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10
 11 **THE UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

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 14 COMMODITY FUTURES
 15 TRADING COMMISSION, and

16 ALABAMA SECURITIES
 17 COMMISSION, ARIZONA
 CORPORATION COMMISSION,
 18 ARKANSAS SECURITIES
 DEPARTMENT, CALIFORNIA
 19 DEPARTMENT OF FINANCIAL
 PROTECTION & INNOVATION,
 20 STATE OF CONNECTICUT
 DEPARTMENT OF BANKING,
 21 STATE OF FLORIDA, OFFICE
 OF FINANCIAL REGULATION,
 22 STATE OF HAWAII,
 DEPARTMENT OF COMMERCE
 23 AND CONSUMER AFFAIRS,
 STATE OF IDAHO,
 24 DEPARTMENT OF FINANCE,
 OFFICE OF SECRETARY OF
 25 STATE, ILLINOIS SECURITIES
 DEPARTMENT, INDIANA
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 27
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Civil Action No. 2:22-cv-00691

**COMPLAINT FOR INJUNCTIVE
 RELIEF, CIVIL MONETARY
 PENALTIES, AND OTHER
 EQUITABLE RELIEF**

DEMAND FOR JURY TRIAL

1 SECURITIES DIVISION,
2 KENTUCKY DEPARTMENT OF
3 FINANCIAL INSTITUTIONS,
4 STATE OF MARYLAND EX REL
5 MARYLAND SECURITIES
6 COMMISSIONER, ATTORNEY
7 GENERAL DANA NESSEL ON
8 BEHALF OF THE PEOPLE OF
9 THE STATE OF MICHIGAN,
10 MISSISSIPPI SECRETARY OF
11 STATE, MISSOURI
12 COMMISSIONER OF
13 SECURITIES, NEBRASKA
14 DEPARTMENT OF BANKING &
15 FINANCE, NEW MEXICO
16 SECURITIES DIVISION, THE
17 PEOPLE OF THE STATE OF
18 NEW YORK BY LETITIA
19 JAMES, ATTORNEY GENERAL
20 OF THE STATE OF NEW YORK,
21 NORTH CAROLINA
22 DEPARTMENT OF THE
23 SECRETARY OF STATE,
24 OKLAHOMA DEPARTMENT OF
25 SECURITIES, OREGON
26 DEPARTMENT OF CONSUMER
27 AND BUSINESS SERVICES,
28 SOUTH CAROLINA ATTORNEY
GENERAL, SOUTH DAKOTA
DEPARTMENT OF LABOR AND
REGULATION, COMMISSIONER
OF THE TENNESSEE
DEPARTMENT OF COMMERCE
& INSURANCE, VERMONT
DEPARTMENT OF FINANCIAL
REGULATION, WASHINGTON
STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS, and
THE STATE OF WISCONSIN,

Plaintiffs,

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v.

SAFEGUARD METALS LLC and
JEFFREY SANTULAN a/k/a
JEFFREY HILL,

Defendants.

Plaintiffs Commodity Futures Trading Commission (“CFTC” or
“Commission”), Alabama Securities Commission (“State of Alabama”), Arizona
Corporation Commission (“State of Arizona”), Arkansas Securities Department
 (“State of Arkansas”), California Department of Financial Protection & Innovation
 (“State of California”), State of Connecticut Department of Banking (“State of
 Connecticut”), State of Florida, Office of Financial Regulation (“State of Florida”),
 State of Hawaii, Department of Commerce and Consumer Affairs (“State of
 Hawaii”), Idaho Department of Finance (“State of Idaho”), Office of the Secretary of
 State, Illinois Securities Department (“State of Illinois”), Indiana Securities Division
 (“State of Indiana”), Kentucky Department of Financial Institutions
 (“Commonwealth of Kentucky”), State of Maryland Ex Rel the Maryland Securities
 Commissioner (“State of Maryland”), Attorney General Dana Nessel on Behalf of the
 People of the State of Michigan (“People of the State of Michigan”), Mississippi
 Secretary of State (“State of Mississippi”), Missouri Commissioner of Securities
 (“State of Missouri”), Nebraska Department of Banking & Finance (“State of
 Nebraska”), New Mexico Securities Division (“State of New Mexico”), The People
 of the State of New York by Letitia James, Attorney General of the State of New
 York (“State of New York”), North Carolina Department of the Secretary of State
 (“State of North Carolina”), Oklahoma Department of Securities (“State of
 Oklahoma”), Oregon Department of Business and Consumer Services (“State of
 Oregon”), South Carolina Attorney General (“State of South Carolina”), South
 Dakota Department of Labor & Regulation (“State of South Dakota”), Commissioner

1 of the Tennessee Department of Commerce and Insurance (“State of Tennessee”),
2 Vermont Department of Financial Regulation (“State of Vermont”), Washington
3 State Department of Financial Institutions (“State of Washington”), and the State of
4 Wisconsin (“State of Wisconsin”) (collectively “the States”), by and through their
5 undersigned attorneys, hereby allege as follows:

6 **I. SUMMARY**

7 1. From at least October 2017 and continuing through at least July 2021
8 (“Relevant Period”), Safeguard Metals LLC (“Safeguard Metals”) and Jeffrey
9 Santulan a/k/a Jeffrey Hill (“Santulan”) (collectively “Defendants”) have engaged
10 and continue to engage in a scheme to defraud people throughout the United States,
11 including in this District and in each of the States.

12 2. Defendants fraudulently solicited customers to purchase precious metals,
13 primarily consisting of gold and silver coins, that the company marketed and
14 classified as either bullion, semi-numismatic, and numismatic precious metals
15 (collectively “Precious Metals”).

16 3. Defendants grossly misrepresented, among other things, the amount of
17 markup the company would charge customers on silver coins that Safeguard Metals
18 claimed possess semi-numismatic and numismatic value (“Silver Coins”).
19 Specifically, from at least October 2017 to January 2021, Safeguard Metals charged
20 customers a markup on Silver Coins that exceeded the maximum possible markup
21 disclosed to customers by almost 50% on average. And from January 2021, after
22 receiving notice of a law enforcement investigation into Safeguard Metals’
23 operations, and after Safeguard Metals modified its customer agreements to reflect
24 that the maximum markup on Silver Coins could be 42% in certain circumstances;
25 Safeguard Metals continued charging customers a markup on Silver Coins that still
26 exceeded the maximum possible markup disclosed to customers by nearly 10% on
27 average.

1 4. Safeguard Metals, by and through its sales representatives or other
2 agents, made other material misrepresentations, half-truths, and omissions to
3 convince customers to purchase Precious Metals. For example, Safeguard Metals
4 misrepresented the size, scale, experience, background and history of the firm, its
5 agents, and representatives. Safeguard Metals also made materially false and
6 misleading statements to customers about the risk and safety of their traditional
7 retirement accounts in order to instill fear and convince customers to purchase
8 Precious Metals.

9 5. Central to its scheme to defraud, Safeguard Metals targeted and
10 continues to target and prey on a vulnerable population of mostly elderly or
11 retirement-aged persons with little experience investing in Precious Metals.
12 Safeguard Metals defrauded customers into transferring proceeds from retirement
13 accounts, often consisting of funds from liquidated securities, to self-directed
14 individual retirement accounts (“SDIRAs”) for the purchase of Precious Metals.
15 Safeguard Metals also fraudulently induced some customers to purchase Precious
16 Metals through cash and credit sales (“Cash Accounts”).

17 6. Safeguard Metals’ customers, particularly customers who purchased
18 Silver Coins, generally and almost immediately suffered substantial losses on their
19 investments due to the fraudulently overpriced Silver Coins. In total, Defendants
20 fraudulently solicited approximately \$68 million from more than 450 members of the
21 public to purchase Precious Metals. Of that \$68 million, \$66 million was derived
22 from purchases of fraudulently priced Silver Coins. And Safeguard Metals charged
23 its customers approximately \$26 million dollars in markups on those purchases, as
24 part of Defendants’ fraudulent scheme.

25 7. To perpetuate the fraud and disguise the nearly immediate and
26 substantial losses suffered by customers, Safeguard Metals also attempted to conceal
27 its fraud and lull its customers by, among other things, making additional
28 misrepresentations about the value of the customers’ Precious Metals accounts.

1 8. Defendants knowingly or recklessly misled customers into purchasing
2 Precious Metals, knew or recklessly disregarded that most customers significantly
3 overpaid for Silver Coins, and knew or recklessly disregarded that representations
4 about customer account values were false.

5 9. The acts, misrepresentations, omissions, and failures of Santulan and
6 other officers, employees, and agents acting for Safeguard Metals occurred within the
7 scope of their employment, agency, or office with Safeguard Metals. Safeguard
8 Metals is therefore liable under Section 2(a)(1)(B) of the Commodity Exchange Act
9 (“CEA”), 7 U.S.C. § 2(a)(1)(B), and CFTC Regulation 1.2, 17 C.F.R. § 1.2 (2021), as
10 a principal for Santulan’s violations of the CEA and CFTC Regulations.

11 10. By virtue of this conduct, and as more fully set forth below, Defendants
12 have engaged, are engaging, and/or are about to engage in, either intentionally or
13 recklessly, violations of the anti-fraud provisions of the CEA, Section 6(c)(1) of the
14 CEA, 7 U.S.C. § 9(1), and CFTC Regulation 180.1(a)(1)-(3), 17 C.F.R.
15 § 180.1(a)(1)-(3) (2021).

16 11. Accordingly, pursuant to Sections 6c and 6d(1) of the CEA, 7 U.S.C.
17 §§ 13a-1, 13a-2(1), the CFTC and States bring this action to enjoin Defendants’
18 unlawful acts and practices, to compel their compliance with the CEA and CFTC
19 Regulations, and to enjoin them from engaging in any commodity-related activity, as
20 set forth below. Plaintiffs also seek civil monetary penalties and remedial ancillary
21 relief, including, but not limited to, restitution, disgorgement, rescission, pre- and
22 post-judgment interest, and such other relief as the Court may deem necessary and
23 appropriate.

24 II. JURISDICTION AND VENUE

25 12. This Court has subject matter jurisdiction over this action under 28
26 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1345 (district courts
27 have original jurisdiction over civil actions commenced by the United States or by
28 any agency expressly authorized to sue by Act of Congress). Section 6c(a) of the

1 CEA, 7 U.S.C. § 13a-1(a), authorizes the CFTC to seek injunctive and other relief
2 against any person whenever it appears to the CFTC that such person has engaged, is
3 engaging, or is about to engage in any act or practice constituting a violation of any
4 provision of the CEA or any rule, regulation, or order thereunder.

5 13. Section 6d(1) of the CEA, 7 U.S.C. § 13a-2(1), authorizes the States to
6 bring a suit in the district courts of the United States to seek injunctive and other
7 relief against any person whenever it appears to the Attorney General and/or
8 Securities Administrator of a State, or such other official that a State may designate,
9 that the interests of the residents of the State have been, are being, or may be
10 threatened or adversely affected because of violations of the CEA or CFTC
11 Regulations.

12 14. Venue lies properly in this District pursuant to Section 6c(e) of the CEA,
13 7 U.S.C. § 13a-1(e), because Defendants transacted business in this District, and
14 certain transactions, acts, practices, and courses of business in violation of the CEA
15 and CFTC Regulations occurred, are occurring, or are about to occur within this
16 District, among other places.

17 III. THE PARTIES

18 A. PLAINTIFFS

19 15. **Plaintiff Commodity Futures Trading Commission** is an independent
20 federal regulatory agency charged by Congress with the administration and
21 enforcement of the CEA and CFTC Regulations promulgated thereunder. The CFTC
22 maintains its principal office at Three Lafayette Centre, 1155 21st Street NW,
23 Washington, D.C. 20581.

24 16. Plaintiff State of Alabama, State of Arizona, State of Arkansas, State of
25 California, State of Connecticut, State of Florida, State of Hawaii, State of Idaho,
26 State of Illinois, State of Indiana, Commonwealth of Kentucky, State of Maryland,
27 People of the State of Michigan, State of Mississippi, State of Missouri, State of
28 Nebraska, State of New Mexico, State of New York, State of North Carolina, State of

1 Oklahoma, State of Oregon, State of South Carolina, State of South Dakota, State of
2 Tennessee, State of Vermont, State of Washington, State of Wisconsin are authorized
3 under Section 6d(1) of the CEA, 7 U.S.C. § 13a-2(1), and their respective State laws,
4 to bring this action on behalf of their State and their citizens to enforce the CEA and
5 CFTC Regulations.

6 **B. DEFENDANTS**

7 17. **Defendant Safeguard Metals LLC** initially registered as a Wyoming
8 limited liability company on October 13, 2017, with its principal office located at 30
9 N Gould St., Suite R, Sheridan, Wyoming. Subsequently, on March 26, 2019,
10 Safeguard Metals registered as a California limited liability company with its
11 principal place of business located at 21550 Oxnard St., 3rd Floor, Woodland Hills,
12 California. Safeguard Metals has never been registered with the Commission in any
13 capacity.

14 18. **Defendant Jeffrey Santulan a/k/a Jeffrey Hill** is the sole owner and
15 sole manager of Safeguard Metals LLC. Santulan is the only signatory on Safeguard
16 Metals' bank accounts. During the Relevant Period, Santulan owned and controlled
17 Safeguard Metals, supervised (directly and indirectly) its employees and agents, and
18 made hiring and firing decisions on behalf of the company. A resident of Tarzana,
19 California, Santulan has never been registered with the Commission in any capacity.

20 **IV. FACTS**

21 **A. Safeguard Metals' Operations**

22 19. Safeguard Metals is a company that marketed, promoted, and sold
23 Precious Metals, including, but not limited to, Silver Coins. The firm placed
24 advertisements on financial media and websites, and promoted its products on social
25 media platforms and websites linked to media personalities and financial gurus.
26 Safeguard Metals also marketed and promoted Precious Metals through its company
27 website, <https://www.safeguardmetals.com/>.

1 20. Safeguard Metals used the advertisements, social media platforms, and
2 websites to generate leads, which resulted in solicitations by telephone to potential
3 customers.

4 21. Safeguard Metals operated a call center located in Woodland Hills,
5 California, staffed by sales representatives known as “Openers” and “Closers.”
6 Safeguard Metals distributed lists of potential customers to Openers and Closers
7 which permitted the sales representatives to contact potential customers by telephone.
8 Using the leads, Openers marketed and promoted Precious Metals to potential
9 customers. Once an Opener confirmed a potential customer’s interest in purchasing
10 Precious Metals, the potential customer was transferred over to the Closer, and the
11 Closer executed the sale of Precious Metals with the customer.

12 22. Safeguard Metals operated as an intermediary, essentially controlling all
13 buy and sell aspects of customer transactions to maximize its profits. Safeguard
14 Metals, by and through its sales representatives or other agents, recommended
15 customers form SDIRA accounts and that customers hold Precious Metals at a
16 depository instead of taking delivery of the metals themselves. Safeguard Metals told
17 customers storing Precious Metals in a depository was the safest way to store the
18 precious metals and economically better because the depository was purportedly
19 federally insured.

20 23. In reality, these representations served as a way for Safeguard Metals to
21 control the transaction. Once a customer opened a SDIRA account, often through a
22 custodian and depository recommended by Safeguard Metals, Safeguard Metals was
23 initially the only party authorized to buy or sell Precious Metals in customer SDIRAs.
24 Unless a customer knew to remove Safeguard Metals as the designated representative
25 on their SDIRA account, the customer could not liquidate their Precious Metals
26 holdings without going through the very firm that defrauded them to unwind their
27 investments.

28

1 24. Safeguard Metals’ core strategy for profitability was to charge an
2 exorbitant markup on sales of Precious Metals, and in particular, on Silver Coins to
3 customers. Safeguard Metals purchased Precious Metals from a wholesale
4 distributor, and generated nearly all of its profits through what it represented, though
5 falsely, to customers as “operating margins”—the difference between Safeguard
6 Metals’ cost of acquiring Precious Metals from a wholesale distributor and the prices
7 paid by customers, i.e., markup.

8 25. To benefit its own self-interest, Safeguard Metals directed the vast
9 majority of SDIRA funds into coins that Safeguard Metals typically marked up
10 excessively, notwithstanding the customer’s individual investment needs. Safeguard
11 Metals accomplished this by pressuring customers to purchase coins that it claimed
12 had numismatic or semi-numismatic value.

13 26. Numismatic precious metals are rare, of limited availability, and have
14 significant broad-based market demand and so have a value substantially more than
15 the prevailing market price of the precious metal contained in the bullion. Semi-
16 numismatic precious metals refers to bullion that are claimed to exhibit both bullion
17 and numismatic traits, such that the value is derived from the precious metal content,
18 limited circulation, and some recognized exclusive or collectible value.

19 27. Safeguard Metals offered coins with purported semi-numismatic or
20 numismatic value in addition to the bullion value and coins with only bullion value.
21 In particular, the Silver Coin known as the 1.25 oz Silver Rose Crown Guinea was
22 the individual coin most frequently sold to customers. Safeguard Metals claimed the
23 Silver Coins it sold to customers, including the 1.25 oz Silver Rose Crown Guinea,
24 had semi-numismatic or numismatic value and sold them to customers at a premium
25 far above Safeguard Metals’ acquisition cost and the melt value of the bullion.

26 28. In regards to gold coins, Safeguard Metals, by and through its sales
27 representatives or other agents, most frequently sold the 0.1 oz Gold American Eagle
28 to customers. Contrary to Silver Coins, which Safeguard Metals claimed to have

1 semi-numismatic or numismatic value, most gold coins were sold as common bullion
2 products that lacked external value above and beyond the melt value of the bullion.

3 29. Consequently, Safeguard Metals pressured customers to purchase Silver
4 Coins and sold vastly more Silver Coins to customers than gold coins.

5 Approximately 97%, or \$66 million of the \$68 million in total revenue Safeguard
6 Metals fraudulently solicited from customers was used to purchase Silver Coins.

7 30. Safeguard Metals also levied transaction fees to liquidate the Precious
8 Metals held in SDIRA accounts. So after fraudulently overcharging customers on the
9 front end when the Precious Metals transaction was executed, Safeguard Metals also
10 imposed storage fees and a 1% to 3% liquidation fee upon the sale of Precious Metals
11 within SDIRA accounts, significantly contributing to customers' overall transaction
12 costs.

13 **B. Defendants Defrauded Mostly Elderly Customers into Establishing**
14 **SDIRAs and Cash Accounts to Purchase Precious Metals.**

15 31. Defendants targeted a vulnerable population of mostly elderly or
16 retirement-aged persons. Many of these individuals had little experience investing in
17 Precious Metals. Nonetheless, Defendants fraudulently solicited them to open
18 SDIRAs or Cash Accounts in order to purchase Precious Metals.

19 32. Defendants instructed their sales representatives or other agents to
20 concentrate their fraudulent solicitations on elderly or retirement-aged persons in
21 order to gain access to their retirement savings, including but not limited to, money
22 market accounts and retirement savings held in tax advantaged accounts such as:
23 Individual Retirement Accounts; employer sponsored 401(k) and 457(b) plans; Thrift
24 Savings Plans; annuities; and other long-term retirement savings vehicles (“Qualified
25 Retirement Savings”).

26 33. As part of the scheme to gain access to customers' retirement accounts
27 and other savings, Defendants published misinformation on Safeguard Metals'
28 website in 2019 and 2020. Defendants made numerous false and misleading

1 statements of material fact, omitted to state material facts necessary to make the
2 statements made not untrue or misleading, or made statements in reckless disregard
3 about the firm’s business activities on their website, including, but not limited to, the
4 following:

- 5 a. Safeguard Metals is rated number one among wealth protection
6 firms (with no basis for this assertion);
- 7 b. Safeguard Metals oversees more than \$11 billion in assets under
8 its management (when, in reality, the firm has sold substantially
9 less than \$75 million in Precious Metals and Silver Coins since it
10 has been in business);
- 11 c. Safeguard Metals has been in business for more than twenty years
12 (when, in truth, the startup formed in 2017, but did not appear to
13 have significant operations until 2019);
- 14 d. the number and location of Safeguard Metals’ offices, including
15 office locations in London, England and Beverly Hills, California
(when in actuality, the firm only has offices in Woodland Hills,
California); and
- 16 e. the use of false and fictitious employee names, touting non-
17 existent employees on LinkedIn, misrepresenting employee job
18 titles, and exaggerating employee qualifications and years of
19 industry experience.

20 34. Defendants admitted the foregoing statements and blatant website
21 misrepresentations are false.

22 35. Based on information and belief, Defendants removed the foregoing
23 statements and blatant website misrepresentations in or about January 2021 after
24 becoming informed of a law enforcement investigation, and began to rely on other
25 more nuanced misrepresentations, half-truths and omissions as part their solicitation
26 scheme, as discussed further below.

27 36. Safeguard Metals utilized fraudulent solicitations designed to build trust
28 with customers based on representations of political affinity, and through references
to and statements from financial gurus.

37. In furtherance of the scheme, Santulan personally solicited customers,
misrepresenting that Safeguard Metals was “the #1 name in precious metals and lead
the industry as the fastest growing house, offering the cheapest and purest bullion in

1 the country for the benefit of our clients and we hold all proper and full accreditation
2 from the state, federal government, and distributors alike,” with no basis for these
3 material misstatements, half-truths or omissions, and in reckless disregard for the
4 truth. Santulan also created sales scripts that were used to solicit customers.

5 38. Defendants instructed its sales representatives or other agents to employ
6 fraudulent solicitations designed to instill fear in elderly and retirement aged
7 investors and other customers. To frighten those customers about the risk and safety
8 of their investments in Qualified Retirement Savings and traditional accounts,
9 Safeguard Metals made repeated material misrepresentations, half-truths, and
10 omissions regarding the Money Market Fund Reform regulation promulgated by the
11 Securities and Exchange Commission, Money Market Fund Reform Amendments to
12 Form PF, 70 Fed. Reg. 47,736 (Aug. 14, 2014), and more recently, the Orderly
13 Liquidation Authority promulgated pursuant to Dodd Frank, 12 U.S.C. §§ 5381-5394.
14 Safeguard Metals played on the customers’ fears and materially misrepresented these
15 provisions, omitting to disclose which asset classes the Money Market Fund Reform
16 applies to, and making false and misleading statements about each law’s or
17 regulation’s effects, and the extent to which these and other investor protections
18 applied. For example, during fraudulent solicitations over the telephone, via email
19 and in its sales scripts, Safeguard Metals made the following misrepresentations:

- 20 a. financial institutions can “freeze you out of your retirement
21 accounts if there was ever a market crash or correction again,” and
22 either “confiscate” or freeze all of the holdings in your retirement
23 or investment accounts, particularly during either a liquidity or
24 financial crisis. “Banks then will use people’s money to bail
25 themselves out.”;
- 26 b. an investor is “just a beneficial owner” and “leases” securities and
27 funds held in Qualified Retirement Savings, and further, the
28 government “owns” the certificates on securities and funds held in
these accounts; and

1 c. “you’re pretty much in these [Quality Retirement Savings]
2 accounts with no types of insurance,” but “the good news is that
3 there are loopholes within the law to help protect . . . from it”
4 through safe and conservative investments in Precious Metals
through SDIRAs.

5 39. Defendants misrepresented that the Money Market Fund Reform and/or
6 the Orderly Liquidation Authority regulations apply to stocks and certain bonds held
7 in Qualified Retirement Savings. They do not.

8 40. Safeguard Metals misrepresented that the government, not the investor,
9 owns the certificates on securities and funds held in a Qualified Retirement Savings
10 account. This is false. The beneficial owner is the true owner of an asset or security
11 that is under a different legal name and the government does not own the certificates
12 on securities and funds held in these accounts.

13 41. Safeguard Metals misrepresented that Qualified Retirement Savings are
14 uninsured. In reality, investor protections and insurance are offered through the
15 Federal Deposit Insurance Corporation and the Securities Investor Protection
16 Corporation.

17 42. In 2021, Safeguard Metals misrepresented to customers that a change to
18 Rule 22e-3 under the Money Market Fund Reform permits financial institutions to
19 permanently freeze the liquidity in accounts, confiscate funds and will never pay
20 participants back if the market fails. Furthermore, Safeguard Metals has maintained
21 the goal of investment firms is “to stop you from being able to redeem your shares, or
22 redeem the funds that you have in your retirement and stock accounts, by any means
23 necessary.”

24 43. These and similar misrepresentations made by Safeguard Metals and/or
25 Santulan are false and misleading because Defendants failed to disclose to customers
26 the narrow circumstances in which a money market fund can be permanently
27 suspended, and furthermore, that liquidation follows when redemptions are
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1 permanently suspended thereby returning money to shareholders and allowing
2 investors to recover funds.

3 44. Defendants knew, or were reckless in not knowing, that their
4 communications with customers contained material misstatements, half-truths, and
5 omissions described above.

6 **C. Safeguard Metals Charged Exorbitant Price Markups on Silver Coins**
7 **That Bore No Relation to the Ranges Represented to Customers.**

8 45. After the SDIRAs and Cash Accounts were opened under false and
9 fraudulent pretenses, Defendants executed their core strategy of selling customers
10 overpriced Silver Coins with enormous price markups, which Defendants referred to
11 as “operating margins” when they communicated about the price markups with
12 customers. Safeguard Metals grossly misrepresented the “operating margins” that
13 they would charge customers in Precious Metals Shipping and Account Agreements
14 (“Customer Agreements”) and representations made during sales confirmation calls.

15 46. The Customer Agreements purported to establish the terms and
16 conditions regarding sales of Precious Metals by Defendants to their customers.
17 During the Relevant Period, Safeguard Metals used at least two versions of the
18 Customer Agreements – one version prior to January 2021, and subsequently, a
19 revised version following purported attempts to implement compliance measures at
20 Safeguard Metals. Based on information and belief, Safeguard Metals purportedly
21 implemented those compliance measures beginning in or around January 2021 after
22 receiving notice of an investigation by law enforcement.

23 47. Prior to January 2021, Safeguard Metals’ Customer Agreements
24 represented, in pertinent part, the following relating to Safeguard Metals’ “operating
25 margins” on metals:

- 26 a. “The operating margin is the difference between Safeguard’s
27 approximate acquiring cost of the Precious Metals and the price
28 the Client pays.”

- 1 b. “Safeguard’s operating margin quoted to the Client for most
2 common bullion products . . . is typically four percent (4%) for
3 cash, and seven percent (7%) for IRA purchases.”
- 4 c. “Operating margin on coins with semi-numismatic or numismatic
5 value are rare coins . . . is usually twenty percent (20%) and for
6 Proof products is twenty-three percent (23%).”

7 48. Despite these representations, Safeguard Metals actually sold Silver
8 Coins to customers at average “operating margins” of 71%. This vastly exceeded the
9 maximum “operating margin” of 23% disclosed in Safeguard Metals’ Customer
10 Agreement. These overcharges were material misrepresentations and omissions.
11 Further, Santulan admitted to establishing the price of these exorbitantly priced
12 Precious Metals during Safeguard Metals’ initial period of operation.

13 49. During purported implementation of compliance measures in or about
14 January 2021, Safeguard Metals revised its sales confirmation scripts, and its
15 Customer Agreements to provide new representations about its “operating margins”
16 for Precious Metals. While Safeguard Metals’ representations about its “operating
17 margins” varied between the sales confirmation scripts and Customer Agreements,
18 the actual “operating margins” charged by the firm far exceeded either representation.

19 50. After January 2021, Safeguard Metals represented the following
20 “operating margins” to customers during sales confirmation calls:

21 SAFEGUARD METAL’S OPERATING MARGIN IS
22 USUALLY 1% - 23%[,] THIS MAY VARY AND
23 EXCEED 40% BASED ON MARKET CONDITIONS.

24 51. After January 2021, Safeguard Metals’ Customer Agreements
25 represented to customers the following relating to “operating margins”:

26 Current operating margins on coins with semi-numismatic
27 or numismatic value . . . is usually 23% - 33%. . . . The
28 actual operating margin on any particular transaction can be
29 any amount usually within, but also could be outside this
30 range, but not exceeding 42%.

31 52. Following the purported implementation of compliance measures in
32 January 2021, Safeguard Metals’ actual “operating margin” on Silver Coins routinely

1 exceeded 40%, and averaged about 51%. Consequently, despite the inconsistent
2 disclosures between sales confirmations and Customer Agreements, the “operating
3 margin” on Silver Coins represented in sales confirmations rarely, if ever, fell within
4 the usual and customary ranges disclosed to customers and averaged greater than the
5 maximum “operating margin” represented in Customer Agreements. These
6 overcharges were material misrepresentations and omissions.

7 53. Safeguard Metals also provided inconsistent and misleading disclosures
8 to customers during the sales confirmation process. In at least one instance, an
9 Opener falsely represented to at least one customer that the specified “operating
10 margins” only applied to investments exceeding \$1 million, and were therefore
11 inapplicable to his transaction because his investment fell under that threshold. Later,
12 in contrast, a Closer stated during the sales confirmation call that specified “operating
13 margins” do in fact apply because the customer is an accredited investor, resulting in
14 ambiguous and conflicting disclosures.

15 54. Safeguard Metals’ core strategy of selling fraudulently overpriced Silver
16 Coins to customers was designed to maximize its profits through “operating margins”
17 and commissions and resulted in substantial and nearly immediate customer losses.
18 In excess of 97%, or \$66 million of the \$68 million in total revenue fraudulently
19 solicited from customers was used to purchase Silver Coins, which had significantly
20 higher “operating margins” compared to gold coins.

21 55. Safeguard Metals knowingly or recklessly failed to inform customers of
22 the material fact that the exorbitant “operating margins” charged on Silver Coins bore
23 no relation to the figures represented in the Customer Agreements, or otherwise
24 stated to customers. This had the effect of substantially depleting the values of
25 investments held in customers’ SDIRAs and Cash Accounts. Nonetheless, Safeguard
26 Metals continued to misrepresent to prospective and current SDIRA and Cash
27 Account customers that Precious Metals were a safe and conservative investment
28

1 even though customers suffered immediate loss on the purchase of Precious Metals
2 from Safeguard Metals.

3 **D. Safeguard Metals Misrepresented to Customers How It Earned Profits**
4 **and Lulled Customers by Making Misrepresentations About the Value of**
5 **Customers' Precious Metals.**

6 56. As part of the scheme, Safeguard Metals misrepresented and omitted
7 material facts regarding how Safeguard Metals earned profits from Precious Metals
8 transactions.

9 57. During telephone sales calls, Safeguard Metals repeatedly misstated that
10 its earnings arose solely from a 1% fee, and later in 2021, a 1% to 3% fee, that
11 applied only when customers liquidated investments in Precious Metals. During a
12 sales solicitation call with a prospective customer, a Safeguard Metals employee
13 stated, in pertinent part, that “We take 1 percent of what we liquidate It’s our
14 only way we make money,” leaving customers with the impression that Safeguard
15 Metals did not profit in other respects from their Precious Metals transactions.

16 58. In reality, and as discussed above, Safeguard Metals also made money
17 from charging excessive premiums on Silver Coins. For instance, Safeguard Metals
18 earned an estimated 71% “operating margin” on Silver Coins during the 2019 to 2020
19 timeframe—about 48% more than the maximum permitted pursuant to the Customer
20 Agreement. In 2021, Safeguard Metals earned an estimated 51% “operating margin”
21 on Silver Coins, about 9% more than the maximum permitted pursuant to the revised
22 Customer Agreement.

23 59. Safeguard Metals also falsely asserted “[i]f our clients are making
24 money, that’s when we make money.” In fact, Safeguard Metals made money on
25 Precious Metals notwithstanding whether its customers made money, and customers
26 incurred additional transactional costs far greater than a 1% to 3% liquidation fee.
27 Safeguard Metals omitted the true and accurate transaction costs and “operating
28 margins” even when customers specifically inquired.

1 60. As part of the scheme to defraud, Safeguard Metals also deceived
2 customers and concealed its fraud by hiding that customers significantly overpaid for
3 their investments. Instead, Safeguard Metals made further misrepresentations about
4 the value of the Precious Metals in customer accounts to placate and calm investors
5 who were upset about the losses shown on their SDIRA statements.

6 61. Customers received account statements from their SDIRA custodians
7 showing account values significantly below the values originally paid to Safeguard
8 Metals. The account statements were significantly lower because the SDIRA
9 custodians assigned asset values to the coins held based on the melt value of the coin,
10 ignoring any purported numismatic or semi-numismatic value. When customers
11 confronted Safeguard Metals' sales representatives about the disparity between their
12 original investment and the value assigned by SDIRA custodians, the sales
13 representatives rejected lower valuations and misrepresented to customers that values
14 did not accurately reflect the resale value of the Precious Metals and Silver Coins,
15 and that the actual resale value of their investments were much higher than that
16 reported by the SDIRA custodians. ("Post-Purchase Misrepresentations").

17 62. Safeguard Metals, however, knew or recklessly disregarded that the
18 resale price of the Silver Coins that it marketed and promoted was much lower than
19 the amount customers paid for the Silver Coins.

20 63. To further obfuscate customers' true account values, Safeguard Metals
21 also lulled customers by telling them to wait or give it at least six months, or in some
22 instances, three to five years, to allow their SDIRA accounts to make money.

23 64. Due to the acts, omissions, and failures of Safeguard Metals, at least two
24 SDIRA custodians terminated their business relationships with Safeguard Metals and
25 no longer conduct business with the company.

26 65. In terminating its contract with Safeguard Metals, one custodian stated,
27 in pertinent part, that:
28

1 It has come to our attention that certain trades made in
2 accounts represented by Safeguard Metals appear to not be
3 in the best interest of the IRA owner as the values of the
4 accounts were significantly less after the trade activity than
5 the values of the accounts prior to the trades.

6 **D. Santulan Controlled the Operations of Safeguard Metals and Is Therefore**
7 **Liable for Its Actions.**

8 66. During the Relevant Period, Santulan was the controlling person of
9 Safeguard Metals and held 100% ownership of the company.

10 67. Santulan was the sole member of the limited liability company, and no
11 one else has ever served as a member. He executed the limited liability company
12 registration using the title of “Principal.”

13 68. As the controlling person, Santulan made all significant business
14 decisions on behalf of Safeguard Metals, and was authorized to make personnel
15 decisions about hiring and firing of employees. Prior to October 2020, Santulan
16 created sales scripts and email templates and distributed customer leads and provided
17 training to sales representatives at Safeguard Metals. Santulan determined and set the
18 prices at which Safeguard Metals sold Precious Metals and Silver Coins to the public.

19 69. For the entirety of the Relevant Period, Santulan was the only signatory
20 on Safeguard Metals’ bank accounts and served as the only person authorized to enter
21 into financial transactions on behalf of the company.

22 70. Santulan did not act in good faith or has knowingly induced Safeguard
23 Metals’ fraudulent acts.

1 74. By reason of the conduct described above, Defendants, by and through
2 Santulan, its officers, employees and agents, directly or indirectly, in connection with
3 contracts of sale of commodities in interstate commerce, intentionally or recklessly
4 violated 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3).

5 75. By reason of the conduct described above, the acts, misrepresentations,
6 omissions, and failures of Santulan and other officers, employees, and agents acting
7 for Safeguard Metals occurred within the scope of their employment, agency, or
8 office with Safeguard Metals. Safeguard Metals is therefore liable under Section
9 2(a)(1)(B) of the CEA, 7 U.S.C. § 2(a)(1)(B), and CFTC Regulation 1.2, 17 C.F.R.
10 § 1.2 (2021), as a principal for Santulan's violations of the CEA and CFTC
11 Regulations.

12 76. Santulan controlled Safeguard Metals and has not acted in good faith or
13 has knowingly induced, directly or indirectly, the acts constituting Safeguard Metals'
14 violations alleged in this count. As a result, pursuant to Section 13(b) of the CEA,
15 7 U.S.C. § 13c(b), Santulan is liable for Safeguard Metals' violations of 7 U.S.C.
16 § 9(1) and 17 C.F.R. § 180.1(a)(1)-(3), as controlling person.

17 77. Each use or employment or attempted use or employment of any
18 manipulative device, scheme, or artifice to defraud; untrue or misleading statement of
19 fact, omission of material fact necessary to make statements not untrue or misleading;
20 or act of engaging, or attempting to engage, in acts, practices or courses of business
21 that operated or would have operated as a fraud or deceit on Safeguard Metals'
22 customers is alleged as a separate and distinct violation of 7 U.S.C. § 9(1) and
23 17 C.F.R. § 180.1(a)(1)-(3)

24 VI. RELIEF REQUESTED

25 78. The CFTC and the States respectfully request that this Court, as
26 authorized by Sections 6c and 6d(1) of the CEA, 7 U.S.C. §§ 13a-1, 13a-2(1) and
27 pursuant to its own equitable powers:

28 A. Find that Defendants violated Section 6(c)(1) of the CEA, 7 U.S.C.

1 § 9(1), and CFTC Regulation 180.1(a)(1)-(3), 17 C.F.R. § 180.1(a)(1)-
2 (3) (2021);

3 B. Enter an order of permanent injunction enjoining Defendants and their
4 affiliates, agents, servants, employees, successors, assigns, attorneys,
5 and all persons in active concert with them, who receive actual notice of
6 such order by personal service or otherwise, from engaging in the
7 conduct described above, in violation of 7 U.S.C. § 9(1) and 17 C.F.R.
8 § 180.1(a)(1)-(3);

9 C. Enter an order of permanent injunction restraining and enjoining
10 Defendants and their affiliates, agents, servants, employees, successors,
11 assigns, attorneys, and all persons in active concert with them, from
12 directly or indirectly:

- 13 1) Trading on or subject to the rules of any registered entity (as that
14 term is defined by Section 1a(40) of the CEA, 7 U.S.C. § 1a(40));
- 15 2) Entering into any transactions involving “commodity interests”
16 (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2021)),
17 for accounts held in the name of any Defendant or for accounts in
18 which any Defendant has a direct or indirect interest;
- 19 3) Having any commodity interests traded on any Defendants’
20 behalf;
- 21 4) Controlling or directing the trading for or on behalf of any other
22 person or entity, whether by power of attorney or otherwise, in
23 any account involving commodity interests;
- 24 5) Soliciting, receiving, or accepting any funds from any person for
25 the purpose of purchasing or selling of any commodity interests;
- 26 6) Applying for registration or claiming exemption from registration
27 with the CFTC in any capacity, and engaging in any activity
28 requiring such registration or exemption from registration with the

1 CFTC except as provided for in CFTC Regulation 4.14(a)(9),
2 17 C.F.R. § 4.14(a)(9) (2021);

3 7) Acting as a principal (as that term is defined in CFTC Regulation
4 3.1(a), 17 C.F.R. § 3.1(a) (2021)), agent, or any other officer or
5 employee of any person registered, exempted from registration, or
6 required to be registered with the CFTC except as provided for in
7 17 C.F.R. § 4.14(a)(9).

8 D. Enter an order directing Defendants as well as any third-party transferee
9 and/or successors thereof, to disgorge, pursuant to such procedure as the
10 Court may order, all benefits received including, but not limited to,
11 salaries, commissions, loans, fees, revenues, and trading profits derived,
12 directly or indirectly, from acts or practices that constitute violations of
13 the CEA or CFTC Regulations, as described herein, including pre-
14 judgment and post-judgment interest;

15 E. Enter an order requiring Defendants, as well as any successors thereof,
16 to make full restitution to every person who has sustained losses
17 proximately caused by the violations described herein, including pre-
18 judgment and post-judgment interest;

19 F. Enter an order directing Defendants to rescind, pursuant to such
20 procedures as the Court may order, all contracts and agreements,
21 whether implied or express, entered into between Defendants and any of
22 the customers whose funds were received by Defendants as a result of
23 Defendants' violations of the CEA or CFTC Regulations as described
24 herein;

25 G. Enter an order directing Defendants to pay a civil monetary penalty
26 assessed by the Court, in an amount not to exceed the penalty prescribed
27 by Section 6c(d)(1) of the CEA, 7 U.S.C. § 13a-1(d)(1), as adjusted for
28 inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act

1 Improvements Act of 2015, Pub. L. 114-74, tit. VII, § 701, 129 Stat.
2 584, 599-600, *see* Regulation 143.8, 17 C.F.R. § 143.8 (2021), for each
3 violation of the CEA or CFTC Regulations, described herein;

4 H. Enter an order requiring Defendants to pay costs and fees as permitted
5 by 28 U.S.C. §§ 1920 and 2413(a)(2); and

6 I. Enter an order providing such other and further relief as the Court deems
7 proper.

8 **VII. DEMAND FOR JURY TRIAL**

9 79. Plaintiffs hereby demand a jury trial.

10
11 I hereby attest that all other signatories listed, and on whose behalf the filing is
12 submitted, concur in the filing's content and have authorized the filing.

13
14 Dated: February 1, 2022

Respectfully submitted,

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