

6b(a)(2)(c)(i) and (iii) (2001), and Commission Regulation 1.1(b)(1) and (3), 17 C.F.R. § 1.1(b)(1) and (3)(2001).

2. IFS Inc. and IFS LLC (collectively “IFS,” referring to both entities since March 1, 2002, and IFS Inc. only for the period from March 2000 through March 2002) engage in the illegal and fraudulent activity as a common enterprise. Since at least March 2002, the two purportedly separate entities have shared one office space located at 40 Wall Street, New York, New York, and have maintained the same telephone number. Moreover, they share at least one corporate board member, Johnny Wah Jung, the chairman of both IFS Inc. and IFS LLC. On IFS LLC’s faulty application for membership with the National Futures Association (“NFA”) as a futures commission merchant (“FCM”) engaging in retail foreign currency, it has listed IFS Inc. as a principal, thus reinforcing the interrelated nature of the entities that purportedly transact business of the same nature from the same location. In fact, there is no separation, physical or otherwise, between the IFS Inc. and IFS LLC entities.

3. Defendant John Walker Robinson, IFS Inc.’s President and Chief Executive Officer, is liable as a controlling person for the violations by IFS of Sections 4(a) and 4b(a)(2)(C)(i) and (iii) of the Act and Commission Regulation 1.1(b)(1) and (3), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2001).

4. Wilson Lai, technical consultant for IFS Inc. and a member of IFS Inc.’s Board of Directors, is liable as a controlling person for the violations by IFS of Sections 4(a) and 4b(a)(2)(C)(i) and (iii) of the Act and Commission Regulation 1.1(b)(1) and (3), pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2001). Lai is also the controlling shareholder of Frankwell Commodities Limited (“Frankwell Hong Kong”), which, in turn, sole shareholder of IFS Inc.

5. Sociedade Comercial Siu Lap Limitada (“Siu Lap”) is liable as a Relief Defendant because it received ill-gotten gains to which it has no legitimate claim.

II.

JURISDICTION AND VENUE

6. Section 2(c)(2)(B) (i) and (ii) of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C.A. § 2(c)(2)(B) (i) and (ii) (2001), corresponding to the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114 Stat. 2763, clarifies the jurisdiction of plaintiff, the Commodity Futures Trading Commission (“Commission” or “CFTC”), over certain transactions in foreign currency that are contracts for the sale of a commodity for future delivery, including the transactions alleged in this Complaint. The Act prohibits fraud in connection with the trading of such commodity futures contracts and establishes a comprehensive system for regulating the purchase and sale of such commodity futures contracts. This Court has jurisdiction over this action pursuant to Section 6c of the 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.

7. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2001), in that 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.

III.

THE PARTIES

8. Plaintiff Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2001), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2001).

9. International Financial Services (New York), Inc. is a New York corporation incorporated in 1997 with offices at 40 Wall Street, 39th Floor, New York, New York 10005. It also maintains offices at 2800 Post Oak Boulevard, Suite 5800, Houston, Texas 77056. Prior to 1997, this office was the main office of an affiliated forex trading company, Frankwell Investment Services (Texas) Inc. (“Frankwell”). IFS Inc. has never been registered with the Commission in any capacity. In addition, IFS Inc. is not a broker or dealer, or an associated person of a broker or dealer, an insurance company, a regulated subsidiary of an insurance company, a financial holding company, or an investment bank holding company.

10. International Financial Services (New York), LLC is a New York limited liability company incorporated on March 1, 2002 with offices at 40 Wall Street, 39th Floor, New York, New York 10005, the same offices occupied by IFS Inc. IFS Inc. is a corporate principal of IFS LLC. IFS LLC has had a pending, incomplete application filed with the NFA to be registered as a futures commission merchant (“FCM”) since April 2002.

11. John Walker Robinson resides in New York, New York. Since at least March 2000, Robinson has been the President of IFS Inc. Robinson has never been registered with the Commission.

12. Chan Kow Lai, a/k/a Wilson Lai resides in New Jersey and Hong Kong. Lai is the controlling shareholder of Frankwell Hong Kong, a Hong Kong-based commodity futures brokerage firm. Frankwell Hong Kong's other shareholder is Frank Shum Tai Tung. IFS Inc. is wholly owned by Frankwell Hong Kong. In 1996, the Hong Kong Securities and Futures Commission ("HKSF") publicly reprimanded Lai and Frankwell Hong Kong, among others, for Frankwell Hong Kong's failure to comply with forex dealer licensing requirements and encouraging "staff to hawk futures contracts by telephone as its main way of soliciting business." The HKSF found that "[a]ll major decisions were made by the major shareholders, Lai and Shum, who acted as shadow directors." Lai and Shum agreed not to submit applications for registration with the HKSF or for any entity with which they are affiliated for five years. In November 1996, Lai and Frankwell pleaded guilty to unlicensed forex activity and were fined a total of \$50,000 and ordered to pay costs totaling \$24,000 to the HKSF. Lai has never been registered with the Commission.

13. Sociedade Comercial Siu Lap Limitada is purportedly a Macanese corporation with offices supposedly located at Rua de Terminar Maritimo, No. 93, Edificio "Centro Internacional De Macau", Bloco 7, 9o. Andar, "AS" Em Macao. Siu Lap has never been registered with the Commission.

IV.

FACTS

14. With enticements of substantial profits with little risk, IFS's sales force dupes hundreds of unsophisticated, retail customers from across the United States to invest in managed foreign currency trading accounts. IFS self-servingly labels its sales staff as "Independent Consultants" ("ICs"). ICs, however, perform the functions of brokers for IFS, and act on IFS's

behalf by, among other things, presenting IFS's account opening agreement to customers and offering explanations of its terms. IFS recruits many ICs from the Chinese, Russian and Korean immigrant communities. These recruits, who are largely inexperienced in financial and investment matters, do not understand the implications of the investments that they solicit. After raising funds from family and friends, many of whom are vulnerable recent immigrants with little experience in investments in this country, ICs generally leave IFS after a month or two.

After investing, IFS customers are routinely fleeced of their investments through a trading strategy that locks in customer losses and through unauthorized trading after customers ask that their accounts be closed. The foreign currency transactions that IFS provides customers are futures contracts for two principal reasons. First, the contracts are entered to speculate on the changing relative value of foreign currencies and the United States dollar. Second, the contracts are always offset and never result in delivery of foreign currency to or by IFS's unsophisticated, retail customers.

A. Revolving Door of Inexperienced "Independent Consultants" Staffs IFS's Sales Force

15. IFS's sales force is composed of individuals with little or no financial experience whom IFS recruits to serve purportedly as ICs. IFS advertises for ICs in ads placed in the Help Wanted Section of the *New York Times*:

STOCKBROKER

International Wall St investment firm has openings for currency broker/trader position. Candidates must have strong work ethic & communication skills. On the job training. Attractive

package. Fax resume: 212-509-1188 or
call Ryan: 212-509-8808 x 1179

N.Y. Times, Apr. 4, 2002 at F13, col. 6. IFS places similar advertisements in Chinese, Korean and Russian language New York City area newspapers that cater to the Chinese, Korean and Russian immigrant communities.

16. IFS provides these ICs with a minimal five- to six-day course in the history of the foreign currency market, the mechanics of filling out an IFS office order ticket, and a trading strategy. IFS teaches ICs to place trades based on the prices shown on a ticker board inside the office, then fill out an order form with the following information: the currency being traded; whether it is a buy or a sell order; and the quantity. ICs are instructed to leave the price blank, and IFS instructed ICs not to date/time stamp any forms. After filling out the form (which contained multiple copies called “plies”), ICs are instructed to pass the form into an order booth, a space within the IFS office enclosed by glass windows. After order booth personnel enter the price of the transaction on the order ticket, order booth personnel hand the ICs back one ply of the ticket.

17. In the training course, IFS teaches ICs the following trading strategy. In the event of a losing long position, the IC should open a short position in the same currency for the customer instead of closing out the long position to minimize the loss. For example, if the customer went “long” the Euro, with the expectation that the price would go up but the price actually started to fall, instead of closing out that position and stopping the losses, ICs are taught to keep the “long” position open (thereby incurring higher losses, if the price continued to drop) and open a “short” position (thereby incurring another commission charge, while opening a partially offsetting position).

18. This strategy, however, is not in the customer's best interest for at least two reasons. First, it locks the customer into a loss. No matter what happens, one position's loss will offset any gain in the other. Second, all that the strategy achieves, the elimination of further loss, comes with the cost of another \$90 commission charge to the account. The elimination of further losses, however, could be achieved simply by closing out the initial position at what would in effect be no additional cost.

19. ICs are all responsible for finding their own leads and soliciting their own customers. This leads most of the ICs to solicit their friends and families. ICs' solicitation of people they know gives IFS a valuable entrée to potential customers who would otherwise be unlikely to consider opening a foreign currency trading account.

20. ICs at IFS are organized into divisions. The divisions are organized along ethnic lines so that each division focuses on soliciting and trading accounts for customers from specific ethnic backgrounds. For example, there is a Russian division, as well as Korean, Chinese, and American divisions.

21. ICs are paid an initial amount of \$800.00 after staying with IFS for a number of weeks. To encourage them to stay with the firm, they receive another \$500.00 after several more weeks, and finally another \$300.00 after several more weeks. Other than these payments, the ICs are not paid a salary, but earn commissions. The firm itself charges the customer a \$90.00 commission per contract traded. The ICs' commissions depend on the number of contracts they trade per month. If they trade between one and 100 contracts per month, they are to receive \$30.00 per contract. They receive higher commissions when they trade greater numbers of contracts per month, receiving a maximum of \$55.00 in commission per contract. The

commission pay scale encourages the ICs to trade as many contracts as possible, in order to maximize commissions.

22. Few ICs last longer than two months. Typically, ICs raise what money they can from friends and family. After a month or two, these funds generally are lost in trading losses, commissions and fees, and the IC leaves only to be replaced by another.

B. Duping Retail Customers to Open Accounts at IFS

23. IFS assists ICs in the solicitation process by providing solicitation materials to be distributed to potential customers. These materials fraudulently tantalize the reader with the prospects of profits and security, while omitting any reference whatsoever to the abysmal trading record of customer accounts at IFS. The trade given as an example in the materials shows the customer reaping “a profit of \$12,500 in 3 hours before house commission.” Although it mentions that a loss could have occurred, it misleadingly minimizes the possible loss by stating that the customer’s loss would be limited by a stop loss order. It does not disclose that instead of simply closing out the losing position, IFS will open a separate offsetting position locking in the loss and incurring an additional commission charge.

24. The solicitation brochure also creates a false sense of security in IFS’s foreign currency trading. It implies, for instance, that foreign currency trading at IFS is more secure than investing in stocks:

The main advantage of the FOREX market is that there is no bear market as such, in that it is possible to benefit from currency movements whether they increase or decrease in value, so during times of uncertainty and adverse economic conditions the Spot FOREX market offers great opportunity for enhancing portfolio returns.

25. The brochure also falsely states that IFS has “direct links to established networks in the Far East and Southeast Asia, the Middle East, Germany, Switzerland and the United States” for trading foreign currencies.

26. In addition to the fraudulent representations in the written solicitation materials that IFS provides to ICs to circulate to potential customers, ICs routinely misrepresent the possibility of profits and minimize the risk of loss in oral solicitations of customer accounts. Such misrepresentations are made in telephone calls from IFS’s offices, which IFS managers have the ability to monitor, or are made in meetings that occur in IFS’s offices, and in some cases, made in the presence of IFS managers. In oral pitches, ICs have lured customers to open accounts with the possibility of up to 600% returns. In the same presentations, potential customers are falsely assured that their principal is secure from loss by the use of stop loss orders and by the liquidity of the foreign currency market.

C. Trading of Customer Accounts

1. Most Customers Lose All, or Nearly All, of their Money Most of the Time

27. The vast majority of IFS customers lost substantial portions or all of the funds that they deposited in their IFS accounts.

28. Most of the more than \$15 million raised from as many as 400 customers has been lost in trading losses, commissions and fees.

2. IFS’s Commission Rate, Price Structure and Limit Order Entry Restrictions Make Profits Unlikely

29. IFS charges customers \$90 in commissions for each round turn lot, which are deducted from customers’ accounts when lots are closed out. With pip or tick sizes at roughly \$10 to \$12.50, that is, the minimum change that the price may move up or down, customers need to realize at least an approximately 8- or 9-pip gross profit simply to break even on a net basis.

30. The price structure and limit order entry restrictions make eking out such a gross profit unlikely. The minimum bid/ask spread that IFS offers its customer accounts is eight to ten points. For instance, if the highest price at which IFS would purchase Euros from a customer (initiate a short position for the customer) is at least 8 to 10 points lower than the price at which IFS would sell Euros to the customer (initiate a long position for the customer). In some cases, the bid/ask spread is even as wide as 20 points. An interbank participant usually offers other interbank participants a bid/ask spread of only two to three points in the major currencies, absent unusual circumstances. The bid/ask spread that IFS offers its customers is so wide that IFS can immediately make a profit from each customer transaction by entering into an offsetting transaction at a firm offering a reasonably competitive price.

31. IFS's order booth also refuses to accept limit orders from ICs for customer accounts where the limit price is within 30 pips of the current market price. This restriction hampers the placement of orders in customer accounts that could lock in realized profits or limit losses. Positions can also incur interest charges or credits, which are deducted from, or credited to, a customer's account.

32. Needing to make an 8 or 9 point gross profit while losing at least 10, and in some cases as many as 20, points on each leg of a round turn as a result of the wide bid/ask spread, customers need to catch a 40 to 50 point move simply to break even. Given the average daily volatility in the currency markets, IFS's commission charges, interest charges, wide bid/ask spread and restrictions on placement of limit orders make it unlikely that customers can realize a profit.

3. Defendants Did Not Follow Investors' Instructions And Engaged In Unauthorized Trading

33. Although IFS's account opening documentation includes a power of attorney giving the IC the authority to trade his or her customers' accounts, few, if any customers understood this. Some customers were told orally that no trades would be made without their specific authorization. IFS ICs, many times with the knowledge of IFS managers, pressured customers to sign account opening documentation without time to read all seventeen pages of the paperwork presented to them. Moreover, IFS ICs, many times with the knowledge of IFS managers, did not allow customers to take copies of the account opening paperwork with them, if the customer opened the account at IFS's offices. At least one customer was told that "power of attorney" was simply a term commonly used in the industry to refer to brokers, and many customers were told by IFS ICs, sometimes in the presence of IFS managers, that no trade would be placed without the customer's specific authorization.

34. In addition, IFS allowed trades to be placed in customers' accounts after customers had directed ICs not to place additional trades in their accounts. In other cases, IFS allowed trades to be placed in customers' accounts after the balance in the accounts had dropped below amounts at which the customers had previously directed ICs not to continue trading. In some cases, a large spate of unauthorized trading occurred after the customer had indicated that the account should be closed.

D. Defendants' Foreign Currency Transactions Are Illegal Futures

1. The Instruments Traded Are Futures Contracts

35. The foreign currency contracts IFS offers and sells are futures contracts. The contracts concern the purchase or sale of commodities for future delivery at prices or using pricing formulas that are established at the time the contracts are initiated, and may be fulfilled

through offset, cancellation, cash settlement or other means to avoid delivery. The customers who purchase these futures contracts have no business or personal need for the foreign currency. Instead, customers enter into these transactions to speculate and profit from anticipated price fluctuations in the markets for these currencies.

36. Customers do not intend to, and do not, take or make delivery of the foreign currencies they purchase or sell as a consequence of these investments. In fact, IFS does not maintain any accounts at any foreign financial institution to take or make delivery of foreign currency for any investor. IFS does not require that customers have an account in which they can take or make delivery of a foreign currency. Customers are required to invest in US dollars, which are never actually converted to another currency. Customers speculate on the price of foreign currency and if the market moves in a favorable direction, an investor expects to liquidate his or her investment by offsetting the position by entering into an equal and opposite transaction and thereby taking the profits in dollars. The terms and conditions of IFS's contracts are standardized.

2. IFS is not a Proper Counterparty Under the Act

37. IFS acts as the counterparty to the transactions with its customers. IFS is not a proper counterparty or an affiliate of a proper counterparty under the Act authorized to engage in foreign currency futures transactions with retail customers. IFS is not a broker or dealer or an associated person of a broker or dealer. IFS is not an FCM, or an affiliate of a FCM.

38. IFS does not conduct transactions on a facility designated by the CFTC as a contract market or registered as a derivatives transaction execution facility.

3. IFS's Customers are Retail Customers, Not Eligible Contract Participants

39. IFS markets its foreign currency trading accounts to individuals. The vast majority of its customers have assets totaling less than \$5 million and have no business, personal or other need to take or make delivery in foreign currency or to hedge against movements in the

foreign currency markets. In short, they are unsophisticated retail customers who attempt to profit by speculating on the changing relative values of foreign currencies and the United States dollar through their accounts at IFS.

4. Prior to the Effective Date of the CFMA, IFS Was a Board of Trade

40. Prior to December 21, 2000, IFS operated as a board of trade based upon its being a public marketplace offering standardized futures contracts to buyers and sellers with the availability of price information and an execution and settlement mechanism. IFS mass markets to small investors by providing a foreign currency trading facility that allowed its customers, with a minimum deposit, to become “traders” at its board of trade. IFS recruits traders, many of whom have no prior trading experience and urge them to solicit the general public through cold calls, as well as their friends and families, to invest with IFS. IFS provides traders with brochures for use in soliciting potential customers. IFS also provides the mechanism for traders to get prices, make orders, execute orders and offset those orders with matching opposite transactions. IFS further confirms, both orally and in writing, that the traders’ orders had been made. IFS’s orders are standardized, leveraged contracts of its own devise. The contracts can be held open indefinitely and are closed out by entering into an offsetting transaction rather than by taking delivery.

41. Prior to the effective date of the CFMA, IFS did not conduct its foreign currency futures transactions on or subject to the rules of a board of trade that has been designated by the CFTC as a contract market, nor were IFS’s transactions executed or consummated by or through a member of such a contract market.

E. Controlling Person

42. Robinson is the President and Chief Executive Officer of IFS and was a controlling person of IFS. He signs checks for IFS, signs correspondence responding to customer complaints and managed the office.

43. Lai is a director of and consultant for IFS, is the controlling shareholder of the corporation that holds a 100% interest in IFS, and is a controlling person at IFS. Notwithstanding the history of chronic and substantial customer losses at IFS, neither Robinson nor Lai has taken steps to ensure that IFS ICs disclose to customers the risk of investing in a managed foreign currency trading account at IFS.

F. IFS's Purported Clearing Firm: Siu Lap

44. IFS purportedly clears trades through Siu Lap in Macao, but in reality, Siu Lap does not operate as a clearing firm for most or all of the trades IFS reports to its customers and does not have a legitimate interest in the customer funds.

45. From March 2000 through the present, IFS has transferred more than \$4,000,000 from IFS's client account to Siu Lap's account at a Bank of China branch in Macao.

V.

VIOLATIONS OF THE COMMODITY EXCHANGE ACT

46. Section 2(c)(2)(B)(i)-(ii) of the Act, 7 U.S.C. § 2(c)(2)(B)(i)-(ii) (2001), provides that the CFTC shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery, so long as the contract is "offered to, or entered into with, a person that is not an eligible contract participant" unless the counterparty, or the person offering to be the counterparty, is a regulated person or entity, as defined therein.

47. Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1a(12)(A)(xi) (2001), defines an eligible contract participant as an individual who has total assets in excess of: a) \$10 million; or b) \$5 million and who enters the transaction to manage the risk associated with the asset he owns or liability incurred, or reasonably likely to be owned or incurred by the individual. Most, if not all, of the foreign currency futures transactions alleged herein were offered to or entered into with persons who were not eligible contract participants.

48. IFS, the counterparty to the foreign currency futures transactions entered into by investors, as described above, is not a proper counterparty for retail foreign currency transactions, and therefore the CFTC has jurisdiction over the transactions in retail foreign currency alleged herein.

COUNT I

VIOLATIONS OF SECTION 4b(a)(2)(C)(i) AND (iii) OF THE ACT AND COMMISSION REGULATION 1.1(b)(1) and (3): FRAUD IN THE SALE OF FUTURES CONTRACTS

49. Paragraphs 1 through 48 are re-alleged and incorporated herein.

50. During the relevant time period, IFS, in or in connection with the orders to make, or the making of, contracts of sale of commodities for future delivery, made or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a)(2)(C) of the Act, 7 U.S.C. 7 U.S.C. § 6b(a) (2001), have cheated or defrauded or attempted to cheat or defraud investors or prospective investors in IFS and willfully deceived or attempted to deceive investors or prospective investors by, among other things: offering customers such poor prices and high commissions that customer profits were virtually impossible; training its staff to employ a trading strategy likely to create losses; engaging in unauthorized trading of customer accounts; making material misrepresentations to

investors regarding the profitability of their accounts; and failing to disclose to investors the likelihood of loss associated with investing with them, all in violation of Sections 4b(a)(2)(C)(i) and (iii) of the Act, 7 U.S.C. § 6b(a)(2)(C)(i) and (iii) (2001), and, for such activities occurring on or after October 9, 2001, in violation of Commission Regulation 1.1(b)(1) and (3), 17 C.F.R. § 1.1(b)(1) and (3)(2001). As IFS Inc. and IFS LLC constitute a common enterprise, they are jointly and severally liable for the violations charged in this Count I.

51. From at least March 2000 and continuing to the present, Robinson and Lai, as principals and managers of the IFS common enterprise directly or indirectly controlled the IFS common enterprise and its schemes and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described in this Count I. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2001), as described in this Count I, Robinson and Lai are liable for the violations described in this Count I, to the same extent as the IFS common enterprise.

52. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Section 1.2 of the Regulations, 17 C.F.R. § 1.2, IFS is liable for any violations of Sections 4b(a)(2)(C)(i) and (iii) of the Act by its officers, directors, managers, employees, and agents, in that all such violations were within the scope of their office or employment with IFS.

53. Each fraudulent misrepresentation and omission and each act of unauthorized trading, including those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b of the Act and Commission Regulation 1.1(b).

COUNT II
VIOLATIONS OF SECTION 4(a) OF THE ACT:
SALE OF ILLEGAL OFF EXCHANGE FUTURES CONTRACTS

54. Paragraphs 1 through 53 are re-alleged and incorporated herein.

55. Since at least March 2000, and continuing to the present, IFS has offered to enter into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery when: (a) for the period from December 22, 2000 to the present, such transactions have not been conducted on or subject to the rules of a board of trade which has been designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, or for the period from March 2000 to December 22, 2000, such transactions have not been conducted on or subject to the rules of a board of trade designated by the CFTC as a contract market for such commodity, and (b) such contracts have not been executed or consummated by or through such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2001). As IFS Inc. and IFS LLC constitute a common enterprise, they are jointly and severally liable for the violations charged in this Count II.

56. From at least March 2000 and continuing to the present, Robinson and Lai, as the owners and operators of the IFS common enterprise, directly or indirectly controlled the IFS common enterprise and did not act in good faith or knowingly induced, directly or indirectly, the acts constituting the violations described in this Count II. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b)(2001), Robinson and Lai are liable for the violations of Section 4(a) of the Act, 7 U.S.C. § 6(a), described in this Count II, to the same extent as the IFS common enterprise entities.

57. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Section 1.2 of the Regulations, 17 C.F.R. § 1.2, IFS is liable for any violations of Sections 4(a) of the Act by its

officers, directors, managers, employees, and agents, in that all such violations were within the scope of their office or employment with IFS.

58. Each foreign currency futures transaction not conducted on a designated contract market or registered derivatives transaction execution facility made during the relevant time period, including but not limited to those conducted by the defendants as specifically alleged herein, is alleged as a separate and distinct violation of Section 4(a) of the Act.

COUNT III
DISGORGEMENT OF THE ASSETS OF THE RELIEF DEFENDANTS

59. Paragraphs 1 through 58 are re-alleged and incorporated herein.

60. IFS has committed a fraud upon its customers in connection with the purchase and sale of foreign currency options contracts as alleged herein.

61. Relief defendant Siu Lap has received funds or otherwise benefited from funds that are directly traceable to the funds obtained from the IFS common enterprise customers through fraud.

62. Siu Lap will be unjustly enriched if it is not required to disgorge the funds or the value of the benefit they received as a result of the IFS common enterprise's fraud. Siu Lap has no legitimate claim to these funds.

63. Siu Lap should be required to disgorge the funds and assets, or the value of the benefit they received from those funds and assets, which are traceable to IFS' fraud.

64. By reason of the foregoing, Siu Lap holds funds and assets in constructive trust for the benefit of the IFS common enterprise's customers.

VI.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to the Court's own equitable powers, enter:

1. orders of preliminary and permanent injunction prohibiting defendants and any other person or entity associated with them, including any successor thereof, from engaging in conduct violative of Sections 4(a) and 4b(a)(2)(C)(i) and (iii) of the Act and Commission Regulation 1.1(b)(1) and (3);
2. an *ex parte* statutory restraining order and an order of preliminary injunction restraining and enjoining defendants and all persons insofar as they are acting in the capacity of their agents, servants, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with him who receive actual notice of such order by personal service or otherwise, from directly or indirectly:
 - a. destroying, mutilating, concealing, altering or disposing of any 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;
 - b. refusing to permit authorized representatives of the Commission to inspect, when and as requested, any 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; and

- c. withdrawing, transferring, removing, dissipating, concealing or disposing of, in any manner, any funds, assets, or other property, wherever situated, 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 held by, under the control, or in the name of any of the defendants;
3. an order directing defendants to provide plaintiff immediate and continuing access to their books and records, make an accounting to the Court of all of their assets and liabilities, together with all funds they received from and paid to investors and other persons;
4. an order appointing an equity receiver to take into his or her immediate custody, control and possession all cash, cashier's checks, funds, assets, and property of defendants, including funds or property of investors, wherever found, whether held in the name of any of the defendants or otherwise, including, but not limited to, all books and records of account and original entry, electronically stored data, tape recordings, all funds, securities, contents of safety deposit boxes, metals, currencies, coins, real or personal property, commodity futures trading accounts, bank and trust accounts, mutual fund accounts, credit card line-of-credit accounts and other assets, of whatever kind and nature and wherever situated, and

authorizing, empowering and directing such receiver to collect and take charge of and to hold and administer the same subject to further order of the Court, in order to prevent irreparable loss, damage and injury to investors, to conserve and prevent the dissipation of funds, to remove defendants and to prevent further evasions and violations of the federal commodity laws by the defendants;

5. an order directing defendants to take such steps as are necessary to repatriate to the territory of the United States all funds and assets of IFS customers described herein which are held by defendants or are under their direct or indirect control, jointly or singly, and deposit such funds into the Registry of this Court and provide the Commission, equity receiver and the Court with a written description of the funds and assets so repatriated;
6. an order directing defendants and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
7. an order directing defendants to make full restitution to every investor whose funds were received by them as a result of acts and practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
8. an order directing defendants to pay a civil penalty in the amount of not more than the higher of \$120,000 for each violation occurring after October 23, 2000 and \$110,000 for each violation occurring before October 23, 2000, or triple the monetary gain to Defendants for each violation of the Act;

9. an order requiring defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and
10. such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: New York, New York
July 17, 2002

U.S. COMMODITY FUTURES TRADING COMMISSION

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