



though the present, defendants defrauded at least 60 individuals who had provided defendants with at least \$2.9 million for the alleged purpose of trading commodity futures contracts ("investors"). On February 6, 2002, this Court entered a Statutory Restraining Order by Consent against defendants freezing their assets and preventing the destruction of defendants books and records. Defendants Snively, CCI and FTG, without admitting or denying the allegations of the Complaint for the purpose of this Consent Order of Preliminary Injunction and Other Ancillary Relief ("Order"), except as to jurisdiction and venue, which they admit, consent to the entry of this Order and state that their consent is entered into voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, to induce Snively, CCI and FTG to consent to this Order.

THE PARTIES AGREE AND THE COURT FINDS THAT:

1. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2001), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.
2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), in that the defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

3. Defendants Snively, CCI and FTG enter their appearances and acknowledge receipt of the Complaint.

4. Defendants Snively, CCI and FTG waive the entry of findings of facts and conclusions of law for purposes of this Order pursuant to Rule 52 of the Federal Rules of Civil Procedure.

IT IS THEREFORE ORDERED THAT:

1. Defendants Snively, CCI and FTG are restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Cheating, defrauding or willfully deceiving or attempting to cheat, defraud or willfully deceive other persons in or in connection with any order to make, or the making of, any contract or 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 by products 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 Section 4b(a)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(i) and (iii) (2001);
- B. Willfully making or causing to be made to such other person any false report or statement thereof, in violation of Section 4b(a)(ii) of the Act, 7 U.S.C. § 6b(a)(ii) (2001); and
- C. Denying Commission representatives access to the books and records of CCI, in violation of Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2001), and Commission Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31. and 1.35 (2001).

2. Defendants Snively, CCI and FTG are further restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Engaging in, controlling or directing the trading for any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise;

- B. Entering into any commodity futures or options transactions for their own accounts, for any accounts in which they have a direct or indirect interest and/or having any commodity futures or options traded on their behalf; and
  - C. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration, except as provided for in Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. § 4.14(a)(9), or acting, directly or indirectly, as a principal, agent, or any other officer, agent or employee of any person registered, required to be registered, or exempted from registration with the Commission, unless such exemption is pursuant to Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. § 4.14(a)(9). 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 future or options on commodity futures contracts.
3. Defendants Snively, CCI and FTG are further restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:
- A. Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashiers checks, funds, assets or other property of, or within the custody, control or possession of, defendants Snively, CCI and FTG, including, but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account, including funds or property of investors, wherever located, whether held in the name of Snively, CCI or FTG or otherwise, and the assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this Order; provided, however, that defendant Snively shall be allowed to spend up to \$2,000 per month from his current or future income, if any, for ordinary and necessary living expenses, until further order of the Court; and
  - B. Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of defendants, wherever located, including all such records concerning defendants' business operations, until further order of the Court.

4. The injunctive provisions of this Order shall be binding on defendants Snively, CCI and FTG, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of defendants Snively, CCI and FTG and upon 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 defendants Snively, CCI and FTG.

5. Defendants shall prepare, sign and file with the Court, with review and oversight by the National Futures Association ("NFA"), within 90 days of this Order, a complete and accurate accounting for the period of June 1, 2001 to the date of such accounting, which shall be no earlier than the date of this Order. Such accounting shall include, without limitation, the identification of:

- A. All funds, securities, commodity interests, assets and other property currently owned or controlled (legally, equitably or otherwise) directly or indirectly by defendants, whether individually or jointly;
- B. All funds, securities, commodity interests, assets and other property received directly or indirectly by defendants, whether individually or jointly, describing the source, amount, disposition, and current location of each listed item;
- C. All funds, securities, commodity interests, assets and other property transferred or otherwise disposed of directly or indirectly by defendants, whether individually or jointly, describing the source, amount, disposition, and current location of each listed item; and
- D. The name and last known address of each bailee, debtor or other person or entity currently holding any funds, securities, commodity interests, assets or other property owned or controlled (legally, equitably or otherwise) by defendants, either individually or jointly.

6. It is further ordered that, for the purpose of ameliorating the depreciation of certain assets and to attempt to reduce additional liabilities of defendants Snively, CCI and Futurewise, Snively is authorized to take whatever reasonable action he deems necessary and proper to:

- A. Vacate the premises now leased by CCI and/or Futurewise by removing all property and store such property at a storage facility;
- B. To sell the furniture and equipment of CCI and Futurewise in consultation with, and as the Commission deems, appropriate;
- C. To notify lessors to remove their property from the premises leased by CCI and/or Futurewise;
- D. To take possession of the records of CCI and Futurewise and deliver them to the NFA;
- E. That for this purpose, no bond shall be required to be posted.
- F. That the proceeds of such sale be retained for the payment of storage costs and for the benefit of the estate for subsequent disbursement, pursuant to the order of this Court,

7. It is further ordered that representatives of the plaintiff Commission upon reasonable notice, be allowed to inspect the books, records and other electronically stored data, tape recordings, and other documents of the defendants and their agents, including all such records of defendants' business operations, wherever they are situated and whether they are in the hands of the defendants or others and to copy said documents, data, and records either on or off the premises where they may be situated.

8. It is further ordered that Donald G. Nash, Mary Beth Spear and Joy McCormack, employees of the Commission, are specially appointed to serve this Order and all other papers in this cause. This Order may be served by facsimile transmission.

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9. This Order shall remain in effect until further order of the Court and the Court shall retain jurisdiction over this action to ensure compliance with this Order and for all other purposes related to this action.

IT IS SO ORDERED

Dated: Feb. 28, 2002

*Paul V. Gadola*  
UNITED STATES DISTRICT JUDGE

Consented and Approved for entry by:

*Todd J. Snively*  
Todd J. Snively, individually

*Todd J. Snively*  
Commodity Consultants International, Inc.  
by Todd J. Snively

*Todd J. Snively*  
Futurewise Trading Group, Inc.  
by Todd J. Snively, President

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