

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA

U.S. COMMODITY FUTURES )	
TRADING COMMISSION and )	
OKLAHOMA DEPARTMENT OF )	
SECURITIES <i>ex rel.</i> IRVING L. FAUGHT, )	COMPLAINT FOR INJUNCTIVE AND
)	OTHER EQUITABLE RELIEF AND
Plaintiffs, )	FOR CIVIL PENALTIES UNDER THE
)	COMMODITY EXCHANGE ACT AND
v. )	THE OKLAHOMA UNIFORM
)	SECURITIES ACT
PRESTIGE VENTURES CORP., a )	
Panamanian corporation, FEDERATED )	
MANAGEMENT GROUP, INC., a Texas )	
corporation, KENNETH WAYNE LEE, an )	
individual, and SIMON YANG (a/k/a XIAO )	
YANG a/k/a SIMON CHEN), an individual, )	
)	
Defendants. )	
)	

I. SUMMARY

1. Since at least July 2003 through the present (“relevant period”), the corporate defendants Prestige Ventures Corp. (“Prestige”) and Federated Management Group (also doing business as Federated Management, Federated Management Group, USA and Federated Management Corp.) (“Federated”), acting as a common enterprise (collectively, the “Prestige Enterprise”), and individual defendants Kenneth Wayne Lee (“Lee”) and Simon Yang (a/k/a Xiao Yang a/k/a Simon Chen) (“Yang”) (collectively, “Defendants”), acting directly or through their agents, employees or officers, fraudulently solicited and accepted at least \$8.7 million from at least 140 members of the general public to participate in commodity pools for trading commodity futures contracts and other financial instruments, including stocks, stock options, and foreign currency.

2. Defendants’ solicitations primarily targeted members of the greater Oklahoma City

area's ethnic Chinese community.

3. In soliciting prospective pool participants, Defendants falsely represented, among other things, that: (1) Lee was consistently profitable and never suffered losses in his trading on behalf of the Prestige Enterprise, (2) the profits Lee generated in his trading on behalf of Prestige Enterprise were extraordinarily high, (3) Federated's marketers or solicitors were members of the National Futures Association ("NFA") and registered with the Commodity Futures Trading Commission ("Plaintiff" or "Commission"), (4) in December 2003, Prestige had \$1 billion in assets under management and Federated had up to \$379 million, (5) pool participant accounts were insured by Federated's credit union, (6) pool participants could withdraw money from their accounts at any time, (7) by using a particular trading program with a highly successful track record, the Legacy Trading System, the Prestige Enterprise would guarantee profitable returns on all investments, and (8) Yang was merely Lee's friend and a Prestige Enterprise investor.

4. In their solicitations, Defendants did not disclose adequately, among other things, the risks of trading commodity futures as well as other financial instruments, and further failed to disclose Lee's extensive criminal history and a civil judgment for more than \$3 million against Federated and Lee resulting from a private action in Texas state court for investment fraud and breach of contract. Defendants also did not disclose that Yang was not just Lee's friend and purported Prestige investor, but also a marketer and administrator for the Prestige Enterprise.

5. Contrary to their claims of successful trading, the Prestige Enterprise and Lee operated a "Ponzi" scheme by paying so-called profits to participants that in actuality came not from successful trading, but from either existing participants' original investments or money invested by subsequent participants. In doing so, the Prestige Enterprise and Lee

misappropriated funds. Lee also misappropriated participant funds for personal use, such as giving funds to family members and paying for cars and yacht fees.

6. With respect to any trading, Lee sustained net losses of approximately \$4.3 million trading almost exclusively commodity futures and foreign currency, for the period January 2004 through July 2009.

7. To conceal and perpetuate their fraud, Lee and the Prestige Enterprise created and issued false account statements, which consistently showed that pool participant funds were earning monthly profits based on Defendants' purportedly successful trading. Defendants also created and sent statements reflecting the purported monthly returns generated trading using the Legacy Trading System.

8. Defendants, through Yang, also provided false and misleading information, and failed to disclose material information, to the Commission in a required response to a subpoena issued by the Commission to Yang in 2004 concerning the activities of Federated, Lee, Yang and others. In a declaration submitted pursuant to 28 U.S.C. § 1746 and declared to be true and correct by Yang under the penalty of perjury, Yang falsely and misleadingly represented that: he solicited participants solely through emails, all of his information concerning Federated came from the Federated website, he no longer solicited for Federated, and persons he had solicited did not open trading accounts with Federated. Yang did not disclose in his declaration the material information that Prestige, through Lee, was operating and soliciting funds from prospective participants, and that he, Yang, solicited on behalf of Prestige.

9. In their solicitations, Defendants also defrauded prospective and existing participants by failing to disclose that they were under investigation by the Commission and others and that

they had provided false and misleading information, and omitted material information, to the federal government in responding to a Commission issued subpoena.

10. From at least 2006 to the present, Defendants have not met pool participants' requests for redemptions, despite sending account statements as recently as February 2009 posting monthly profits.

11. Defendants' fraudulent solicitations of prospective and existing commodity pool participants, the Prestige Enterprise's and Lee's misappropriation of pool participant funds, Defendants' misrepresentations and omissions relating to federal and state investigations, and Defendants' fabrication and issuance, and/or causing the fabrication or issuance, of false statements to commodity pool participants violated Sections 4b(a)(2)(i)-(iii) and 4o(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 6b(a)(2)(i)-(iii) and 6o(1) (2006), and Sections 4b(a)(1)(A)-(C) of the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 ("CRA")), § 13102, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C).

12. In soliciting and accepting funds from individuals for the purpose of pooling the funds and trading commodity futures on contract markets, Federated and Prestige were acting as commodity pool operators ("CPO") and Lee and Yang were acting as Associated Persons ("AP") of Federated and Prestige without being registered with the Commission as required. Federated and Prestige's failures to register with the Commission as CPOs violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006). Lee and Yang's failures to register as APs of Federated and Prestige violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006). Federated and Prestige knew or should have known that Lee and Yang were not registered and by permitting Lee and Yang to

remain associated with Federated and Prestige, Federated and Prestige also violated Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006).

13. In willfully making false or misleading statements of material facts and willfully omitting to state material facts in responding, as required by law, to a Commission subpoena, Yang violated Sections 6(c) and 9(a)(3) of the Act, 7 U.S.C. §§ 9(c) and 13(a)(3) (2006).

14. By receiving funds in bank accounts held in the names of Federated and Prestige and not in the name of the pools, and by other acts, and through its acts and those of its agents, employees or officers, the Prestige Enterprise failed to operate the commodity pools as legal entities separate from themselves and failed to receive participant funds in the name of the commodity pools in violation of Commission Regulation (“Regulation”) 4.20(a)(1) and (b), 17 C.F.R. § 4.20(a)(1) and (b) (2009).

15. The Prestige Enterprise failed to provide pool participants with disclosure documents containing required information and did not receive acknowledgements from participants of receipt of disclosure documents in violation of Regulation 4.21(a)(1) and (b), 17 C.F.R. § 4.21(a)(1) and (b) (2009).

16. At all relevant times, Lee and Yang were acting as agents of Federated and Prestige. Therefore, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009), Federated and Prestige are liable for Lee’s and Yang’s acts, omissions and failures in violation of: Sections 4b(a)(2)(i)-(iii), 4k(2), 4q(1), 6(c) and 9(a)(3) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6k(2), 6q(1), 9(c) and 13(a)(3) (2006); and Section 4b(a)(1)(A)-(C) of the Act to be codified at 7 U.S.C. § 6b(a)(1)(A)-(C).

17. Lee directly or indirectly controlled Federated and Prestige and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Federated and Prestige's violations of Sections 4b(a)(2)(i)-(iii), 4k(2), 4m(1) and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6b(a)(2)(A)-(C), 4k(2), 6m(1) and 6o(1) (2006), and Regulations 4.20(a)(1) and (b), and 4.21, 17 C.F.R. §§ 4.20(a)(1) and (b), and 4.21(a)(1) and (b) (2009), and is therefore liable as a controlling person pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), for Federated and Prestige's violations.

18. Defendants' acts constitute violations of Sections 1-301, 1-402, and 1-501 of the Oklahoma Uniform Securities Act of 2004, Okla. Stat. tit. 71, §§1-101 through 1-701 (Supp. 2004) ("OUSA"). Specifically, Defendants offered and/or sold unregistered securities in and/or from Oklahoma; Lee and Yang transacted business in and/or from Oklahoma as issuer agents of Federated and Prestige without being registered as such under the OUSA; Federated and Prestige employed or associated with unregistered issuer agents who transacted business in and/or from Oklahoma on their behalf; Defendants made untrue statements of material fact in connection with the offer and/or sale of securities in and/or from Oklahoma; Defendants omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the offer and/or sale of securities in and/or from Oklahoma; Defendants employed a devise, scheme, or artifice to defraud investors in connection with the offer and/or sale of securities in and/or from Oklahoma; and Defendants engaged in an act, practice, or course of business that has operated as a fraud or deceit upon investors in connection with the offer and/or sale of securities in and/or from Oklahoma.

19. Accordingly, pursuant to Sections 6c of the Act, 7 U.S.C. §§ 13a-1 (2006), and Sections 1-603 and 1-608 of the OUSA, the Commission and the Oklahoma Department of Securities *ex rel.* Irving L. Faught (“Department”) bring this action to enjoin Defendants’ unlawful acts and practices and to compel their compliance with the Act, Commission Regulations and the OUSA. In addition, Plaintiffs seek civil monetary penalties for each violation of the Act, Regulations, and the OUSA and remedial ancillary relief, including, but not limited to, restitution, disgorgement, pre- and post-judgment interest, and such other relief as the Court may deem necessary and appropriate.

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

## **II. JURISDICTION AND VENUE**

21. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), which provides that whenever it shall appear to the Commission 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 promulgated thereunder, the Commission may bring an action against such person to enjoin such practice or to enforce compliance with the Act.

22. Section 6d(1) of the Act, 7 U.S.C. § 13a-2 (2006), provides that, whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of residents of the State have been, are being, or may be threatened or adversely affected because of such violations of the Act,

the State may bring a suit in the district courts of the United States to enjoin such acts or practices and to enforce compliance with the Act, or to obtain such other and further relief as the court deems appropriate, including the state law claims brought pursuant to Sections 1-603 and 1-608 of the OUSA and in conformity with Section 12(e) of the Act, 7 U.S.C. § 16(e) (2006). This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) (2006).

23. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006), in that Defendants transact business in this District, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur, within this District, among other places.

### III. THE PARTIES

#### A. Plaintiffs

24. The **U.S. Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged by Congress with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2006), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2009).

25. The **Oklahoma Department of Securities** is an agency of the State of Oklahoma that is charged with responsibility for administering and enforcing the provisions of the OUSA. The Department brings this action by and through its Administrator, Irving L. Faught.

#### B. Defendants

26. **Prestige Ventures Corp.** is a registered Panamanian corporation with a registration date of July 7, 2003 and last known address of P.O. Box 5956, El Dorado, Panama City,

Republic of Panama, Zona 6. Prestige also operated out of a Fort Worth, Texas office at 6777 Camp Bowe Boulevard, Suite 229, conducted business activities in and around Oklahoma City, Oklahoma and currently operates out of Mt. Pleasant, South Carolina. Prestige engaged in the business of soliciting and accepting funds from participants to pool together for the purpose of trading various financial instruments, including commodity futures, stocks, stock options, and foreign currency on behalf of those participants. Prestige has never been registered, in any capacity, with the Commission or under the OUSA, or any predecessor act.

27. **Federated Management Group, Inc.** is an entity formerly incorporated in Texas, but with a forfeited Texas registration as of October 2003. Federated operated out of Fort Worth, Texas with an address at 6777 Camp Bowie Boulevard, Suite 229, Mount Pleasant, South Carolina with an address at 1660 Jorrington Street, and Panama City, Panama with an address at World Trade Center, Piso 1, Area Commercial, P.O. Box 5956, El Dorado, Panama City, Republic of Panama, Zona 6. Federated conducted business activities in and around Oklahoma City, Oklahoma. Federated engaged in the business of soliciting and accepting funds from participants to pool together for the purpose of trading various financial instruments, including commodity futures, stocks, stock options, and foreign currency on behalf of those participants. According to Federated disclosure materials, Federated is Trading Advisor to a commodity pool called FMG Fund (also known as Federated Management Group Hedge Fund Program) ("FMG Fund"). According to Defendants' solicitations, Federated is the parent company of Prestige and the Federated Management Group, Inc. National Savings & Loan. Federated has never been registered, in any capacity, with the Commission or under the OUSA, or any predecessor act.

28. **Kenneth Wayne Lee** is an individual whose last known address is 1660 Jorrington

Street, Mt. Pleasant, South Carolina 29466. Lee, on behalf of the Prestige Enterprise, engaged in the business of soliciting and accepting funds from participants to pool together for the purpose of trading various financial instruments, including commodity futures, stocks, stock options, and foreign currency on behalf of those participants. Defendants orally and through written solicitation materials described Lee as the lead trader, president, director, chairman, beneficial owner and/or principal portfolio manager of Federated and Prestige. Lee has never been registered with the Commission in any capacity or under the OUSA, or any predecessor act.

29. **Simon Yang** is an individual whose last known address is 1912 NW, 176<sup>th</sup> Terrace, Edmond, Oklahoma 73012. Yang uses several aliases, including Simon Chen and Xiao Yang. Yang, on behalf of the Prestige Enterprise, engaged in the business of soliciting and accepting funds from participants to pool together for the purpose of trading various financial instruments, including commodity futures, stocks, stock options, and foreign currency on behalf of those participants. Yang described himself as a marketer of Federated and Prestige. Yang has never been registered, in any capacity, with the Commission or under the OUSA, or any predecessor act.

#### IV. FACTS

##### **Defendants' Fraudulent Solicitation of Pool Participants**

30. During the relevant period, Defendants fraudulently solicited and accepted at least \$8.7 million in funds from at least 140 members of the general public for the purpose of pooling those funds to trade commodity futures as well as other financial instruments, including foreign currency, stocks and stock options.

31. Federated and Prestige engaged in a common scheme to solicit prospective pool

participants. Federated and Prestige share offices, telephone numbers and solicitation materials. They each claim to use the purported Legacy Trading System to trade on behalf of the pools. Lee is Director and President of Federated and Prestige. Federated and Prestige also have other common employees, agents or officers, such as Yang. Pool participants often do not know the difference between the two companies.

32. In their solicitations, Defendants primarily targeted the greater Oklahoma City area's ethnic Chinese community through oral statements, marketing materials, email correspondence, a website, and other forms of solicitation.

33. Defendants specifically targeted members of a certain religious congregation in Edmond, Oklahoma ("Church"). Yang, who is also ethnically Chinese and appeared to be a member of the Church, directly solicited members of the Church to invest and trade with Defendants.

34. Beginning in mid-2003, in those personal solicitations at the Church, Yang told prospective pool participants about Lee, Federated and Prestige. Yang vouched for Lee, whom he described as a friend he had met through the Internet. Yang represented that Lee, through Federated and Prestige, traded various financial instruments, including commodity futures, stocks, stock options, and foreign currency. Yang claimed that he found Lee to be a good and honest person, decided to invest with him, and received only positive returns on his investment. Yang claimed that positive returns were virtually guaranteed when trading with Lee.

35. To convince prospective participants to meet and trade with Lee, Yang told them that he was not associated with Federated or Prestige, but was merely helping out his friend, Lee, by talking to Chinese friends.

36. Trusting what Yang had told them about virtually guaranteed high returns achieved by Lee, several prospective pool participants told other members of the Church congregation about the investment opportunity and agreed to meet with Lee and Yang at Lee's and the Prestige Enterprise's Fort Worth office.

37. At the meeting, Lee and Yang confirmed Yang's representations about Lee's purportedly successful trading and stated that the Prestige Enterprise and Lee had never suffered any trading losses. They told prospective pool participants that the funds from individual participant accounts would be pooled together to trade commodity futures and other financial instruments. Indeed, not only was Lee's trading always profitable, Lee and Yang told the prospective participants, the profits he earned were consistently high.

38. In their oral solicitations of prospective pool participants, Lee and Yang did not discuss the risks associated with trading commodity futures, stocks, stock options, or foreign currency.

39. The Prestige Enterprise's marketing materials reinforced Lee and Yang's oral solicitations, made at the Fort Worth meeting and otherwise, regarding the nature of the Prestige Enterprise's trading activity. A Federated document, dated May 23, 2003, called Disclosure Document of the Federated Management Group, Inc. Hedge Fund Program ("FMG Fund Disclosure Document"), claimed that the FMG Fund "consists of a dynamic mix of equity index, currency and commodity positions each of which may be long, short, or neutral...Equity and foreign exchange exposure is obtained solely through the use of exchange-traded futures contracts."

40. An undated and unnamed Prestige document that Yang provided to at least one pool

participant in July 2005 (“Prestige Marketing Document”) stated that Prestige’s basic investment philosophy is “to seek and hold undervalued securities that represent good long-term investment opportunities.” According to the same document, Prestige “invests capital in a broad spectrum of financial futures markets, including agricultural commodities, metals, energy, interest rates, currencies, and stock indexes.”

41. The Prestige Marketing Document represented that Prestige “charges no management fee on asset [sic] under management[,]” but the pool participants pay Prestige a “performance fee” of “20% of monthly profits from investment operation.” According to the Prestige Marketing Document, the performance fee is “accrued monthly and paid quarterly from investment pools” and is “not charge[d] ... if there is no accumulative net gain” to pool participants on a monthly basis.

42. Lee and Yang told pool participants that each participant would be able to withdraw his or her funds at any time and the FMG Fund Disclosure Document confirmed this in writing.

43. Defendants falsely told pool participants that participant funds were protected by Federated’s credit union, Federated Management Group, Inc. National Savings & Loan. According to the Prestige Enterprise marketing materials, Lee used the Legacy Trading System, a purportedly successful and propriety trading system that achieved claimed annual profits ranging from 16.89% in 1991 to 51.04% in 2003. According to the same materials, the Legacy Trading System outperformed both the S&P 500 and the futures Managed Account Reports (“MAR Futures”) during the same period.

44. In the FMG Fund Disclosure Document, Defendants also provided performance charts to prospective participants, showing consistently high returns for the FMG Fund from

January 1987 through April 2003 without a single losing month and which largely tracked the purported returns achieved using the Legacy Trading System. The annual returns, Federated claimed, averaged over 30% -- their worst year, 1991, returned 16.89% and their best year, 2002, returned 46.64%.

45. In the FMG Fund Disclosure Document, Federated claimed that, during this 16 year period from 1987 to 2003, its assets under management grew from less than \$2 million to over \$379 million. In Federated's purported 1987-2000 audited balance sheet ("Federated Audit Report"), Federated boasted that it had over \$190 million in assets in 2000. The Prestige Enterprise marketing materials also claimed that, at the end of December 2003, Prestige had \$1 billion under management, and as recently as June 2008, Yang informed pool participants that that Prestige had an investment portfolio of net \$18 million. Yet, at the end of 2003, the Prestige Enterprise bank account showed a balance of just \$113,588.58, and, at the end of June 2008, the Prestige Enterprise bank account had a balance of just \$2,123.00.

46. The Federated Audit Report promised pool participants that they would receive an updated audit report annually. Throughout the relevant period, none of the Defendants provided pool participants with the promised annual audited statements.

47. According to the FMG Fund Disclosure Document, Federated's marketers or solicitors are members of the NFA and registered with the Commission. To the contrary, none of Prestige, Federated, Lee or Yang has ever been registered with the Commission or been a member of the NFA.

48. In their solicitations, Defendants did not inform prospective and existing pool participants that Lee committed two felonies, served prison time (during part of the time

Defendants claimed Lee was achieving great returns trading) and was the defendant in a civil suit. From 1996 to 2001, Lee was incarcerated after pleading guilty to the felony offense of securing execution of a document by deception. In that case, Lee admitted to causing an individual to execute a check by stating that the monies would be invested when no such investment occurred. Additionally, in 1995, Lee pleaded guilty to the felony offense of theft over \$750 in the District Court of Denton County, Texas and was sentenced to three years of confinement. In the same court, a civil judgment awarding private plaintiffs over \$3 million was entered against Federated and Lee for defrauding the plaintiffs of substantial sums of money in connection with investment fraud and breach of contract.

49. Defendants also misrepresented and failed to disclose fully the nature of Yang's relationship with Lee and the Prestige Enterprise. Contrary to Yang's representations that he was just a friend of Lee's and also a Prestige Enterprise investor himself, Yang was an active marketer and solicitor for Lee and the Prestige Enterprise. He also performed administrative functions for the Prestige Enterprise and Lee, including providing information via email and other correspondence to pool participants concerning investing, account status and margin requirements.

#### **Defendants Gave False Information to the Commission**

50. Defendants Federated and Prestige, through Yang, also willfully provided false and misleading information, and failed to disclose material information, to the Commission in a required response to a subpoena issued, pursuant to Sections 6(c) and 8(a)(1) of the Act, 7 U.S.C. §§ 15 and 12(a)(1) (2006), by the Commission to Yang in 2004 concerning the activities of Federated, Lee, Yang and others. By such acts, Defendants also further defrauded prospective

and existing pool participants.

51. On January 24, 2004, the Commission issued a subpoena to Yang requiring him to appear for a deposition and to produce documents relating to Federated. After Yang refused to accept service of the subpoena and repeated attempts by the Commission to obtain a response, the Commission instituted a subpoena enforcement action against Yang to obtain the subpoenaed information and documents. At that point, Yang responded to the subpoena. In a declaration submitted pursuant to 28 U.S.C. § 1746 and declared to be true and correct by Yang under the penalty of perjury, Yang falsely and misleadingly represented that he solicited participants solely through emails, all of his information concerning Federated came from the Federated website, he no longer solicited for Federated, and persons he had solicited did not open trading accounts with Federated. Yang did not disclose in his declaration the material information that Prestige, through Lee, was operating and soliciting funds from prospective participants, and that he, Yang, solicited on behalf of Prestige.

52. In their solicitations, Defendants defrauded prospective and existing participants by failing to disclose that they were under investigation by the Commission and others and that they had provided false and misleading, and omitted material information, to the federal government in responding to the subpoena issued by the Commission.

53. In their solicitations of prospective participants, Defendants did not provide prospective participants with a disclosure document containing the information required by Regulations 4.24 and 4.25, 17 C.F.R §§ 4.24 and 4.25 (2009). Further, Defendants never obtained signed and dated acknowledgements from participants stating that they had received a disclosure document.

54. Defendants knowingly or recklessly made these material misrepresentations and omissions to induce individuals to invest with them.

55. In reliance on the solicitations described above, prospective pool participants decided to participate in the Prestige Enterprise pools.

56. Defendants, acting directly or through their agents, employees or officers, directed participants to wire funds directly to bank accounts held by Federated or Prestige or to make checks payable to Federated or Prestige.

57. During the relevant period, Lee was the signatory for and controlled the known bank account(s) of the Prestige Enterprise.

**The Prestige Enterprise and Lee Lost Funds Trading and Misappropriated Funds**

58. Contrary to Defendants' representations, Lee and the Prestige Enterprise were not successful traders.

59. Throughout the relevant period, the Prestige Enterprise opened and maintained over 30 commodity futures or foreign currency trading accounts in the name of Federated or Prestige at various Futures Commission Merchants ("FCMs") registered with the Commission or at an off-shore foreign currency firm.

60. The Prestige Enterprise sustained net losses of approximately \$4.3 million trading in these accounts.

61. Lee opened and controlled the majority of the trading accounts. Lee opened those accounts as corporate proprietary accounts, rather than accounts in the name of a pool, and did not disclose to the FCMs involved that he traded pool participant funds.

62. Federated, through Lee, also opened accounts which traded securities and options on

securities and sustained net losses of approximately \$70,000.

63. As of February 2009, there was no evidence of any other trading by Defendants.

64. The Prestige Enterprise and Lee misappropriated millions of dollars in pool participant funds.

65. Lee misappropriated pool participant funds for personal use. He used the Prestige Enterprise bank account as his personal bank account and funneled pool participant funds to himself and his family members even in months in which his trading did not generate profits. For example, during the relevant period, Lee transferred directly or withdrew funds from the Prestige Bank Account to give to his wife and sons, and spent pool participant funds on personal expenses such as cars, yachting fees, lawn care and cable television.

66. The Prestige Enterprise and Lee also used pool participant funds to make purported profit payments to other pool participants.

**Defendants Used False Statements to Conceal Misappropriation and Trading Losses**

67. Throughout the relevant period, to conceal their trading losses and misappropriation, the Prestige Enterprise and Lee issued or caused to be issued false statements to pool participants reflecting consistent monthly profits generated by the Prestige Enterprise and Lee's trading. The account statements showed monthly profits of up to 4% and no losses.

68. For example, from September 2005 to February 2009, Lee prepared and sent monthly account statements to one pool participant falsely showing that the pool participant's total investment of \$20,000 had more than doubled to \$41,020.12 and that Defendants had not sustained a single month of trading losses. The monthly account statements that Lee sent to a group of pool participants who shared an account falsely showed that their total combined

investment of \$100,000 increased to \$430,000 over approximately six years with no losses.

69. Defendants, through Yang, also issued or caused to be issued semi-monthly reports to pool participants reflecting purported returns the Prestige Enterprise had generated trading with the Legacy Trading System. In one email to participants forwarding a Legacy Trading System statement, Yang wrote, "Lee/[Prestige] have worked very hard for all us [sic] to produce these wonderful returns." The reports falsely indicate that, for the past 16 years, the Legacy Trading System outperformed the S&P 500 and the MAR Futures. Defendants were purportedly using the Legacy Trading System to trade on behalf of the Prestige Enterprise pools.

70. Once pool participants started receiving the monthly statements showing consistent profits and withdrew purported profits, pool participants decided to invest more money with Defendants and new pool participants were convinced to invest with Defendants.

71. Defendants knowingly or recklessly issued or caused to be issued the false statements to participants concerning the profitability of the Prestige Enterprise's and Lee's trading on their behalf.

72. For three years, pool participants were able to withdraw funds from their accounts with Defendants. However, starting in April 2006, Defendants began refusing pool participants' requests to withdraw funds.

73. Lee and Yang responded to requests for withdrawals with excuses about margin requirements, market fluctuations and lack of new investments. In one February 2009 email to a pool participant who requested that Defendants return her funds, Lee admitted he was operating a Ponzi scheme, writing, "[y]ou need to hope that someone DOES invest more in [Prestige] as that is what will get your account closed or be able to release funds to you" (emphasis in

original).

**Lee Controlled the Prestige Enterprise**

74. During the relevant period, Lee was a controlling person of the Prestige Enterprise (i.e., Federated and Prestige). He held himself out as the principal of the Prestige Enterprise and, in various documents and in oral solicitations, he was described as the lead trader, president, director, chairman, beneficial owner and/or principal portfolio manager of Federated and Prestige.

75. Lee exercised control over the day-to-day business operations of the Prestige Enterprise. He controlled the trading and bank accounts opened and maintained in the name of Federated or Prestige. He was responsible for the content of the Prestige Enterprise account statements distributed to pool participants. He also solicited prospective pool participants.

**Yang Was an Agent of the Prestige Enterprise**

76. During the relevant period, Yang was an agent, employee or officer of the Prestige Enterprise and was at all relevant times, including, but not limited, times when he solicited funds for investment with the Prestige Enterprise, provided information to pool participants concerning their investments with the Prestige Enterprise, and provided participants with the Legacy Trading System monthly return statements.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND  
COMMISSION REGULATIONS**

**COUNT ONE**

**Violations of Sections 4b(a)(2)(i)-(iii) and 4b(a)(1)(A)-(C):  
Fraudulent Solicitation, Misappropriation and False Statements**

77. The allegations set forth in paragraphs 1 through 76 are re-alleged and incorporated herein by reference.

78. Prior to being amended by the CRA, Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii) (2006), made it unlawful

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (A) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (B) determining the price basis of any transaction in interstate commerce in such commodity, or (C) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—(i) to cheat or defraud or attempt to cheat or defraud such other person; (ii) willfully to make or cause to be made to such other person any false report or statement thereof, . . . [or]; (iii) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any such order or contract or disposition or execution of any such order or contract, or in regard to any act of agency performed with respect to such order or contract for such person.

79. Similarly, Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), make it unlawful

for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity 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] (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.

80. During the relevant period, Defendants knowingly, willfully or recklessly made and are making false, deceptive, or misleading representations and omissions of material facts in the solicitations of prospective and existing pool participants, in violation of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), with respect to acts occurring before June 18, 2008, and in violation of Sections 4b(a)(1)(A) and (C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), with respect to acts occurring on or after June 18,

2008.

81. By using funds solicited to trade commodity futures for pool participants for purposes other than trading, as set forth above, Federated, Prestige and Lee knowingly misappropriated funds in violation of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2006), with respect to acts occurring before June 18, 2008, and in violation of Sections 4b(a)(1)(A) and (C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A) and (C), with respect to acts occurring on or after June 18, 2008.

82. Furthermore, as set forth above, Defendants have willfully made or caused to be made to other persons false reports and statements concealing commodity futures trading losses, in violation of Section 4b(a)(2)(ii) of the Act, 7 U.S.C. § 6b(a)(2)(ii) (2006), with respect to acts occurring before June 18, 2008, and in violation of Section 4b(a)(1)(B) of the Act as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(1)(B), with respect to acts occurring on or after June 18, 2008.

83. The acts, omissions and failures of Lee and Yang, as described in this Count One, were done within the scope of their employment or office with Federated and Prestige and, therefore, Federated and Prestige are liable for Lee's and Yang's acts, omissions and failures constituting violations as alleged in this Count One, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

84. During the relevant time, Lee directly and indirectly controlled Federated and Prestige, and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting their violations described in this Count One. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006), Lee is liable for Prestige's and Federated's violations described in this

Count One to the same extent as Federated and Prestige.

85. Each act of solicitation fraud, misappropriation, and each false statement Defendants made (or caused to be made) during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii) (2006), with respect to acts occurring before June 18, 2008, and in violation of Sections 4b(a)(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(a)(1)(A)-(C), with respect to acts occurring on or after June 18, 2008.

## **COUNT TWO**

### **Violations of Section 4o(1): Fraud as a CPO and Associated Person**

86. Paragraphs 1 through 85 are re-alleged and incorporated herein by reference.

87. During the relevant period, Federated and Prestige, while acting as CPOs, and Lee and Yang, while acting as APs of Federated and Prestige, violated Section 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006), in that Defendants directly or indirectly employed or are employing a device, scheme, or artifice to defraud customers or prospective customers, or has engaged or is engaged in transactions, practices or a course of business which operated or operates as a fraud or deceit upon customers or prospective customers by using the mails or other means or instrumentalities of interstate commerce. Prestige, Federated and Lee's fraudulent acts consisted of, among other things, the fraudulent solicitation of pool participants, the misappropriation of pool participant funds and the issuance of false statements to pool participants as set forth above. Yang's fraudulent acts consisted of, among other things, fraudulent solicitation of pool participants, the provision of false and misleading information to the Commission in response to a Commission issued subpoena, and the issuance of false statements as set forth above.

88. Lee, directly or indirectly, controlled the Prestige Enterprise and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting the Prestige Enterprise's violations of Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006). Lee is therefore liable for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

89. The foregoing misappropriation, fraudulent acts, misrepresentations, omissions, failures and creation of false statements of Lee occurred within the scope of his employment or office with the Prestige Enterprise. Federated and Prestige are therefore liable for Lee's acts, omissions and failures in violation of Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

90. The foregoing fraudulent acts, misrepresentations, omissions, failures and creation of false statements of Yang occurred within the scope of his employment or office with the Prestige Enterprise. Federated and Prestige are therefore liable for Yang's acts, omissions and failures in violation of Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

91. Each act of solicitation fraud, misappropriation, and each false statement Defendants made (or caused to be made) during the relevant period, including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4q(1) of the Act, 7 U.S.C. § 6q(1) (2006).

### **COUNT THREE**

#### **Violations of Sections 6(c) and 9(a)(3): Willful Misstatements or Omissions of Material Facts to the Commission**

92. The allegations set forth in paragraphs 1 through 91 are re-alleged and incorporated herein by reference.

93. In a declaration submitted pursuant to 28 U.S.C. § 1746 and declared to be true and correct by Yang under the penalty of perjury, Yang misleadingly represented that he solicited participants solely through emails, all of his information concerning Federated came from the Federated website, he no longer solicited for Federated, and persons he had solicited did not open trading accounts with Federated. Yang willfully omitted from his declaration that Prestige, through Lee, had begun operating and that Yang solicited on behalf of Prestige.

94. Section 6(c) of the Act, 7 U.S.C. § 9(c) (2006), authorizes the Commission to serve a complaint and provide for the imposition of, among other things, fines and penalties “If the Commission has reason to believe that any person ... has willfully made any false or misleading statement of a material fact in any ... report filed with the Commission under this Act, or willfully omitted to state in any such ... report any material fact which is required to be stated therein ...”

95. Section 9(a)(3) of the Act, 7 U.S.C. § 13(a)(1) (2006), makes it a violation for “[a]ny person knowingly to make, or cause to be made, any statement in any ... report, or document required to be filed under this Act or any rule or regulation thereunder ..., which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.”

96. Yang violated Sections 6(c) and 9(a)(3) of the Act, 7 U.S.C. §§ 9(c) and 13(a)(3) (2006), when, in a declaration submitted pursuant to 28 U.S.C. § 1746 and declared to be true and correct by Yang under the penalty of perjury, which he provided in response to a

Commission subpoena issued pursuant to Sections 6(c) and 8(a)(1) of the Act, 7 U.S.C. §§ 15 and 12(a)(1) (2006), he willfully made false and misleading statements of material facts and willfully omitted other material facts.

97. The actions, omissions and failures of Yang, as described in this Count Three, were done within the scope of his employment or office with Federated and Prestige and, therefore, Federated and Prestige are liable for Yang's acts, omissions and failures constituting violations as alleged in this Count Three, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

#### **COUNT FOUR**

##### **Violations of Sections 4m(1) and 4(k)(2): Failure to Register as CPOs and APs**

98. The allegations set forth in paragraphs 1 through 97 are re-alleged and incorporated herein by reference.

99. Federated and Prestige have used the mails or instrumentalities of interstate commerce in or in connection with their businesses as CPOs while failing to register with the Commission as CPOs, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006).

100. Lee, directly or indirectly, controlled the Prestige Enterprise and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Federated and Prestige's violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006). Lee is therefore liable for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

101. In soliciting prospective investors, on behalf of Federated and Prestige, to participate in the pools, Lee and Yang acted as APs of Federated and Prestige without the benefit of registration, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006).

102. The foregoing failure of Lee and Yang to register as APs occurred within the scope of their respective employment or office with Federated and Prestige. Federated and Prestige are therefore liable for Lee's and Yang's acts and failures in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2) (2006), pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2009).

103. Federated and Prestige violated Section 4k(2), 7 U.S.C. § 6k(2) (2006), by allowing Lee and Yang to act as unregistered APs of the companies when they knew or should have known that neither Lee nor Yang was registered with the CFTC.

#### **COUNT FIVE**

##### **Violations of Regulation 4.20: CPOs Accepting Pool Funds Other Than in the Name of the Pool, Commingling of Pool Funds with Own Funds, and Failure to Treat the Pool as a Separate Entity**

104. The allegations set forth in paragraphs 1 through 103 are re-alleged and incorporated herein by reference.

105. By accepting or depositing pool funds in bank and trading accounts held in the name of Federated or Prestige, and not into accounts in the names of the FMG Fund or the Prestige unnamed pool, Federated and Prestige failed to operate their pools as legal entities separate from themselves as pool operators, in violation of Regulation 4.20(a)(1), 17 C.F.R. § 4.20(a)(1) (2009).

106. By accepting pool funds in the name of Federated and not in the name of the FMG Fund, Federated, while operating as a CPO, violated Regulation 4.20(b), 17 C.F.R. § 4.20(b) (2009).

107. By accepting pool funds in the name of Prestige and not in the name of the unnamed

pool, Prestige, while operating as a CPO, violated Regulation 4.20(b), 17 C.F.R. § 4.20(b) (2009).

108. Lee, directly or indirectly, controlled the Prestige Enterprise and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Federated's and Prestige's violations of Regulations 4.20(a)(1) and (b), 17 C.F.R. §§ 4.20(a)(1) and (b) (2009). Lee is therefore liable for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

## COUNT SIX

### **Violations of Regulation 4.21: Failure to Provide Pool Disclosure Documents**

109. The allegations set forth in paragraphs 1 through 108 are re-alleged and incorporated herein by reference.

110. Regulation 4.21(a)(1), 17 C.F.R. § 4.21(a)(1) (2006), requires that a CPO must furnish prospective participants with a disclosure document containing specific language set forth by regulation by no later than the time the CPO delivers or causes to be delivered to the prospective participant a subscription agreement for the pool.

111. In addition, prior to accepting or receiving funds, Regulation 4.21(b), 17 C.F.R. § 4.21(b) (2009), requires a CPO to receive from participants an acknowledgment signed and dated by the participants that they received the disclosure document.

112. Federated and Prestige failed to furnish participants with a disclosure document and failed to receive signed and dated acknowledgments from the participants stating that they received the disclosure document, in violation of Regulations 4.21(a)(1) and (b), 17 C.F.R. §§ 4.21(a)(1) and (b) (2009).

113. Lee, directly or indirectly, controlled the Prestige Enterprise and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting Federated's and Prestige's violations of Regulations 4.21(a)(1) and (b), 17 C.F.R. §§ 4.21(a)(1) and (b) (2009). Lee is therefore liable for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2006).

114. Each failure of Federated to deliver a disclosure document to a prospective participant and each failure of Federated to receive from a prospective pool recipient an acknowledgement of receipt of a disclosure document, is alleged as separate and distinct violations of Regulations 4.21(a)(1) and (b), 17 C.F.R. §§ 4.21(a)(1) and (b) (2009), respectively.

115. Each failure of Prestige to deliver a disclosure document to a prospective participant and each failure of Prestige to receive from a prospective pool recipient an acknowledgement of receipt of a disclosure document, is alleged as separate and distinct violations of Regulations 4.21(a)(1) and (b), 17 C.F.R. §§ 4.21(a)(1) and (b) (2009), respectively.

## **VI. VIOLATIONS OF THE OKLAHOMA UNIFORM SECURITIES ACT**

### **COUNT SEVEN**

#### **Violation of Section 1-301 of the OUSA: Offer and/or Sale of Unregistered Securities**

116. The allegations set forth in paragraphs 1 through 115 are re-alleged and incorporated herein by reference.

117. Investments in the FMG Fund and the unnamed Prestige commodity pool are investments in common enterprises with the expectation of profits to be derived primarily from the efforts of Lee, or a person other than the investor. The monies invested by pool participants in the FMG Fund and/or unnamed Prestige commodity pool were commingled with those of

other participants and Lee. As such, the investments in the commodities pools are securities, in the nature of investment contracts, as defined by Section 1-102(32) of the OUSA.

118. Defendants offered and sold securities in and/or from Oklahoma.

119. The securities offered and sold by Defendants are not and have not been registered under the OUSA nor have the securities been offered or sold pursuant to an exemption from registration under Sections 1-201 through 1-203 of the OUSA.

120. By reason of the foregoing, Defendants have violated, are violating, and unless enjoined, will continue to violation Section 1-301 of the OUSA.

### **COUNT EIGHT**

#### **Violation of Section 1-402 of the OUSA: Failure to Register as an Agent and Employing Unregistered Agents**

121. The allegations set forth in paragraphs 1 through 120 are re-alleged and incorporated herein by reference.

122. Defendants Federated and Prestige are issuers, as defined in Section 1-102(19) of the OUSA, engaged in offering and/or selling securities in Oklahoma.

123. By virtue of their efforts and activities in transacting business in and/or from Oklahoma, Defendants Lee and Yang are agents, as defined in Section 1-102(2) of the OUSA, of Federated and Prestige.

124. Defendants Lee and Yang are not registered in any capacity under the OUSA.

125. Defendants Lee and Yang are transacting business in and/or from Oklahoma as agents without benefit of registration under the OUSA.

126. Defendants Federated and Prestige employed or associated with unregistered agents who transacted business in and/or from Oklahoma on their behalf.

127. By reason of the foregoing, Prestige, Federated, Lee, and Yang have violated, are violating, and unless enjoined, will continue to violate Section 1-402 of the OUSA.

**COUNT NINE**

**Violation of Section 1-501 of the OUSA:  
Untrue Statements of Material Fact and Omissions of Material Fact in Connection With  
Offer, Sale or Purchase of Securities**

128. The allegations set forth in paragraphs 1 through 127 are re-alleged and incorporated herein by reference.

129. In connection with the offer and sale of securities, Defendants, directly and/or indirectly, made untrue statements of material fact including, but not limited to, the false and misleading statements alleged above and the statement that Prestige's basic investment philosophy is "to seek and hold undervalued securities that represent good long-term investment opportunities." Prestige instead engages in speculative trading in commodities futures.

130. In connection with the offer and sale of securities, Defendants, directly and/or indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading including, but not limited to, the omissions alleged above and the following:

- a. The interests in the commodities pools were being offered and/or sold by Defendants in and/or from Oklahoma in violation of the OUSA, the Act, and Regulations.
- b. In 1995, Lee pleaded guilty to federal bank fraud.
- c. In 1995, in the District Court of Denton County, Texas, Lee plead guilty to the felony offense of securing execution of a document by deception and was

sentenced to three years of confinement. The basis of the charge was Lee's act of causing an individual to execute a check by stating that the monies would be invested when no such investment occurred.

- d. In 1995, in the District Court of Denton County, Texas, Lee plead guilty to the felony offense of theft over \$750 and was sentenced to three years of confinement.
- e. In 1996, in the District Court of Denton County, Texas, a civil judgment awarding private plaintiffs over \$3,000,000 was entered against Federated and Lee for defrauding the plaintiffs of substantial sums of money.
- f. Lee would use a portion of the pool participant funds that were deposited into the Prestige bank account to pay himself, his family members, and personal and miscellaneous expenses.
- g. The profitable returns purportedly being credited to pool participants' accounts exceeded the returns being earned by the commodities pools.

131. By reason of the foregoing, Defendants violated, and unless enjoined will continue to violate, Section 1-501 of the OUSA.

#### **COUNT TEN**

##### **Violation of Section 1-501 of the OUSA: Employing a Device, Scheme, or Artifice to Defraud**

132. The allegations set forth in paragraphs 1 through 131 are re-alleged and incorporated herein by reference.

133. Defendants, in connection with the offer and sale of securities, directly and/or indirectly, employed a device, scheme, or artifice to defraud investors through the use of the

untrue statements of material fact and the omissions of material fact described above.

134. By reason of the foregoing, Defendants violated, and unless enjoined will continue to violate, Section 1-501 of the OUSA.

#### **COUNT ELEVEN**

##### **Violation of Section 1-501 of the OUSA: Engaging in any Act, Practice, or Course of Business Which Operates or Would Operate as a Fraud or Deceit upon any Person**

135. The allegations set forth in paragraphs 1 through 134 are re-alleged and incorporated herein by reference.

136. Defendants, in connection with the offer and/or sale of securities, and through the use of the untrue statements of material fact and the omissions of material fact described above, have engaged in an act, practice, or course of business that has operated and would operate as a fraud or deceit upon investors.

137. By reason of the foregoing, Defendants violated, and unless enjoined will continue to violate, Section 1-501 of the OUSA.

#### **VII. RELIEF REQUESTED**

WHEREFORE, the Plaintiffs respectfully request that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2006), and Section 1-603 of OUSA, and pursuant to its own equitable powers enter:

- a) an order finding the Defendants violated Sections 4b(a)(2)(i)-(iii), 4k(2), and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6k(2), and 6o(1) (2006), Sections 4b(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(1)(A)-(C), and Sections 1-301, 1-402, and 1-501 of the OUSA;
- b) an order finding Lee, Federated and Prestige violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2006), and Regulations 4.20(a)(1) and (b) and 4.21(a)(1) and (b), 17 C.F.R. §§ 4.20(a)(1) and (b) and 4.21(a)(1) and (b) (2009);
- c) an order finding Yang, Federated and Prestige violated Sections 6(c) and

9(a)(3) of the Act, 7 U.S.C. §§ 9(c) and 13(a)(3) (2006);

d) an order of permanent injunction enjoining Defendants and all persons insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with them who receive actual notice of such order by personal service or otherwise, from engaging, directly or indirectly:

1. in conduct in violation of Sections 4k(2), 4m(1), 4o(1), 6(c) and 9(a)(3) of the Act, 7 U.S.C. §§ 6k(2), 6m(1), 6o(1), 9(c) and 13(a)(3) (2006), Sections 4b(1)(A)-(C) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 6b(1)(A)-(C), Regulations 4.20(a)(1) and (b) and 4.21(a)(1) and (b), 17 C.F.R. §§ 4.20(a)(1) and (b) and 4.21(a)(1) and (b) (2009), and Sections 1-301, 1-402, and 1-501 of the OUSA;
2. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29)(2006));
3. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2009)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for their own personal account or for any account in which they have a direct or indirect interest;
4. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf;
5. 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 futures, options on commodity futures, commodity options, and/or forex contracts;
6. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
7. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2009);
8. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2009)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered

with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2009).

- e) an order directing Defendants to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act, Regulations, or the OUSA, as described herein, and interest thereon from the date of such violations;
- f) an order directing Defendants to make full restitution to every investor who was defrauded by Defendants as a result of acts and practices which constituted violations of the Act, Regulations, and the OUSA, described herein, and interest thereon from the date of such violations;
- g) an order directing the Defendants to each pay a civil monetary penalty of not more than the higher of \$120,000 for each violation of the Act or Regulations committed prior to October 23, 2004, \$130,000 for each violation of the Act or Regulations committed on or between October 23, 2004 and October 22, 2008, or \$140,000 for each violation of the Act or Regulations committed on or after October 23, 2008, or triple the monetary gain to the Defendants plus post-judgment interest; and
- h) such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: November 20, 2009

ATTORNEYS FOR THE PLAINTIFF  
U.S. COMMODITY FUTURES TRADING  
COMMISSION

S/ Katherine S. Driscoll  
Gretchen L. Lowe  
Associate Director  
James H. Holl, III  
Chief Trial Attorney  
Katherine S. Driscoll  
Trial Attorney  
1155 21st Street NW  
Washington, DC 20581  
Telephone: (202) 418-5000  
Facsimile: (202) 418-5538

OKLAHOMA DEPARTMENT OF SECURITIES  
Irving L. Faught, Administrator

By: /s/ Terra Shamas Bonnell  
Terra Shamas Bonnell, OBA # 20838  
Patricia A. Labarthe, OBA # 10391  
Oklahoma Department of Securities  
120 North Robinson Avenue, Suite 860  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 280-7700  
Facsimile: (405) 280-7742