.00
11/13/2007	\$1,000,000.00
11/21/2007	\$1,000,000.00
1/2/2008	\$2,000,000.00
1/17/2008	\$1,800,000.00
3/13/2008	\$500,000.00
3/17/2008	\$320,000.00
3/17/2008	\$250,000.00
3/17/2008	\$280,000.00
3/20/2008	\$750,000.00
4/8/2008	\$1,000,000.00
6/17/2008	\$70,000.00
8/13/2008	\$3,000,000.00
9/2/2008	\$1,700,000.00
9/3/2008	\$1,000,000.00
9/3/2008	\$1,300,000.00

175. The Cook Forex Transfers were made with property in which the Receivership Entities had an interest.

176. PFG did not receive the Cook Forex Transfers in good faith.

177. PFG had dominion and control over the Cook Forex Transfers.

178. The Cook Forex Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Cook Forex Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

179. The claims of the creditors of the Receivership Entities exceed the total amount of the Cook Forex Transfers.

180. Thus, pursuant to M.S.A. § 513.47(a)(1), the Cook Forex Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT SEVEN: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE PETTENGILL FUTURES ACCOUNT
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

181. The Receiver repeats and re-alleges herein each and every allegation made above.

182. Pettengill opened the Pettengill Futures Account.

183. The following transfers of funds were made from the Receivership Entities to the Pettengill Futures Account (the “Pettengill Futures Transfers”):

Date of Transfer	Amount of Transfer
X XXX XX X6131 Christopher Pettengill	
11/8/2007	\$500,000.00
1/29/2008	\$500,000.00
2/21/2008	\$500,000.00

184. The Pettengill Futures Transfers were made with property in which the Receivership Entities had an interest.

185. PFG did not receive the Pettengill Futures Transfers in good faith.

186. PFG had dominion and control over the Pettengill Futures Transfers.

187. The Pettengill Futures Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Pettengill Futures Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

188. The claims of the creditors of the Receivership Entities exceed the total amount of the Pettengill Futures Transfers.

189. Thus, pursuant to M.S.A. § 513.47(a)(1), the Pettengill Futures Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT EIGHT: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE PETTENGILL FOREX ACCOUNTS**
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)

190. The Receiver repeats and re-alleges herein each and every allegation made above.

191. Pettengill opened the Pettengill Forex Accounts.

192. The following transfers of funds were made from the Receivership Entities to the Pettengill Forex Accounts (the “Pettengill Forex Transfers”):

Date of Transfer	Amount of Transfer
XX XXX X5633 Christopher Pettengill	
9/18/2007	\$500,000.00
XX XXX X5634 Christopher Pettengill	
5/31/2006	\$1,000,000.00

193. The Pettengill Forex Transfers were made with property in which the Receivership Entities had an interest.

194. PFG did not receive the Pettengill Forex Transfers in good faith.

195. PFG had dominion and control over the Pettengill Forex Transfers.

196. The Pettengill Forex Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the Pettengill Forex Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

197. The claims of the creditors of the Receivership Entities exceed the total amount of the Pettengill Forex Transfers.

198. Thus, pursuant to M.S.A. § 513.47(a)(1), the Pettengill Forex Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

**COUNT NINE: AVOIDANCE OF FRAUDULENT
TRANSFERS TO THE UBS DIVERSIFIED ACCOUNTS
(MINNESOTA UNIFORM FRAUDULENT TRANSFER ACT § 513.44)**

199. The Receiver repeats and re-alleges herein each and every allegation made above.

200. The Ponzi Principals opened trading accounts at PFG in the name of UBS Diversified (the “UBS Diversified Accounts”).

201. Transfers of funds were made from the Receivership Entities to the UBS Diversified Accounts on dates and in amounts not currently known (the “UBS Diversified Transfers”).

202. The UBS Diversified Transfers were made with property in which the Receivership Entities had an interest.

203. PFG did not receive the UBS Diversified Transfers in good faith.

204. PFG had dominion and control over the UBS Diversified Transfers.

205. The UBS Diversified Transfers were made with actual intent to hinder, delay, or defraud the creditors of the Receivership Entities. As such, the UBS Diversified Transfers were fraudulent pursuant to M.S.A. § 513.44(a)(1).

206. The claims of the creditors of the Receivership Entities exceed the total amount of the UBS Diversified Transfers.

207. Thus, pursuant to M.S.A. § 513.47(a)(1), the UBS Diversified Transfers may be avoided and recovered for the benefit of the creditors of the Receivership Entities.

WHEREFORE, the Receiver prays this Court to enter an order:

- a) On Count One of the Receiver's Complaint by (a) holding the Market Shot Futures Transfer to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Market Shot Futures Transfer pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- b) On Count Two of the Receiver's Complaint by (a) holding the Market Shot Forex Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Market Shot Forex Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- c) On Count Three of the Receiver's Complaint by (a) holding the Oxford FX Growth Futures Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Oxford FX Growth Futures Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- d) On Count Four of the Receiver's Complaint by (a) holding the Oxford FX Growth Forex Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Oxford FX Growth Forex Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- e) On Count Five of the Receiver's Complaint by (a) holding the Oxford Global FX Forex Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Oxford Global FX Forex Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;

- f) On Count Six of the Receiver's Complaint by (a) holding the Cook Forex Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Cook Forex Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- g) On Count Seven of the Receiver's Complaint by (a) holding the Pettengill Futures Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Pettengill Futures Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- h) On Count Eight of the Receiver's Complaint by (a) holding the Pettengill Forex Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the Pettengill Forex Transfers, pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- i) On Count Nine of the Receiver's Complaint by (a) holding the UBS Diversified Transfers to be fraudulent pursuant to M.S.A § 513.44(a)(1); (b) avoiding the UBS Diversified Transfers pursuant to M.S.A. § 513.47(a)(1); and (c) awarding the Receiver an amount to be determined at trial, plus appropriate interest thereon;
- j) For such other and further relief as the Court deems just and appropriate in equity or law.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial as to all issues so triable.

Dated: February 3, 2012

Respectfully submitted,

CARLSON, CASPERS, VANDENBURGH &
LINDQUIST

s/R. J. Zayed

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