

Plaintiff's Affidavit in Support
Affirmed on:
Filed on:

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN
(BAHAGIAN DAGANG)

GUAMAN NO: **TAHUN 2011**

Dalam perkara Seksyen 58, 59
dan 360 Capital Markets and
Services Act 2007

Antara

Securities Commission Malaysia ... Plaintiff

Dan

1. Ahmad Nazmi Bin Mohamed
(No. K/P: 850521-03-5243)
2. Mohd Shahrul Firdaus Bin Zakaria
(No. K/P: 851220-08-5049)
3. Mohd Khalid Bin Sujud
(No. K/P: 870516-01-5609)
4. Fakhrul Arif Bin Ahmad Husni
(No. K/P: 880526-08-6063)
5. Fakhrul Mukmin Bin Ahmad Husni
(No. K/P: 840922-08-5891)
6. Fakhrul Razi Bin Ahmad Husni
(No. K/P: 910727-08-6013)
7. Ahmad Fauzi Bin Ambran
(No. K/P: 770709-08-5605) ...Defendan-Defendan

PLAINTIFF'S AFFIDAVIT

*(in support of the Originating Summons and the Summons
in Chambers both dated 1.4.2011)*

I, ARIF ADNAN ZAIN (NRIC No:771201-14-5835), a Malaysian citizen of full age and with an office address at Securities Commission, 3 Persiaran Bukit Kiara, 50490 Kuala Lumpur do make on oath and say as follows:-

1. I am an Officer of the Investigating Unit in the Prosecution and Enforcement Department of the abovenamed Plaintiff ("**the Securities Commission**" or "**SC**") and am duly authorized to affirm this Affidavit for and on behalf of the Securities Commission.
2. Save where otherwise stated to the contrary herein, the matters deposed to herein are within personal knowledge and/or information and/or records of the Securities Commission and CIMB Futures Sdn Bhd to which I have access.
3. This affidavit is filed in support of an Originating Summons dated 1.4.2011 ("**OS**") and a Summons in Chambers dated 1.4.2011, which is an application for a Mareva injunction and ancillary orders ("**the Injunction Application**").

THE PARTIES

4. The Securities Commission is a statutory body established under the Securities Commission Act 1993. The Securities Commission is the sole regulatory agency for the regulation and development of capital markets and, insofar as they are relevant to this suit, the functions of the Securities Commission (as prescribed under Section 15 of the Securities Commission Act 1993) include:-

(i) to regulate all matters relating to securities and futures contracts;

(ii) to ensure that the provisions of the securities laws are complied with;

(iii) to take all reasonable measures to maintain the confidence of investors in the securities and futures markets by ensuring adequate protections of such investors; and

(iv) to suppress illegal, dishonourable and improper practices in dealings in securities and trading in futures contracts, and the provision of investment advice or other services relating to securities or futures contracts.

5. The 1st Defendant is an individual with a last known address at Kampung Beta Hulu 16450 Ketereh, Kota Bahru, Kelantan.
6. The 2nd Defendant is an individual with a last known address at No. 32, Puncak Tambun Indah 2, Desa Tambun, 31400 Ipoh, Perak.
7. The 3rd Defendant is an individual with a last known address at No. 39, Kg Parit Surau Laut, Parit Raja, 86400 Batu Pahat, Johor.
8. The 4th Defendant is an individual with a last known address at No. 57 Hala Lapangan Perdana 1, Panorama Lapangan Perdana, Pasir Putih, 31650 Ipoh, Perak.

9. I state that the 5th Defendant is an individual with a last known address at No. 57 Hala Lapangan Perdana 1, Panorama Lapangan Perdana, Pasir Putih, 31650 Ipoh, Perak.
10. The 6th Defendant is an individual with a last known address at No. 57 Hala Lapangan Perdana 1, Panorama Lapangan Perdana, Pasir Putih, 31650 Ipoh, Perak.
11. The 7th Defendant is an individual with a last known address at Poji Group, AM Assurance Bhd, Greentown Business Centre, 30450 Ipoh, Perak and/or 5, Palma D/1, Bandar Sri Botani, Ipoh 31350, Perak.
12. I state that the Securities Commission is seeking the reliefs set out in the Originating Summons and the Injunction Application to prevent the Defendants from defrauding and/or further defrauding the investing public by illegally soliciting, accepting deposits, acquiring, collecting and/or utilizing and/or attempting to solicit, accept deposits, acquire, collect and/or utilize any monies and/or funds wheresoever

situated for the purposes of investment and/or trading in futures contracts and/or any other form of investments whatsoever.

RELEVANT FACTS

CIMB Futures

13. On 20.12.2010, at the request and application of the 1st Defendant, CIMB Futures Sdn Bhd ("**CIMB Futures**") approved the opening of a futures trading account with CIMB Futures in the name of the 1st Defendant. The 1st Defendant was and/or is assigned with a Trading Account No. 302638.

A copy of the 1st Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-1**.

A copy of CIMB Futures' letter of approval dated 20.12.2010 is now produced and shown to me and marked as **Exhibit EAB-2**.

14. On 22.10.2010, at the request and application of the 2nd Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 2nd Defendant. The 2nd Defendant was and/or is assigned with a Trading Account No. 302576.

A copy of the 2nd Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-3**.

A copy of CIMB Futures' letter of approval dated 22.10.2010 is now produced and shown to me and marked as **Exhibit EAB-4**.

15. On 3.1.2011, at the request and application of the 3rd Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 3rd Defendant. The 3rd Defendant was and/or is assigned with a Trading Account No. 302646.

A copy of the 3rd Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-5**.

A copy of CIMB Futures' letter of approval dated 3.1.2011 is now produced and shown to me and marked as **Exhibit EAB-6**.

16. On 3.1.2011, at the request and application of the 4th Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 4th Defendant. The 4th Defendant was and/or is assigned with a Trading Account No. 302647.

A copy of the 4th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-7**.

A copy of CIMB Futures' letter of approval dated 3.1.2011 is now produced and shown to me and marked as **Exhibit EAB-8**.

17. On 7.10.2010, at the request and application of the 5th Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 5th Defendant. The 5th Defendant was and/or is assigned with a Trading Account No. 302550.

A copy of the 5th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-9**.

A copy of CIMB Futures' letter of approval dated 7.10.2010 is now produced and shown to me and marked as **Exhibit EAB-10**.

18. On 7.3.2011, at the request and application of the 6th Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 6th Defendant. The 6th Defendant was and/or is assigned with a Trading Account No. 302691.

A copy of the 6th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-11**.

A copy of CIMB Futures' letter of approval dated 7.3.2011 is now produced and shown to me and marked as **Exhibit EAB-12**.

19. On 12.10.2010, at the request and application of the 7th Defendant, CIMB Futures approved the opening of a futures trading account with CIMB Futures in the name of the 1st Defendant. The 7th Defendant was and/or assigned with a Trading Account No. 302555.

A copy of the 7th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-13**.

A copy of CIMB Futures' letter of approval dated 12.10.2010 is now produced and shown to me and marked as **Exhibit EAB-14**.

20. For the purpose of conducting such futures trading, I am informed by the officers of CIMB Futures and verily believe that CIMB Futures maintains an account with the following financial institutions, wherein any payments to the Defendants' futures trading account would be identified with each of the Defendants' individual accounts as a suffix to CIMB Futures account no.:-

(a) CIMB Bank Berhad account no. 1408-1201-196-058
("the CIMB Account");

(b) Malayan Banking Bhd account no. 514011-715-109
["the Malayan Banking Account"];

(c) JP Morgan Chase Bank New York account no. 001-1-580131 (SWIFT CODE: CHASU 33) (BIC: CIBBMYKL) ("the Chase Account");

(d) Malayan Banking Berhad account no. 714011-006-762 ("the Account").

INTERACTIVE FUTURES SDN BHD

21. On 19.1.2011, at the request and application of the 1st Defendant, Interactive Futures Sdn Bhd ("**Interactive Futures**") approved the opening of a futures trading account with Interactive Futures in the name of the 1st Defendant. The 1st Defendant was and/or is assigned with a Trading Account No. A949.

A copy of the 1st Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-15**.

A copy of Interactive Futures' checklist of Individual Trading Account dated 15.1.2011 is now produced and shown to me and marked as **Exhibit EAB-16**.

22. On 19.1.2011, at the request and application of the 3rd Defendant, Interactive Futures approved the opening of a futures trading account with Interactive Futures in the name of the 3rd Defendant. The 3rd Defendant was and/or is assigned with a Trading Account No. A952.

A copy of the 3rd Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-17**.

A copy of Interactive Futures' checklist of Opening Individual Trading Account dated 15.1.2011 is now produced and shown to me and marked as **Exhibit EAB-18**.

23. On 19.1.2011, at the request and application of the 4th Defendant, Interactive Futures approved the opening of a futures trading account with Interactive Futures in the name of the 4th Defendant. The 4th Defendant was and/or is assigned with a Trading Account No. A948.

A copy of the 4th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-19**.

A copy of Interactive Futures checklist of Opening of Individual Trading Account dated 15.1.2011 is

now produced and shown to me and marked as **Exhibit EAB-20**.

24. On 19.1.2011, at the request and application of the 5th Defendant, Interactive Futures approved the opening of a futures trading account with Interactive Futures in the name of the 5th Defendant. The 5th Defendant was and/or is assigned with a Trading Account No. A947.

A copy of the 5th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-21**.

A copy of Interactive Futures' checklist of Opening of Individual Trading Account dated 15.1.2011 is now produced and shown to me and marked as **Exhibit EAB-22**.

25. On 27.11.2011, at the request and application of the 7th Defendant, Interactive Futures approved the opening of a futures trading account with Interactive Futures in the name of the 7th

Defendant. The 7th Defendant was and/or assigned with a Trading Account No. A959.

A copy of the 7th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-23**.

A copy of Interactive Futures' checklist of Opening of Individual Trading Account dated 26.1.2011 is now produced and shown to me and marked as **Exhibit EAB-24**.

ORIENTAL PACIFIC FUTURES SDN BHD

26. On 17.8.2010, at the request and application of the 4th Defendant, Oriental Pacific Futures Sdn Bhd ("**Oriental Pacific Futures**") approved the opening of a futures trading account with Oriental Pacific Futures in the name of the 4th Defendant. The 4th Defendant was and/or is assigned with a Trading Account No. R0129.

A copy of the 4th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-25**.

27. On 26.8.2010, at the request and application of the 5th Defendant, Oriental Pacific Futures approved the opening of a futures trading account with Oriental Pacific Futures in the name of the 5th Defendant. The 5th Defendant was and/or is assigned with a Trading Account No. R10331.

A copy of the 5th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-26**.

28. On 28.9.2010, at the request and application of the 5th Defendant, Oriental Pacific Futures approved the opening of a futures trading account with Oriental Pacific Futures in the name of the 5th Defendant. The 5th Defendant was and/or is assigned with a Trading Account No. R10122.

A copy of the 5th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-27**.

29. On 31.05.2010, at the request and application of the 7th Defendant, Oriental Pacific Futures approved the opening of a futures trading account with Oriental Pacific Futures in the name of the 7th Defendant. The 7th Defendant was and/or assigned with a Trading Account No. R10101.

A copy of the 7th Defendant's Application Form is now produced and shown to me and marked as **Exhibit EAB-28**.

THE SCAM

30. In or about 28.3.2011, CIMB Futures lodged a complaint with Securities Commission of a scam perpetrated by individuals who claim to be representatives of CIMB Futures offering investment in FCPO futures with a guaranteed return of 24 % per annum when in fact CIMB Futures guarantees no such returns ("**the fraudulent scam**"). It was

highlighted in the said complaint that CIMB Futures was alerted of the scam when on 17.3.2011, 18.3.2011 and 21.3.2011 CIMB Futures received calls from private individuals enquiring about the fraudulent scam. Further on 23.3.2011, a member of the public came to CIMB Futures office to clarify on the fraudulent scam and informed that he has already invested RM13,000.00 in the fraudulent scam. The fraudulent scam was represented by unknown individuals who are not representatives of CIMB Futures.

A copy of CIMB Futures' letter dated 28.3.2011 is now produced and shown to me and marked as **Exhibit EAB-29**.

31. On 29.3.2011, the Securities Commission received information and particulars by way of a letter from CIMB Futures that the Defendants received or are receiving monies from the investing public based on the fraudulent scam.

A copy of CIMB Futures' letter dated 29.3.2011 is now produced and shown to me and marked as **Exhibit EAB-30**.

32. Pursuant to investigations by CIMB Futures, it is discovered that CIMB Futures is being used by persons unknown without their consent and authority for example in the use of calling cards and presentation slides given to members of the public for the purpose of soliciting and/or receiving monies to be purportedly invested in the fraudulent scam.

A copy of the presentation slides used by the unauthorised individuals are now produced and shown to me and marked as **Exhibit EAB-31**.

33. The presentation slides are not prepared by CIMB Futures officers and/or are not the product of CIMB Futures. The slides are not endorsed and/or authorised by CIMB Futures authorized by CIMB Futures. Further, I am informed by the officers of CIMB Futures that CIMB Futures does not and/or has

never authorised any guaranteed returns up to 24% per annum.

34. I verily believe that the unknown persons have been and/or are soliciting monies from the public for and on behalf of the Defendants, their agents, their servants or otherwise for the purposes of trading in futures contracts or other form of investments. These unknown persons perpetrate the fraud and/or scam by using CIMB Futures as a front to invite or entice potential investors to invest funds through them.

35. After confirming with our internal records, I state that neither of the Defendants are holders of a Capital Markets Services Licence or a Capital Markets Services Representatives Licence, which is a requirement to carry on a business of trading in futures contract or fund management. As such, I state that the Defendants are in breach of Section 58 and Section 59 of the Capital Markets and Services Act 2007 ("**the Act**").

36. For the aforesaid reasons, I verily believe that the Defendants are perpetuating a scam to illegally solicit, accept deposits, acquire, collect and/or utilize and/or attempt to solicit, accept deposits, acquire, collect and/or utilize any monies and/or funds wheresoever situated for the purposes of investment and/or trading in futures contracts and/or any other form of investments whatsoever on behalf of the individual public.

37. In the circumstances, I state that if not restrained by this Honourable Court, the Defendants will continue to dishonestly and fraudulently solicit, accept deposits, acquire, collect and/or utilize any monies and/or funds for the purposes of investment and/or trading in futures contracts and/or any other form of investments from unsuspecting investors.

38. I verily believe that so far, the Securities Commission with the assistance of CIMB Futures has discovered the following:

(a) The 1st Defendant has collected a sum of RM13,000.00 and withdrawn the sum of RM1,000.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 1st Defendant are now produced and shown to me and marked as **Exhibit EAB-32**.

(b) The 2nd Defendant has collected a sum of RM241,000.00 and withdrawn the sum of RM92,500.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 2nd Defendant are now produced and shown to me and marked as **Exhibit EAB-33**.

(c) The 3rd Defendant has collected a sum of RM60,320.00 and withdrawn the sum of RM13,000.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 3rd Defendant are now produced and shown to me and marked as **Exhibit EAB-34**.

(d) The 4th Defendant has collected a sum of RM554,000.00 and withdrawn the sum of RM334,000.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 4th Defendant are now produced and shown to me and marked as **Exhibit EAB-35**.

(e) The 5th Defendant has collected a sum of RM276,281.00 and withdrawn the sum of RM121,000.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 5th Defendant are now produced and shown to me and marked as **Exhibit EAB-36**.

(f) The 6th Defendant has collected a sum of RM60,000.00 but has not seem to have withdrawn any.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 6th Defendant are now produced and shown to me and marked as **Exhibit EAB-37**.

(g) The 7th Defendant has collected a sum of RM735,400.00 and withdrawn the sum of RM385,000.00.

A copy of the CIMB Futures summary of cash movement listing and fund withdrawal request form for and by the 7th Defendant are now produced and shown to me and marked as **Exhibit EAB-38**.

39. I verily believe that the Defendants have collected in total approximately RM1,940,001.00 from the unsuspecting public investors' monies by way of CIMB Futures. A sum of RM946,500.00 has since been withdrawn by the Defendants.

40. Further to the above, I verily believe that so far, the Securities Commission with the assistance of the Defendants have discovered the following:

(a) The 5th Defendant has collected a sum of RM14,000.00 from the Interactive Futures trading account and have yet to withdraw any monies from there.

A copy of the Interactive Futures' Account Daily Activity Statement of the 5th Defendant are now produced and shown to me and marked as **Exhibit EAB-39**.

(b) The 7th Defendant has collected a sum of RM41,019.18 and withdrawn the sum of RM30,009.59.00.

A copy of the Interactive Futures' Account Daily Activity Statement of the 7th Defendant are now produced and shown to me and marked as **Exhibit EAB-40**.

41. Further to the above, I verily believe that so far, the Securities Commission with the assistance of the Defendants have discovered the following:

(a) The 4th Defendant has collected a sum of RM45,400.00 from the Oriental Pacific Futures trading account and have withdraw the sum of RM7,300.00.

A copy of the Oriental Pacific Futures' Account Daily Activity Statement of the 4th Defendant is now produced and shown to me and marked as **Exhibit EAB-41**.

- (b) The 5th Defendant has collected a sum of RM170,000.00 from the Oriental Pacific Futures' trading account no. R10331 and have withdraw the sum of RM74,075.00.

A copy of the Oriental Pacific Futures' Account Daily Activity Statement of the 5th Defendant is now produced and shown to me and marked as **Exhibit EAB-42**.

- (c) The 5th Defendant has collected a sum of RM50,000.00 from the Oriental Pacific Futures' trading account no. R10122 and have withdraw the sum of RM33,575.00.

A copy of the Oriental Pacific Futures' Account Daily Activity Statement of the 5th

Defendant is now produced and shown to me and marked as **Exhibit EAB-43**.

(d) The 7th Defendant has collected a sum of RM125,000.00 from the Oriental Pacific Futures' trading account no. R10101 and have withdraw the sum of RM82,560.00.

A copy of the Oriental Pacific Futures' Account Daily Activity Statement of the 7th Defendant is now produced and shown to me and marked as **Exhibit EAB-44**.

ACTIONS TAKEN BY CIMB FUTURES & SECURITIES COMMISSION

42. On 28.3.2011, one Maxwell Ong Wai Boon lodged a police report at Travers Police Station after the discovery of the fraudulent scam perpetrated by the Defendants.

A copy of the police report dated 28.3.2011 is now produced and shown to me and marked as "**EAB-45**".

43. On 29.3.2011, CIMB Futures had issued a notice to the public in the New Straits Times, to inform of the scam perpetrated by the Defendants and that the public should not invest monies to such parties who are not affiliated with the CIMB Group of companies.

A copy of the notice from the News Straits Times dated 29.3.2011 is now produced and shown to me and marked as "**EAB-46**".

44. Thereafter, upon conducting preliminary investigations, the Securities Commission issued a directive to CIMB Futures under Section 125(1)(b), the Act ("**the Section 125 Notice**"), to inform that the Defendants activities in the futures trading account with CIMB Futures may have breached securities laws and the monies held in the accounts may be jeopardized. For those reasons, the Securities Commission directed CIMB Futures not to deal with the monies in the Defendants' accounts.

A copy of the Securities Commission's Notice dated 30.3.2011 is now shown to me marked as "EAB-47".

45. Upon issuance of the Section 125 Notice, the Investigation team from the Prosecution and Enforcement Department of the Securities Commission conducted a search at the 7th Defendant's house and office premises where they were joined by the 4th and 5th Defendant. The 4th, 5th and 7th Defendants provided the Investigation team with their contact details and bank accounts, list of investors and contact details, relating to the Defendants' unauthorised and illegal trading in futures contracts.

ILLEGALITY AND FRAUD

46. I reiterate that none of the Defendants are licensed and/or approved by the Securities Commission to carry out or hold themselves as carrying out a business of trading in futures contracts , fund management or any other form of investments within the meaning of Schedule 2, the Act.

47. In carrying out the trading in futures contracts in such a dishonest manner, the Securities Commission has reason to believe that the Defendants intend to continue defrauding the investing public and will dissipate all investor monies currently in their possession.

48. In this regard, I state that the Defendants have withdrawn RM946,500.00 in total out of the monies invested by public in CIMB Futures leaving the balance of RM993,501.00 in their accounts. However, I verily believe that CIMB Futures has placed the said RM993,501.00 in a suspense account after the issuance of the Section 125 Notice.

49. Given the large amount of monies belonging to the investing public at stake, the Securities Commission is compelled to exercise its powers under Section 360, the Act, to institute this suit to protect the public investors and to curtail the illegal and fraudulent scam perpetuated by the Defendants.

50. For the aforesaid reasons, I humbly pray for order in terms of the Originating Summons.

THE INJUNCTION APPLICATION

51. I refer to paragraphs 3 to 39 above and contend that the Securities Commission has a good arguable case against the Defendants.

52. It is contended that the illegal and fraudulent conduct of the Defendants in perpetuating this fraudulent scam will clearly infer that there is a real and high risk that the Defendants will dissipate all their assets, particularly the monies in or likely to come into the said accounts, prior to the disposal of this action. Such conduct include:-

(a) inviting public investors to invest in the Defendants to trade in futures contracts even though neither of the Defendants are licensed or approved by the Securities Commission to do so;

(b) illegally and fraudulently misusing the name of CIMB Futures to misrepresent the public that by investing in CIMB Futures, investors would attract guaranteed returns of up to 24% per annum.

53. I verily believe that the Defendants have taken steps to withdraw monies in the Defendants' futures trading account with CIMB Futures and are likely to do so in the near future. Unless restrained from doing so, the interest of the investing public would be severely prejudiced and the Securities Commission would be unable to properly prosecute this action for the benefit of the unsuspecting investors.

54. To facilitate the injunction prayed for, I state that the Securities Commission is also seeking an order for disclosure of information with respect to *inter alia* the manner in which the monies fraudulently solicited and/or received by the Defendants were utilised. I verily believe that

this is to ensure that the interlocutory order sought effectively restrains the Defendants from dealing with any of the investors' monies.

55. I am advised by the Securities Commission's solicitors and verily believe that:-

(a) the facts giving rise to the claim against the Defendants and to the interlocutory relief sought have been set out in paragraphs 3 to 42 above;

(b) given the nature of the relief sought in the injunction application, and the high likelihood that the Defendants may dissipate all monies in the said accounts, it is critical that this application is made ex-parte as any prior notice may defeat the purpose of the Orders sought;

(c) I verily believe that the Securities Commission is not aware of any possible answer that may be asserted by the Defendants;

(d) I am not aware of any facts which may lead this Honourable Court not to grant the relief *ex-parte*;

(e) I verily believe that the Securities Commission has not made any similar *ex-parte* application to any other judge of this Honourable Court;

(f) I verily believe that the Securities Commission has made full and frank disclosure of all matters within their knowledge;

(g) by reason thereof, the requirements of Order 29 Rule 1(2A) of the Rules of the High Court, 1980 have been complied with.

56. Having regard to the fraudulent conduct of the Defendants in soliciting and receiving payments purportedly for the purpose of trading in futures contracts, which is in any event unauthorised, and thereafter attempting to withdraw and dissipate all

monies illegally obtained, I contend that it is imperative that an interlocutory order be granted in the terms sought. I further contend that such an order will enable the monies to be safeguarded for return to the investors pending the disposal of this action.

57. I am advised by Securities Commission's solicitors and verily believe that pursuant to Section 360(5), the Act, the Securities Commission is not required to give the usual undertaking as to damages for the interlocutory relief sought.

58. In the premises, I pray for an order in terms of the Summons In Chambers and Originating Summons filed herein application.

To an affidavit by one deponent)

ARIF ADNAN ZAIN)

affirmed on)

at Kuala Lumpur)

(Interpretation not required))

Before me,

Commissioner for Oaths

This **Affidavit** is affirmed on _____ and filed on _____
by Messrs Zul Rafique & Partners whose address for
service is at D3-3-8 Solaris Dutamas, No. 1 Jalan
Dutamas 1, 50480 Kuala Lumpur, Malaysia solicitors for
the Plaintiff herein.

Ref: NRK/SAI/21103482

(Tel: 03-6209 8228) (Fax: 603-6209 8381)