



misrepresenting, and failing to disclose, material facts concerning, among other things, (i) the likelihood that a customer would realize large profits from options trading, and (ii) the risk of loss involved in trading options. During this time, FIG's principals, William Scott Cordo ("Cordo") and Mitchell Stephen Davis ("Davis"), controlled FIG and failed to diligently supervise FIG APs by permitting them to engage in the fraudulent acts and practices alleged herein.

2. Respondents' fraudulent claims of profitability and minimal risk in trading options sharply contrasted with the trading record of FIG customers. Of the 593 FIG customers who closed their accounts between January 1998 and February 2000, almost 97% of those customers lost all or virtually all of the funds they invested. During this time, total losses in these accounts amounted to almost \$7.5 million of which almost 50% was paid to FIG as commissions.

## II.

### RESPONDENTS

3. **First Investors Group of the Palm Beaches, Inc.** is a Florida corporation with its principal office located at 110 E. Atlantic Avenue, Suite 310, Delray Beach, Florida 33444. FIG has been registered with the Commission as an independent introducing broker ("IB") since 1993.

4. **William Scott Cordo** ("Cordo"), who resides at 1030 Sea Gate Drive, Delray Beach, Florida 33483, is President, an 80% shareholder, and a principal of FIG. Since September 1985, Cordo has been registered as an associated person ("AP") of the following IBs in Florida that solicited the public to trade commodity futures and options: Charles Don & Company; Commodity Futures Consultants Inc.; Commonwealth Financial Group Inc.; Edco

Management Corporation; First Sierra Corporation; Futures Financial Advisors Of Palm Beach; JCC Inc.; and Trinity Financial Group Inc. Cordo has been registered as an AP of FIG since June 30, 1993.

5. **Mitchell Stephen Davis** (“Davis”), who resides at 9675 Arelia Way, Boynton Beach, Florida 33436, is Vice President, a 20% shareholder, and a principal of FIG. Since July 1985, Davis has been registered as an AP of the following IBs in Florida that solicited the public to trade commodity futures and options: Charles Don & Company; Chilmark Commodities Corp.; Commonwealth Financial Group Inc.; Dunhill Investments Corporation; First Sierra Corporation; International Precious Metals Corp; and Multivest Options Inc. Davis has been registered as an AP of FIG since July 7, 1993.

### **III.**

#### **FACTS**

6. Cordo and Davis incorporated FIG in 1993. They have been the only two shareholders and corporate officers of FIG. Cordo and Davis exercised complete control over all of FIG’s activities. Together they possessed final authority in all hiring and firing decisions; had the authority to investigate, reprimand, and discipline FIG APs; controlled FIG's finances, were co-signatories of FIG's corporate checking account, and signed paychecks to employees; and established the commission rates paid by FIG customers and the compensation for FIG APs and themselves.

#### **A. Fraudulent Solicitations Through The Infomercial**

7. From at least October 1998 to June 1999, FIG solicited customers through a thirty-minute television advertisement (“Infomercial”) representing that extraordinary profits had been and could be achieved by purchasing options on unleaded gasoline futures contracts. The

Infomercial was broadcast under the name of Global Currency Consultants, Inc. (“GCC”), a Florida corporation formed by Cordo and Davis in March 1998.

8. FIG caused Source Media, Inc., a Florida corporation, to broadcast the Infomercial and to provide FIG with the names of persons responding to the Infomercial. Customers who responded via a toll-free telephone number displayed in the Infomercial were subsequently solicited by FIG APs.

9. Between October 1998 and June 1999, the Infomercial was broadcast at least one hundred times by eight or more television stations across the United States.

10. The Infomercial included material misrepresentations and omissions concerning the likelihood that customers would achieve profits through the purchase of options, including, but not limited to, the following:

- a. misrepresentations that purchasers of options were likely to profit as a result of predictable seasonal changes;
- b. misrepresentations that purchasers of options were likely to profit as a result of existing and known supply and demand forces;
- c. omissions that a seasonal increase in demand for a commodity in the cash market was already factored into the price of the options on the underlying futures contract and would not necessarily result in the increased value of options on the underlying futures contract for said commodity;
- d. omissions that existing and known supply and demand forces for a commodity in the cash market were already factored into the price of the options on the underlying futures contract and would not necessarily result

in the increased value of options on the underlying futures contract for said commodity;

- e. misrepresentations that an option on a futures contract would increase in value with the corresponding increase in the value in the cash market for the commodity; and
- f. misrepresentations concerning the likelihood and magnitude of anticipated profits customers could expect.

11. The Infomercial included misrepresentations and omissions of material fact assuring that the tremendous profit potential in the historical seasonal price increase of unleaded gasoline minimized the risk of loss.

12. Each of the misrepresentations made in the Infomercial as alleged in paragraph 10 and 11 was materially false, deceptive, and misleading or omitted material facts that made the statements false, deceptive, or misleading.

**B. Fraudulent Telephone Sales Solicitations of the FIG APs**

13. During the relevant period, in the course of telephone solicitations, FIG, through its APs, made or attempted to make misrepresentations and omissions of material facts concerning the likelihood of customer profits from the purchase of commodity options, including, but not limited to the following:

- a. misrepresentations that purchasers of options were likely to profit as a result of predictable seasonal changes, including, but not limited to, the following:
  - 1) that profits could be made by purchasing call options on unleaded gasoline because the price of unleaded gasoline would rise in the

summer due to the heavy demand for unleaded gasoline created by vacationers, or words to that effect; and

2) that profits could be made by purchasing call options on heating oil and/or natural gas because the price of heating oil and/or natural gas would rise in the winter due to heavy demand for heating products, or words to that effect;

b. misrepresentations that purchasers of options were likely to profit as a result of existing and known supply and demand forces; including, but not limited to, the following:

1) that profits could be made by purchasing unleaded gasoline call options because of prior increases in crude oil cash prices, or words to that effect;

2) that profits could be made by purchasing unleaded gasoline call options because of prior production cuts by OPEC, or words to that effect;

3) that profits could be made by purchasing unleaded gasoline call options because of enforcement of the Clean Air Act mandates regarding reformulated gasoline products, which became effective in 1995, or words to that effect; and

4) that profits could be made by purchasing unleaded gasoline call options because of current military action and deployment, or words to that effect;

- c. omissions that a seasonal increase in demand for a commodity in the cash market was already factored into the price of the options on the underlying futures contract and would not necessarily result in the increased value of options on the underlying futures contract for said commodity;
- d. omissions that existing and known supply and demand forces for a commodity in the cash market were already factored into the price of price of the options on the underlying futures contract and would not necessarily result in the increased value of options on the underlying futures contract for said commodity;
- e. misrepresentations concerning the likelihood and magnitude of anticipated profits they could expect, including, but not limited to, the following:
  - 1) that an investor could make as much as \$150,000 on his or her \$15,000 investment in natural gas call options, or words to that effect;
  - 2) that an investor could double, triple, or quadruple his or her money by investing in heating oil options, or words to that effect; and
  - 3) that an investor could turn a \$10,000 investment in heating oil options into \$250,000 in one year, or words to that effect; and
- f. omissions that the vast majority of FIG customers who traded options according to FIG's largely seasonality-based recommendations closed their accounts at a loss.

14. During the relevant period, in the course of telephone solicitations, FIG, through its APs, minimized or attempted to minimize the risk of trading commodity options by

- a. emphasizing the supposed advantage that knowledge of seasonal or other existing supply and demand forces offers the options investor; and
- b. disproportionately emphasizing large profit potential and/or large anticipated price movements in the cash, futures and/or options markets.

15. Each of the misrepresentations made or attempted by FIG APs to customers alleged in paragraphs 13 and 14 was materially false, deceptive, and misleading or omitted material facts that made the statements false, deceptive, or misleading. FIG APs made or attempted to make such misrepresentations and omission of material fact without a reasonable basis to believe the truth of their statements.

**C. Scierter**

16. FIG, Cordo, and Davis solicited customers through the Infomercial and knew or recklessly disregarded the fact that the misrepresentations and omissions of material fact made in the Infomercial were materially false, deceptive, and misleading.

17. FIG, Cordo and Davis knew or recklessly disregarded the fact that the misrepresentations and omissions of material fact made or attempted by FIG APs were materially false, deceptive, and misleading.

**D. Failure to Supervise**

18. Cordo and Davis each had supervisory duties and responsibilities at FIG and were under a duty to implement, carry out, monitor and enforce policies and procedures to detect, deter, and prevent violations of the Act and the Commission's Regulations. Notwithstanding this duty, FIG, Cordo, and Davis failed to diligently supervise FIG APs to ensure that they did not engage in fraudulent sales practices.

19. FIG, Cordo, and Davis permitted FIG APs to engage in false and misleading sales solicitations. By permitting FIG APs to engage in this unlawful conduct, FIG, Cordo, and Davis failed to properly implement, carry out, monitor, and enforce policies and procedures of a supervisory system which would have deterred and detected violations of the Act and the Commission's Regulations.

#### IV.

#### **VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS**

#### **COUNT ONE**

#### **VIOLATIONS OF SECTION 4c(b) OF THE ACT AND SECTIONS 33.7 AND 33.10 OF THE REGULATIONS: FRAUD BY MISREPRESENTATION AND OMISSION OF MATERIAL FACTS IN CONNECTION WITH THE SOLICITATION AND MAINTENANCE OF COMMODITY OPTION TRANSACTIONS**

20. Paragraphs 1 through 19 above are re-alleged and incorporated by reference.

21. From at least June 1998 to at least February 2000, FIG, Cordo and Davis cheated, defrauded, or deceived, or attempted to cheat, defraud, or deceive, other persons by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts in or in connection with an offer to enter into, the entry into, the confirmation of, the execution of, or the maintenance of commodity option transactions, including those set forth in paragraphs 10, 11, 13 and 14, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.7(f) and 33.10, 17 C.F.R. §§ 33.7(f), 33.10.

22. The foregoing acts, omissions and failures of the FIG APs occurred within the scope of each such person's employment or office with FIG. FIG is therefore liable for these

acts pursuant to Section 2(a)(1)B(2) of the Act, 7 U.S.C. § 2(a)(1)B(2) and Section 1.2 of the Regulations, 17 C.F.R. § 1.2 (1999).

23. Cordo and Davis willfully aided, abetted, counseled, commanded, induced, procured, caused, or acted in combination or concert with other persons in the foregoing violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.7(f) and 33.10, 17 C.F.R. §§ 33.7(f), 33.10. Cordo and Davis are therefore responsible for these violations by operation of Section 13(a) of the Act, 7 U.S.C. § 13c(a).

24. Cordo and Davis directly or indirectly, controlled FIG and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting these violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.7(f) and 33.10, 17 C.F.R. §§ 33.7(f), 33.10. Cordo and Davis are therefore liable for these violations by operation of Section 13(b) of the Act, 7 U.S.C. § 13c(b).

25. Each material misrepresentation or omission, and each willful deception made during the relevant time period by respondents, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.7(f), 33.10, 17 C.F.R. § 33.10.

## **COUNT TWO**

### **VIOLATION OF SECTION 166.3 OF THE REGULATIONS: FAILURE TO DILIGENTLY SUPERVISE THE HANDLING OF COMMODITY INTEREST ACCOUNTS BY EMPLOYEES**

26. Paragraphs 1 through 25 above are re-alleged and incorporated by reference.

27. FIG, Cordo and Davis had supervisory duties relating to their business as Commission registrants.

28. From at least June 1998 to at least February 2000, FIG, Cordo and Davis failed to exercise diligently their supervisory duties, including, but not limited to, the following:

- a. Failure to supervise diligently the sales solicitations of FIG APs;
- b. Failure to supervise diligently the trading of customer accounts;
- c. Failure to supervise diligently the activities engaged in to create and broadcast the Infomercial; and
- d. Failure to design, implement, monitor and follow an effective program of supervision and compliance designed to deter and detect violations of the Act or the Regulations including, but not limited to, the foregoing violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 33.7(f) and 33.10, 17 C.F.R. §§ 33.7(f), 33.10.

29. For all the foregoing reasons, FIG, Cordo and Davis failed to supervise diligently the handling by their partners, officers, employees and agents (or persons occupying similar status or performing a similar function) of all commodity interest accounts that they carried, operated, advised or introduced and all other activities of their partners, officers, employees, and agents (or persons occupying a similar status or performing a similar function) relating to their business as Commission registrants, in violation of Section 166.3 of the Regulations, 17 C.F.R. § 166.3.

30. Each act by Cordo, Davis and/or FIG that constitutes a failure to supervise diligently the handling by their partners, officers, employees and agents (or persons occupying similar status or performing a similar function) of all commodity interest accounts that they carried, operated, advised or introduced and all other activities of their partners, officers, employees, and agents (or persons occupying a similar status or performing a similar function)

relating to their business as Commission registrants, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 166.3 of the Regulations, 17 C.F.R. § 166.3.

## V.

By reason of the foregoing allegations, the Commission deems it necessary and appropriate, pursuant to its responsibilities under the Act, to institute public administrative proceedings to determine whether allegations set forth in Parts I-IV above are true, and, if so, whether an appropriate order should be entered in accordance with Sections 6(c), 6(d), 8a(3) and 8a(4) of the Act, 7 U.S.C. §§ 9, 15, 13b, 12a(3) and 12a(4) (1994).

Section 6(c) allows the Commission to enter an order (1) prohibiting a respondent from trading on or subject to the rules of any registered entity and requiring all registered entities to refuse such person all privileges thereon for such a period as may be specified in the Commission's Order, (2) if the respondent is registered with the Commission in any capacity, suspending, for a period not to exceed six months, or revoking the registration of that respondent, (3) assessing against the respondent a civil penalty not more than the higher of \$110,000 or triple the monetary gain to the respondent for each violation of the Act or Regulations; and (4) requiring restitution to customers of damages proximately caused by the violations of the respondent.

Section 6(d) allows the Commission to enter an Order directing that the respondent cease and desist from violating the provisions of the Act and Regulations found to have been violated. Sections 8a(3) and 8a(4) allow the Commission to refuse to register, to register conditionally, to suspend, to revoke or to place restrictions upon the registration of any respondent if cause exists for such action pursuant to Section 8a(3).

## VI.

WHEREFORE, IT IS HEREBY ORDERED that a public hearing for the purpose of taking evidence and hearing arguments on the allegations set forth in Parts I-IV above be held before an Administrative Law Judge, in accordance with the Rules of Practice under the Act, 17 C.F.R. § 10.1 et seq. (2000), at a time and place to be fixed as provided in Section 10.61 of the Rules of Practice, 17 C.F.R. § 10.61 (2000), and that all post-hearing procedures shall be conducted pursuant to Sections 10.81 through 10.107 of the Rules of Practice, 17 C.F.R. §§ 10.81 through 10.107 (2000).

IT IS FURTHER ORDERED that FIG, Cordo and Davis (collectively “respondents”) shall file an Answer to the allegations against them in the Complaint within twenty (20) days after service, pursuant to Section 10.23 of the Rules of Practice, 17 C.F.R. § 10.23 (2000), and pursuant to Section 10.12(a) of the Rules of Practice, 17 C.F.R. § 10.12(a) (2000), shall serve two copies of such Answer and of any document filed in this proceeding upon Christine M. Ryall, Trial Attorney, Commodity Futures Trading Commission, Division of Enforcement, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, or upon such other counsel as may be designated by the Division. If respondents fail to file the required Answer or fail to appear at a hearing after being duly served, respondents shall be deemed in default, and the proceeding may be determined against them upon consideration of the Complaint, the allegations of which shall be deemed to be true.

IT IS FURTHER ORDERED that this Complaint and Notice of Hearing shall be served on respondents personally or by certified or registered mail forthwith pursuant to Section 10.22 of the Commission’s Rules, 17 C.F.R. § 10.22 (2000).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of the investigative or prosecutorial functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon this matter except as witness or counsel in proceedings held pursuant to notice.

By the Commission.

---

Jean A. Webb  
Secretary to the Commission  
Commodity Futures Trading Commission

Date: June 19, 2001