

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF FLORIDA**

COMMODITY FUTURES TRADING COMMISSION,	:	
	:	CIVIL ACTION NO.
	:	99-8750-CIV-RYSKAMP
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
FRED MONTE,	:	
JEANNE H. MONTE, and	:	
COMP TECH LTD. INC.,	:	
	:	
Defendants.	:	

**CONSENT ORDER OF PERMANENT
INJUNCTION AND OTHER EQUITABLE RELIEF
AGAINST DEFENDANT JEANNE MONTE**

I

INTRODUCTION

1. On September 29, 1999, plaintiff Commodity Futures Trading Commission (“Commission”) filed a complaint against defendant Fred Monte (“Monte”), Jeanne H. Monte (“J. Monte”), and Comp-Tech Ltd. Inc. (“Comp Tech”) (hereinafter referred to collectively as “Defendants”), alleging violations of the Commodity Exchange Act (“Act”), as amended, 7 U.S.C. §§ 1 *et seq.* (1994), and the regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (1999). On October 8, 1999 this Court issued an *Ex Parte Statutory Restraining Order Freezing Assets, Preserving Books and Records, and Allowing Commission Staff Access to Books and Records*. Subsequently, this Court issued on October 29, 1999 a *Revised Ex Parte Statutory Restraining Order*, partially lifting the freeze on defendants’ assets for reasonable and necessary living expenses.

2. To effect settlement of this action prior to a trial on the merits or further judicial proceedings, defendant J. Monte ("Defendant") consents to this *Consent Order Of Permanent Injunction and Other Equitable Relief Against Defendant Jeanne Monte* ("Order"). Defendant: (1) acknowledges service of the summons and complaint in this action; (2) admits this Court's personal and subject matter jurisdiction over her and this action; and (3) admits that venue properly lies with this Court; and (4) waives the entry of findings of fact and conclusions of law in this action pursuant to Fed. R. Civ. P. 52.

3. By consenting to the entry of this Order, defendant neither admits nor denies the allegations of the Commission's complaint or the Findings contained in this Order, except as to jurisdiction and venue. Defendant agrees that neither she nor her agents, employees or representatives acting under her authority or control shall take any action or make any public statement denying, directly or indirectly, any allegations in the Complaint, or creating or tending to create the impression that the Complaint is without a factual basis; provided, however, that nothing in this provision shall affect Defendant's: i) testimonial obligations, or ii) her right to take legal positions in other proceedings to which the Commission is not a party. Defendant will undertake all steps necessary to assure that all of her agents, employees and representatives understand and comply with this agreement.

4. Defendant waives: (1) all claims that she may possess under the Equal Access to Justice Act ("EAJA"), 5 U.S.C. § 504 and 28 U.S.C. § 2412, as amended by Pub. L. No. 104-121, §§ 231-32, 110 Stat. 862-63, and Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1 *et seq.*, relating to or arising from this action and any right under EAJA to seek costs, fees, and other expenses relating to or arising from this proceeding; (2) any claim of Double Jeopardy based upon the institution of this proceeding or the entry in this proceeding of any

order imposing a civil monetary penalty or any other relief; and (3) all rights of appeal from this Order.

5. Defendant consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purposes relevant to this action.

6. Defendant affirms that she has read this Order and agrees to this Order voluntarily, and that no promise or threat of any kind has been made by the Commission or any member, officer, agent, or representative thereof, or by any other person, to induce her consent to this Order, other than as set forth specifically herein.

7. This Court, being fully advised in the premises, finds that there is good cause for the entry of this Order and that there is no just reason for delay. This Court therefore directs the entry of a permanent injunction, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

II

PERMANENT INJUNCTION

A. **IT IS HEREBY ORDERED** that defendant J. Monte, along with any officer, agent, servant, employee and attorney, or person in active concert or participation with her who receives actual notice of this Order by personal service or otherwise, is permanently enjoined and restrained from directly or indirectly:

1. Cheating or defrauding or attempting to cheat or defraud or willfully deceiving or attempting to deceive other persons in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, made, or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (a) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment

thereof, in violation of Sections 4b(a)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(i) and (iii);

2. Employing any device, scheme, or artifice to defraud any client or participant or prospective client or participant, or engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant, by use of the mails or any means or instrumentality of interstate commerce, in violation of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and
3. Violating Section 4.41(a) of the Regulations, 17 C.F.R. § 4.41(a) (2000), by advertising in a manner which: (1) employs a device, scheme or artifice to defraud participants or clients or prospective participants or clients; or (2) involves any transaction, practice or course of business which operates as a fraud or deceit upon participants or clients or prospective participants or clients.

The injunctive provisions of this Order shall be binding upon defendant, any person insofar as he or she is acting in the capacity of officer, agent, servant, or attorney of any defendant, and any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in active concert or participation with any defendant.

B. IT IS FURTHER ORDERED that J. Monte and any person insofar as he or she is acting in the capacity of officer, agent, servant, employee, or attorney of J. Monte, and persons in active concert or participation with her who receives actual notice of this Order by personal service or otherwise, are permanently enjoined, restrained, and prohibited from:

1. trading on or subject to the rules of any registered entity as that term is defined by Section 1(a)(20) of the Act, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763, 7 U.S.C. § 1(a)29;
2. engaging in, controlling, or directing the trading for any commodity interest account on behalf of any other person or entity, whether by power of attorney or otherwise; and
3. applying for registration or seeking exemption from registration, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2000), with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2000), or acting as an agent or officer of any person registered, exempted from registration, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2000), or required to be registered with the Commission. This

includes, but is not limited to, soliciting, accepting, or receiving any funds, revenue, or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase or sale of any commodity futures or options on commodity futures contracts, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)(2000).

III

OTHER PROVISIONS

IT IS FURTHER ORDERED THAT:

1. Entire Agreement and Amendments: This Order incorporates all of the terms and conditions of the settlement between the Commission and Defendant. Nothing shall serve to amend or modify this Order in any respect whatsoever, unless: (1) reduced to writing; (2) signed by both parties hereto; and (3) approved by order of this Court.

2. Waiver: The failure of any party hereto at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this Order. No waiver in one or more instances of the breach of any provision contained in this Order shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this Order.

3. Successors and Assigns: This Order shall inure to the benefit of and be binding upon the successors, assigns, heirs, beneficiaries, and administrators of the parties hereto.

4. Acknowledgements: Upon being served with copies of this Order after entry by this Court, defendant shall sign an acknowledgment of such service and serve such acknowledgment on this Court and the Commission within seven (7) calendar days.

5. Invalidation: If any provision of this Order, or the application of any provisions or circumstances is held invalid, the remainder of this Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

6. Jurisdiction of this Court: This Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action.

Done and ordered this 7th day of February 2001, at West Palm Beach, Florida.

Kenneth L. Ryskamp
United States District Court Judge

Consented to:

Jeanne Monte
Dated: _____

Peter M. Haas
Attorney
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581
(202) 418-5377
Dated: _____

Approved as to form:

Richard Levenstein, Esq.,
Attorney for Jeanne Monte
Kramer, Sewell, Sopko & Levenstein, P.A.
853 Monterey Commons Boulevard
Stuart, Florida 34996
Dated: _____