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FEDERAL TRADE COMMISSION

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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 _____) CV-
13 FEDERAL TRADE COMMISSION,)
14)
Plaintiff,)
15)
v.)
16 TIM CHO INVESTMENT CORPORATION and) **COMPLAINT FOR**
INJUNCTIVE AND

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1 manual for trading stocks, currencies, and Standard and Poor's
2 ("S&P") futures contracts in violation of Section 5(a) of the
3 FTC Act, 15 U.S.C. §§ 45(a).

4 **JURISDICTION AND VENUE**

5 2. This Court has jurisdiction of this matter pursuant
6 to 15 U.S.C. §§ 45(a), 52 and 53(b), and 28 U.S.C. §§ 1331,
7 1337(a), and 1345.

8 3. Venue in this district is proper under 15 U.S.C.
9 § 53(b) and 28 U.S.C. § 1391(b) and (c).

10 **THE PARTIES**

11 4. Plaintiff, the FTC, is an independent agency of the
12 United States Government created by statute. 15 U.S.C. §§ 41
13 *et seq.* The FTC is charged, *inter alia*, with enforcement of
14 Section 5(a) of the FTC Act, 15 U.S.C. §§ 45(a), which
15 prohibits unfair or deceptive acts or practices in or
16 affecting commerce. The FTC is authorized to initiate federal
17 district court proceedings to enjoin violations of the FTC Act
18 and to secure such equitable relief, including consumer
19 redress, as may be appropriate in each case. 15 U.S.C.
20 § 53(b).

21 5. Defendant Tim Cho Investment Corporation, also doing
22 business as TCI Corp. (collectively, "TCI"), is a California
23 corporation with its headquarters and principal place of
24 business at 19200 Von Karman Avenue, Suite 500, Irvine,
25 California 92612. Since approximately 1998, TCI has been
26 engaged in the advertising, marketing and sale of a "day
27

1 trading" investment training seminar and manual for trading
2 stocks, currencies, and S&P futures contracts. Tim Cho
3 Investment Corporation transacts business in this District.

4 6. Defendant Timothy Cho is the sole shareholder,
5 director and officer of the corporate defendant TCI. He also
6 does business as MBN Irvine. At all times relevant to this
7 complaint, acting alone or in concert with others, he has
8 formulated, directed, controlled, or participated in the acts
9 and practices of defendant TCI, including the acts and
10 practices set forth in this complaint. He resides and
11 transacts business in this District.

12 **COMMERCE**

13 7. The acts and practices of defendants, as alleged
14 herein, are in or affecting commerce, as "commerce" is defined
15 in Section 4 of the FTC Act, 15 U.S.C. § 44.

16 **DEFENDANTS' COURSE OF CONDUCT**

17 8. Since approximately 1998, defendants have engaged in
18 the advertising, promotion, offering for sale, and sale of a
19 "day trading" investment training seminar and manual for
20 trading stocks, currencies, and S&P futures contracts to
21 consumers located throughout the United States via Internet
22 advertising, newspaper advertising, and e-mail notices sent to
23 consumers. Through a network of affiliates, defendants offer
24 training seminars to consumers throughout the United States.
25 Defendants prepare all advertising and course materials for
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1 affiliates, and provide them with instructors to teach the two
2 day seminar.

3 9. To induce consumers to purchase their two day "day
4 trading" training seminar, defendants have disseminated
5 Internet and newspaper advertisements, and have sent e-mail
6 notices to consumers, including but not necessarily limited to
7 the attached Exhibits A through M. Defendants advertise,
8 promote and market the two day training seminar via an
9 Internet Web site at www.tccorp.net and on third party Web
10 sites, such as www.galaxymall.com. These advertisements
11 contain the following statements:

12
13 A. Computerized Trading

14 Learn how to become a professional trader . . .

15
16 **Day Trading**

17 **Swing Trading**

18 **Long-term Trading**

19 **Futures market and Stock markets**

20 **S&P500 - E-mini - Currency - Stocks**

21
22 **The absolute best and the most mechanical trading**
23 **system that we know of in the financial market with**
24 **a profit to loss ratio of 12 to 1 and an average**
25 **return better than 18% per trade before slippages**
26

1 In our opinion, you are about to be introduced to
2 the most powerful trading systems ever developed.
3 The trading systems are designed to keep you out of
4 the market by only identifying the highest
5 percentage profitable trades, when potential losses
6 are at the lowest level and potential profits are at
7 the highest levels. By learning our trading method,
8 you will be taking a big step away from the crowd of
9 amateurs and be on your way to becoming a successful
10 professional trader. We believe our sophisticated
11 trading system is the absolute best in the financial
12 market. We also believe the performance of our
13 trading systems is unmatched by any other systems
14 that are currently in the market place. We couple
15 this with state-of-the-art training facilities and
16 the best on-going support system to ensure your
17 success.

18
19 **Requirements needed for this phenomenal opportunity**

20 NO experience

21

22 Exhibit A, emphasis in original. These statements appeared on
23 defendants' home page on the Internet, <www.tcicorp.net>.

24
25 B. TCI Corporation

1 Astounding Income Opportunity

2
3 Earn Thousands Per Day Potential 6
4 to 7 Figure Income Per Year With
5 Computerized Day Trading

6
7 S&P 500 Index, Stock Markets, Currency
8 Market and Institutional Trading of Debt
9 Instruments

10
11 **Once in a lifetime opportunity to learn how**
12 **To earn a phenomenal income**

13

14 **What is computerized day trading?**

15
16 It is the buying or selling of a trading transaction
17 within one calendar day trading session. All trades
18 are completed within the same day. We use a
19 sophisticated data-feed computerized program that
20 has the ability to give us precise buying and
21 selling indicators, giving you the ability to make
22 trades to generate a substantial amount of profit.

23
24 **How much profit can be made?**

1 Using our formulas, historically average returns
2 have been approximately 12% per trading day minus
3 slippage and commission. . . . this is truly an
4 unlimited income opportunity. . . The profit to
5 loss ratio has been 13 to 2. This means our trading
6 formulas have been profitable 13 out of 15 trades. .
7 . we have done in depth back testing of these
8 trading systems using historical data to ensure the
9 accuracy of the systems. Therefore, you can use
10 these systems with confidence.

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12 Exhibit B. These statements appeared on a USA Today Internet
13 Web site for "Home Based Businesses,"
14 <<http://usatoday.franchisesolutions.com>>.

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Exhibit C, emphasis in original. These statements appeared on the "earnings" page of defendants' Internet Web site, <www.tccorp.net>.

D. COMPUTERIZED TRADING

S&P 500 Index and E-mini

S&P 500 Index - Hypothetical Trade Summary

Month	Winning Trades	Losing Trades	No Gains	Total Monthly Points	Average Points Per Trade	Hypo- thetical Profit Per Contract
Oct 98	11	1		+27.00	+2.25	\$6,750
Nov 98	31	2		+90.10	+2.73	\$22,525
Dec 98	26	0		+106.70	+4.10	\$26,675
Jan 99	13	0		+77.40	+5.95	\$19,350
Feb 99	11	1	1	+52.30	+4.36	\$13,075
Mar 99	17	1		+67.90	+3.77	\$16,975
Apr 99	10	1		+51.40	+4.67	\$12,850
May 99	8	0		+50.90	+6.36	\$12,725
Jun 99	10	0		+42.90	+4.29	\$10,725
Jul 99	10	1		+49.40	+4.49	\$12,350
Aug 99	19	2	1	+67.20	+3.05	\$16,800
Sep 99	13	1		+33.10	+2.36	\$8,270
12 Month Totals	179	10	2	+716.30	+3.75	\$179,070

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Exhibit D. This chart appeared on defendants' Internet Web site, <www.tcicorp.net>.

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E. COMPUTERIZED TRADING

System Performance

Guarantee

TCI will guarantee that the performance of the primary trading system will produce at least two hundred points (which is equivalent to one thousand percent return) within twelve months from the first day you attend the class. The calculation of return is based on a \$5,000.00 margin requirement per S&P 500 contract. Point of entry and exit is calculated on the closing price of the one-minute chart that shows on TCI's data feed. The trading instrument we use to calculate the official points is the S&P 500. TCI will maintain the official records of the system performance at corporate headquarters. STUDENT may not challenge the system's official trading results. If our official records show the primary trading system failed to produce at least two hundred points within twelve months from the first day STUDENT attended the class. [sic] Upon request, we will refund 100% of the course fee that STUDENT paid

1 Earn thousands per day! 6 to 7 figure income
2 per year.
3 Can prove performance.

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5 Exhibit F. These statements appeared in classified newspaper
6 advertisements.

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10 G. 6 to 7 -FIGURE-INCOME POTENTIAL
11 Earn thousands of Dollars PER
12 DAY!
13 We Only Ask for 15-20 Minutes a
14 Day!
15 TRADING/STOCKS/S&P 500/CURRENCIES
16 Fully Automated System: Both
17 Novices and Experienced
18 Traders Welcome
19 CALL NOW for a Free Overview and
20 Consultation

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22 Exhibit G. These statements were contained in an e-mail
23 notice sent to consumers.

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25 H. Day Trading, Swing Trading and Long-Term
26 Trading with Computerized Trading Systems

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28 **We Set the Standards in the Financial Industry**

1 trades . . . In addition we have done in depth back
2 testing of these trading systems using historical data
3 to ensure the accuracy of the systems. So you can use
4 these systems with confidence.

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6 Exhibit I. These statements appeared on defendants' Internet
7 Web site, <www.tcicorp.net>, in September 2000.

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9 J. System Performance Guarantee

10 TCI will guarantee that the performance of the primary
11 trading system will product at least two hundred points
12 (which is equivalent to one thousand percent return)
13 within twelve months from the first day you attend the
14 class.

15

16 Exhibit J. This statement appeared on defendants' Internet
17 Web site, <www.tcicorp.net>, in September 2000.

18
19 K. Questions and Answers

20 . . . The historical system performances of all of our
21 systems are astounding. You can see the systems
22 performance results on the website.

23
24 . . . Many of TCI graduates go on to become successful
25 traders and investors.

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27 Exhibit K. These statements appeared on defendants' Internet
28 Web site, <www.tcicorp.net>, in September 2000.

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1 I have been trading using TCI systems for over a year.
2 I day trade, swing trade and trade stocks and options,
3 all using the system. It combines the best of
4 technical and fundamental analysis. For the past six
5 months, I am averaging over \$50,000 per month in
6 profit.

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8 Exhibit M. These statements appeared on defendants' Internet
9 Web site, <www.tcicorp.net>, in September 2000.

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11 10. Defendants charge consumers \$6,000.00 to take their
12 two day training seminar.

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15 11. Defendants were notified on June 4, 1999, by the
16 Securities Division of the Office of the Secretary of the
17 Commonwealth of Massachusetts that ". . . it is undeniably
18 clear that the published advertisements created and employed
19 by the Respondents [Defendants TCI and Timothy Cho in the
20 instant matter] are fraudulent, misleading and deceptive."
21 Exhibit N is a copy of a Hearing to Dissolve Ex Parte Order,
22 dated June 4, 1999, issued by the Director, Securities
23 Division, Commonwealth of Massachusetts, Matthew J. Nestor.

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25 **DEFENDANTS' VIOLATIONS OF THE FTC ACT**

26 12. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
27 prohibits deceptive acts or practices in or affecting
28 commerce. As set forth below, the defendants have engaged and

1 winning trades in the first nine months of the year
2 2000.

3
4 f. Users of defendants' S&P futures trading methods
5 will earn a guaranteed one thousand percent return
6 on their investment within one year.

7
8 14. Defendants did not possess and rely upon a
9 reasonable basis that substantiated the representations set
10 forth in Paragraph 13 above, at the time the representations
11 were made.

12 15. Therefore, the making of the representations set
13 forth in Paragraph 13 above was, and is, a deceptive act or
14 practice in violation of Section 5(a) of the FTC Act, 15
15 U.S.C. §§ 45(a).

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17 **COUNT TWO**

18 16. Defendants have represented, expressly or by
19 implication, including through the statements contained in the
20 advertisements attached as Exhibits A through M, that users of
21 their investment trading methods can reasonably expect to
22 trade profitably with little financial risk.

23 17. In truth and in fact, users of defendants'
24 investment trading methods cannot reasonably expect to trade
25 with little financial risk.

26 18. Therefore, the making of the representation set
27 forth in Paragraph 16 above was, and is, a deceptive act or
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1 practice in violation of Section 5(a) of the FTC Act, 15
2 U.S.C. §§ 45(a).

3
4 **CONSUMER INJURY**

5 19. Consumers throughout the United States have suffered
6 and continue to suffer substantial monetary loss as a result
7 of defendants' unlawful acts or practices. In addition,
8 defendants have been unjustly enriched as a result of their
9 unlawful practices. Absent injunctive relief by this Court,
10 defendants are likely to continue to injure consumers, reap
11 unjust enrichment, and harm the public interest.

12
13 **THIS COURT'S POWER TO GRANT RELIEF**

14 20. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
15 empowers this Court to grant injunctive and other ancillary
16 relief, including consumer redress, disgorgement, and
17 restitution, to prevent and remedy any violations of any
18 provision of law enforced by the FTC.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, plaintiff requests that this Court, as authorized
21 by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and
22 pursuant to its own equitable powers:

23 (a) Enjoin defendants preliminarily and permanently from
24 violating Section 5(a) of the FTC Act, as alleged herein, in
25 connection with the advertising or sale of "day trading"
26 investment training seminars or any investment trading
27 programs offered for sale.

1 (b) Award such equitable relief as the Court finds
2 necessary to redress injury to consumers resulting from
3 defendants' violations of the FTC Act, including, but not
4 limited to, rescission of contracts, the refund of monies
5 paid, and the disgorgement of ill-gotten gains; and

6 (c) Award plaintiff the costs of bringing this action,
7 as well as such other and additional equitable relief as the
8 Court may deem just and proper.

9
10 Dated: March ____, 2001

Respectfully Submitted,

11 DEBRA A. VALENTINE
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