

2001 JUN 19 10:31 AM  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

---

**COMMODITY FUTURES TRADING  
COMMISSION,**

**Plaintiff,**

v.

**INTERNATIONAL MONETARY  
GROUP, et al.,**

**Defendants.**

---

**CASE NO. 5:01CV1496**

**CONSENT ORDER OF PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF AGAINST  
DEFENDANT JASON LEMMON**

**I**

**INTRODUCTION**

1. On June 18, 2001, plaintiff, Commodity Futures Trading Commission ("Commission"), filed a complaint against defendant Jason Lemmon ("Lemmon"), and others, alleging violations of the Commodity Exchange Act ("Act"), 7 U.S.C. § 1 *et seq.*, as amended by the Commodity Futures Modernization Act of 2000 ("CFMA"), Pub. L. No. 106-554, 114 Stat.

2763 (2000), and the regulations promulgated thereunder ("Regulations"), 17 C.F.R. § 1.1 *et seq.*, relating to commodity options transactions. On June 27, 2001, this Court entered a *Consent Order of Preliminary Injunction And Other Equitable Relief Against Jason Lemmon*.

2. To effect settlement of this action without a trial on the merits or further judicial proceedings, Lemmon consents to this *Consent Order Of Permanent Injunction And Other Equitable Relief Against Defendant Jason Lemmon* ("Order"). Lemmon also: (1) acknowledges service upon him of the summons and complaint in this action; (2) admits this Court's personal and subject matter jurisdiction over him and this action; (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, except the findings of fact contained in Part II of this Order which shall be taken as true and correct and be given preclusive effect without further proof for use in any bankruptcy proceeding filed by, on behalf of, or against Lemmon, as further described in paragraph 3 below.

3. By consenting to the entry of this Order, Lemmon neither admits nor denies the allegations of the Commission's complaint or the findings of fact made by this Court and contained in Part II of this Order, except as to jurisdiction and venue. However, Lemmon agrees and the parties to this Order intend that the allegations of the Commission's complaint and all of the findings of fact made by this Court and contained in Part II of this Order shall be taken as true and correct and be given preclusive effect without further proof in any bankruptcy proceeding filed by, on behalf of, or against Lemmon for the purpose of determining whether his restitution obligation and/or other payments ordered herein are excepted from discharge. Lemmon also shall provide immediate notice of any bankruptcy proceeding filed by, on behalf of, or against him in the manner required by paragraph 2 of Part V of this Order.

4. Lemmon agrees that: (1) he will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or finding or conclusion contained in this Order, or creating, or tending to create, the impression that this Order is without a factual basis; and (2) no agent or employee of Lemmon acting under his authority or control shall take any action or make or permit to be made any public statement denying, directly or indirectly, any of the findings or conclusions in this Order or creating, or tending to create, the impression that any allegation in the Complaint or this Order is without factual basis, and Lemmon shall undertake all steps necessary to ensure that all of his agents and employees understand and comply with this agreement. Nothing in this provision shall affect Lemmon's: (1) testimonial obligations; or (2) right to take legal positions in other proceedings to which the Commission is not a party.

5. Lemmon waives: (1) all claims that he 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.

6. Lemmon consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order.

7. Lemmon affirms that he 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 his consent to this Order, other than as set forth specifically herein.

8. Lemmon acknowledges that this Court is not ordering immediate payment of the entire civil monetary penalty pursuant to Section 6c(d) of the Act, 7 U.S.C. § 13a-1(d), or immediate payment of restitution, other than as required by paragraphs 5 and 6 of Part IV below, based upon the accuracy and completeness of Lemmon's sworn representations to the Commission concerning his financial condition. If at any time following the entry of this Order, the Commission obtains information indicating that any of Lemmon's representations to the Commission concerning his financial condition were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, in its sole discretion and without prior notice to Lemmon, petition this Court for an order requiring Lemmon to pay full restitution or a civil monetary penalty immediately. In connection with any such petition, the only issues shall be whether the financial information provided by Lemmon was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, and the amount of civil monetary penalty imposed. In its petition, the Commission may request that this Court consider all available remedies, including, but not limited to, ordering Lemmon to pay funds or transfer assets, directing the forfeiture of any assets, imposing sanctions for contempt of this Order, and/or the Commission may also request additional discovery. Lemmon shall not, by way of defense to such petition, challenge the validity of his consent to this Order, contest the allegations of the Commission's complaint or the findings or conclusions contained in this Order, contest the amount of restitution, or assert that payment of restitution or a civil monetary penalty should not be ordered.

9. 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 findings of fact and a permanent injunction and other equitable relief, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

## II

### FINDINGS OF FACT

#### A. Operation Of IMG As An Unregistered Forex Firm

1. Since at least December 1999 to the present, defendants International Monetary Group (“IMG”), Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or individuals under their supervision and control, solicited individuals throughout the United States to invest in options on foreign currency traded on the foreign currency exchange markets (“Forex”).

2. Since at least December 1999 to the present, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or individuals under their supervision and control, solicited members of the public to purchase options on foreign currencies that were not being traded on or subject to the rules, or through a member, of a designated contract market and were not registered with the Commission as they are required to do so. In addition, these defendants failed to provide investors with required disclosure documents, failed to provide investors with statements of account and certain reports, and failed to file a disclosure documents with the Commission

3. Defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or individuals under their supervision and control, represented to some individuals that their funds would be pooled with the funds of other investors to purchase Forex options.

4. As part of their solicitation, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or individuals under their supervision and control, provided

prospective investors with a Client Account Agreement (“Agreement”). The Agreement provides that IMG will act as the customer’s agent for the “purchases and sales of Foreign Currency Options by and through a United Kingdom Corporation engaged in the business of foreign currency transactions.” The Agreement also provides that the United Kingdom Corporation is located in London, England and that it has no assets or place of business in the United States.

5. The Agreement states that the customer may purchase a foreign currency option and may thereafter “sell the Foreign Currency Option back to [the United Kingdom Corporation] at any time prior to the expiration date for the price [the United Kingdom Corporation] is then quoting.” It also states that the United Kingdom Corporation may act as the counterparty to transactions for a customer’s account, and may sell foreign currencies and/or options to the customer from its own account or may buy foreign currencies from the customer for its own account.

6. Notwithstanding the clear authority of the Commission to regulate the sale of foreign currency options to members of the public, the Agreement states, “there is no federal or state nor banking authority which regulates foreign currency options, subject to [the Agreement].”

7. Pursuant to the terms of the Agreement, individuals who purchase foreign currency options are directed either to wire funds to an account in the name of IMG at FirstMerit Bank N/A in Akron, Ohio (“IMG FirstMerit Account”), or to mail checks made payable to IMG to IMG’s office in Barberton, Ohio.

8. From December 1999 to June 18, 2001, defendants Anthony Dellarciprete and Emido Dellarciprete were the only authorized signatories for the IMG FirstMerit Account. During this time, over \$3.4 million was deposited in the IMG FirstMerit Account.

9. Between October 25, 1999, and December 16, 1999, defendants made eight transfers totaling \$76,444 from IMG to IFX, Ltd. (“IFX”) located in London, England. To the extent that any of these funds were used to trade options of foreign currency on behalf of persons residing in the United States, those trades were illegal because defendants were not registered with the Commission.

10. From January 2000 to June 18, 2001, no funds sent to IMG by persons for the purpose of trading options on foreign currency were transferred from the IMG FirstMerit Account to any United Kingdom corporation for that purpose. Moreover, during that time, no funds were transferred from the IMG FirstMerit Account to a federally registered financial institution, a broker or securities dealer or futures commission merchant, an associated person of a broker or dealer, an insurance company, a financial holding company, or an investment bank holding company acting as a counterparty to purported options transactions by IMG customers. Furthermore, none of the funds sent by individuals to IMG for the purpose of trading options on foreign currency were used to trade such options during that time. As described below, those funds were misappropriated by defendants.

**B. The Fraudulent Solicitation of Individuals to Invest in Forex Options with IMG**

11. At various times from December 1999 to June 18, 2001, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or persons under their supervision and control, solicited individuals to send funds to IMG for the purpose of investing in options on foreign currencies.

12. As part of these solicitations, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or other persons under their supervision and control, stated that they were offering investors an opportunity to make large profits on the rise in the value of foreign

currencies relative to the dollar. They claimed that they would double a customer's investment in less than a month and that IMG had customers who invested hundreds of thousands of dollars and more than doubled their investments. In addition, they represented that IMG had expert Forex currency market analysts who were highly successful traders.

13. After initial telephone calls to prospective customers, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or other persons under their supervision and control, sent prospective customers by mail or facsimile copies of the Agreement, an account information and customer profile statement, and an authorization to purchase and promise to pay. These defendants instructed customers to sign and return the documents to IMG for the purpose of opening an account at IMG. Pursuant to their instructions, individuals signed these documents and sent them to the IMG office in Barberton, Ohio.

14. During the course of their solicitations, defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or other persons under their supervision and control, failed to provide prospective and actual customers with required commodity option disclosure documents and failed to comply with the reporting and disclosure requirements for commodity pool operators.

15. Pursuant to instructions by defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or other persons under their supervision and control, individuals wired funds to an account in the name of IMG at FirstMerit Bank in Akron, Ohio to invest in options on foreign currencies.

16. As the result of the defendants' fraudulent solicitations, at least eighty-two (82) individuals in various parts of the United States sent funds to IMG in amounts ranging from approximately \$7,400 to \$383,845. A list of the persons who sent funds to IMG and the amount



of funds each person sent to IMG is reflected accurately in Exhibit A. Between December 1999 to June 18, 2001, customer deposits in that account, and other bank accounts controlled by defendants, totaled approximately \$3,402,000.

**C. Misappropriation of Investor Funds**

17. From December 1999 to June 18, 2001, defendants accepted funds for the purpose of trading options on foreign currencies and misappropriated those funds for their personal use. Contrary to representations to customers that their funds were being used to purchase Forex options, defendants transferred those funds to various accounts under their personal control and used funds from those accounts to pay expenses unrelated to trading Forex options.

18. Documents for the IMG FirstMerit Bank account, which was controlled by defendants Anthony Dellarciprete and Emido Dellarciprete, show that none of the customer deposits were used for the purchase of foreign currency options between January 2000 and June 18, 2001. Those documents show that funds in the IMG FirstMerit Bank account were used by Anthony Dellarciprete and Emido Dellarciprete to purchase various personal goods and services.

19. FirstMerit Bank documents also show that funds were transferred to a business checking account in the name of Currency Management Group, Inc. ("CMG") at FirstMerit Bank ("CMG FirstMerit Account"). Those documents reveal that Anthony and Emido Dellarciprete controlled the CMG FirstMerit Account and that funds from the IMG FirstMerit Account were transferred to the CMG FirstMerit Account between December 1999 to June 18, 2001. During that time, Anthony and Emido Dellarciprete used funds from the CMG FirstMerit Account to pay for personal goods and services.

20. Defendants IMG, Anthony Dellarciprete, Emido Dellarciprete, and Lemmon, or other persons under their supervision and control, sent false statements and reports to customers

showing that their funds were used for trading options on foreign currencies and that virtually all of those funds were lost in trading. These statements and reports summarized fictitious trading transactions because IMG bank records reveal that no customer funds were used to purchase options on foreign currency between January 2000 and June 18, 2001.

### **III**

#### **PERMANENT INJUNCTION**

##### **IT IS HEREBY ORDERED THAT:**

1. Lemmon is permanently restrained, enjoined, and prohibited from directly or indirectly:
  - a. cheating or defrauding or attempting to cheat or defraud other persons by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts, in soliciting customers or potential customers, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, commodity option transactions and misappropriating customer funds in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 32.9, 17 C.F.R. § 32.9; acting as a commodity pool operator ("CPO"), directly or indirectly, without being registered under the Act and using the mails or any means or instrumentality of interstate commerce in connection with business as a CPO in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1);
  - b. offering to enter into, entering into, executing, confirming the execution of, or conducting business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option when: (a) such transactions are not being conducted on or subject to the rules of a board of trade which has been designated by the Commission as a "contract market" for such commodity; and (b) such contracts are not being executed or consummated by or through a member of such contract market, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Sections 32.11 and 33.3 of the Regulations, 17 C.F.R. §§ 32.11, 33.3;
  - c. failing to furnish customers with the disclosure statement required for options transactions in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Section 32.5 of the Regulations, 17 C.F.R. § 32.5;
  - d. employing any device, scheme, or artifice to defraud any participant or prospective participant, or engaging in any transaction, practice, or course of

business which operates as a fraud or deceit upon any participant or prospective 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);

- e. acting as a commodity pool operator ("CPO"), directly or indirectly, without being registered under the Act and using the mails or any means or instrumentality of interstate commerce in connection with any business as a CPO, in violation of Section 4m(1) of the Act, 7 U.S.C. § 6m(1);
- f. acting as an associated person of a CPO, directly or indirectly, without being registered under the Act or permitting any person to act as an associated person without being registered under the Act, in violation of Section 4k(2) of the Act, 7 U.S.C. § 6k(2), and Commission Regulation 3.12(a), 17 C.F.R. § 3.12(a); and
- g. failing to provide a Disclosure Document in the form specified by the Commission's Regulations to prospective pool participants, failing to distribute to pool participants monthly account statements and an annual report, and failing to file a Disclosure Document with the Commission, in violation of Section 4n(4) of the Act, 7 U.S.C. § 6n(4), and Commission Regulations 4.21, 4.22, 4.24, 4.25, and 4.26, 17 C.F.R. §§ 4.21, 4.22, 4.24, 4.25, 4.26.

**IT IS FURTHER ORDERED THAT:**

- 2. Lemmon is permanently restrained, enjoined, and prohibited from:
  - a. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, as amended by the CFMA, 7 U.S.C. § 1a(29) (2001);
  - b. Engaging in, controlling, or directing the trading of any futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise; 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 with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)(2001), or acting as a principal, agent, officer or employee of any person registered, required to be registered, or exempted from registration, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9)(2001).

The injunctive provisions of this Order shall be binding upon Lemmon, any person insofar as he or she is acting in the capacity of officer, agent, servant, or attorney of Lemmon,

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 Lemmon.

#### IV

#### RESTITUTION AND ANCILLARY RELIEF

#### IT IS HEREBY FURTHER ORDERED:

##### A. Restitution

1. Lemmon shall make full restitution of \$2,875,348.70 for the period December 1999 through June 2001, plus pre- and post-judgment interest, to the investors identified in **Exhibit A**, attached hereto and filed under seal. Lemmon is jointly and severally liable with defendants Anthony Dellarciprete and Emido Dellarciprete for payment of this restitution.

2. Exhibit A includes the total amount of restitution owed to each investor. Omission of any investor from Exhibit A shall in no way limit the ability of such investor from seeking recovery from Lemmon or any other person or entity. Further, the amounts payable to each investor identified in Exhibit A as determined by the Monitor shall not limit the ability of any investor from proving that a greater amount is owed from Lemmon or any other person or entity, and nothing herein shall be construed in any way to limit or abridge the rights of any investor that exist under state or common law.

3. Pre-judgment interest is ~~\$611,803.76~~ as determined by using the underpayment rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 662(a)(2) from December 1999 to the date of this Order. Post-judgment interest shall be determined by using the Treasury Bill rate prevailing on the date of this Order pursuant to 28 U.S.C. § 1961(a).

4. In satisfaction of Lemmon's obligation, he shall make payments pursuant to the payment plan as described within paragraphs 14-20 of this Part IV over a period of ten (10) years

following the date of entry of this Order, or until full restitution is made or otherwise discharged, whichever occurs sooner (“Payment Period”).

**B. Disgorgement**

5. Within thirty (30) days after the date of this Order, Lemmon shall disgorge to the Receiver or any other person appointed by this Court, all benefits obtained directly or indirectly as a result of the illegal acts and practices alleged in the Complaint, including, but not limited to, salaries, commissions, fees, draws, bonuses, loans, payments in-kind, and the items identified in **Exhibit B**.

6. Within thirty (30) days after the date of this Order, Lemmon shall transfer to the Receiver title for all real and personal property obtained directly or indirectly as a result of the illegal acts and practices alleged in the Complaint, including, but not limited to, the real property located at 223 Yonker Street, Barberton, Ohio, the real property located at 8235 Keplar Avenue, Canal Fulton, Ohio, 2000 GMC Denali VIN #1GKEK13R1YR165437, 2000 GMC Yukon Denali VIN # 1GKEK63ROYR175258, and the items identified in Exhibit B. Notwithstanding this or any other provision contained within this Order, Anthony Dellarciprete shall be permitted to remain in physical possession of the real property located at 223 Yonker Street for a period of one hundred twenty (120) days following the date of this Order or until the date of the sale of the property, whichever comes first.

**C. Transfer of the Disgorgement Proceeds and Dissolution of the Receivership**

7. Within sixty (60) days of the date of this Order, the Receiver shall take action to liquidate all disgorged assets obtained directly or indirectly as a result of the illegal acts and practices alleged in the Complaint, including real and personal property. All proceeds from the sale of assets and any monies obtained directly or indirectly as a result of the illegal acts and

practices alleged in the Complaint shall be transferred to the Monitor for distribution in accordance with the restitution payment provisions of paragraphs 10-12 of Part IV of this Order. Notwithstanding the provisions of this paragraph, funds from the sale of the real property located at 223 Yonker Street that are in excess of the price paid by Anthony Dellarciprete for that property on August 24, 2000 shall be made available for application for attorney's fees in accordance with the Court's Order of July 23, 2001.

8. Thirty (30) days after the liquidation of all disgorged assets and the transfer of the disgorged proceeds to the Monitor identified below, the Receivership shall be dissolved.

9. The restitution obligation of Lemmon shall be reduced by the amount of disgorged proceeds transferred to the Monitor.

**D. Restitution Payments**

10. The National Futures Association shall be designated as Monitor for the period beginning with the date of entry of this Order and continuing until distribution of the last payment called for by this Order, or until restitution is paid and distributed in full, whichever occurs first, and shall oversee Lemmon 's restitution obligation.

11. The Monitor shall make periodic distributions of funds, obtained from the Receiver or from defendants, as restitution payments to investors. Restitution payments shall be made in an equitable fashion as determined by the Monitor to the investors identified on Exhibit A and any other investor upon sufficient proof of his or her investment with defendants.

12. The Monitor shall disburse any payment by Lemmon to the investors in accordance with Exhibit A. Based upon the amount of funds available, the Monitor may decide to defer distribution. If at the end of the Payment Period, any amount of the Annual Payments has not

been distributed, that amount shall be distributed as provided in paragraph 23 of Part IV of this Order.

**E. Civil Monetary Penalty**

13. Lemmon shall pay a contingent civil monetary penalty of \$220,000. pursuant to the payment plan outlined in paragraphs 14-19 of Part IV of this Order, commencing upon Lemmon's fulfillment of his total restitution obligation as set forth in paragraphs 10-12 of Part IV of this Order. Lemmon shall make an annual civil monetary penalty payment ("Annual CMP Payment") following Lemmon's satisfaction or other discharge of his restitution obligation, and continuing until December 31, 2013 (or until the civil monetary penalty is paid in full, if that happens first).<sup>1</sup> Lemmon shall make each such Annual CMP payment, as calculated by the Monitor according to paragraph 19 of Part IV of this Order, by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to-the Commodity Futures Trading Commission, and sent to the Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W., Washington, DC 20581, under cover of a letter that identifies Lemmon and the name and docket number of the proceeding; Lemmon shall simultaneously transmit a copy of the cover letter and the form of payment to the Monitor and to the Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, NW, Washington, DC 20581.

**F. Payment Plan**

---

<sup>1</sup> Should the amount due under the payment plan for any Annual Payment be greater than the balance due on Anthony Dellarciprete's restitution obligation, the amount due under the payment plan not paid as restitution will constitute Anthony Dellarciprete's first Annual CMP Payment and be paid as specified above.

14. For the Payment Period, Lemmon shall make an annual payment ("Annual Payment") to an account designated by the Monitor of a percentage of:

- a. his combined adjusted gross income (as defined by the Internal Revenue Code) earned or received by Lemmon during the previous calendar year; plus
- b. all other cash receipts, cash entitlements, or proceeds of non-cash assets received by Lemmon during the previous calendar year.

15. The Annual Payment shall be made on or before June 30 of each calendar year, starting in calendar year 2003, and continuing for the Payment Period.

16. Lemmon shall provide a sworn financial statement to the Monitor on June 30<sup>th</sup> and December 31<sup>st</sup> of each calendar year, starting December 31, 2002 and continuing through and including December 31, 2013. The financial statement shall provide:

- a. a true and complete itemization of all of his rights, title and interest in (or claimed in) any asset, wherever, however and by whomever held;
- b. an itemization, description and explanation of all transfers of assets with a value of \$1,000 or more made by or on behalf of him over the preceding six-month interval; and
- c. a detailed description of the source and amount of all his income or earnings, however generated.

17. Lemmon shall also provide the Monitor with complete copies of his signed federal income tax returns, including all schedules and attachments thereto (*e.g.*, IRS Forms W-2) and Forms 1099, as well as any filings he is required to submit to any state tax or revenue authority, on or before June 30<sup>th</sup> of each calendar year, or as soon thereafter, beginning in 2003 and ending in 2013. If he moves his residence at any time he shall provide written notice of his new address to the Monitor and the Commission, through the Director, Division of Enforcement, Commodity Futures Trading Commission, at 1155 21<sup>st</sup> Street, N.W., Washington, DC 20181, within ten calendar (10) days thereof.



18. If, during the Payment Period, Lemmon elects to file a joint tax return, he shall provide all documents called for by paragraph 15 of Part IV of this Order including the signed and filed joint tax return, plus a draft individual tax return prepared on IRS form 1040 containing a certification by a licensed certified public accountant that the "Income" section (currently lines 7-22 of the form 1040) truly, accurately, and completely reflects all of his income, that the "Adjusted Gross Income" section (currently lines 23-33 of the form 1040) truly, accurately, and completely identifies all deductions that he has a right to claim, and that the deductions contained in the "Adjusted Gross Income" section are equal to or less than 50% of the deductions that he is entitled to claim on the joint tax return; provided, however, that Lemmon may claim 100% of the deductions contained in the "Adjusted Gross Income" section that are solely his. Such individual tax return shall include all schedules and attachments (e.g. IRS Forms W-2) and Forms 1099, as well as any filings required to be submitted to any state tax or revenue authority.

19. On or before June 15 of each year of the Payment Period, starting in calendar year 2003, the Monitor shall calculate Lemmon's Annual Payment due, based on the information contained in the tax returns submitted by Lemmon and the specific amounts payable to each investor. On or before June 30<sup>th</sup> of each year and starting in calendar year 2002, the Monitor shall send written notice to Lemmon of the Annual Payment to be paid toward Lemmon's restitution obligation, or if Lemmon's restitution obligation has been satisfied, the amount of civil monetary penalty to be paid in accordance with the payment instructions in Paragraph 13

The Annual Payment or Annual CMP shall be determined as follows:

<b>Total Adjusted Gross Income Plus Net Cash Receipts:</b>	<b>Annual Payment Due:</b>
--	----------------------------

\$0 up to and including \$25,000.00	0%
\$25,000.01 up to and including \$50,000.00	20% of the amount above \$25,000
\$50,000.01 up to and including \$100,000.00	\$5,000 plus 30% of the amount between \$50,000 and \$100,000
Above \$100,000.01	\$20,000 plus 30% of the amount between \$50,000 and \$100,000 plus 40% of the amount above \$100,000.

20. On or before June 30 of each year of the Payment Period, Lemmon shall make payment of the Annual Payment due, as calculated by the Monitor, to an account designated by the Monitor.

21. Any restitution payments made by Lemmon shall be disbursed by the Monitor to investors in accordance with the periodic distribution provisions in paragraphs 10-12 of Part IV of this Order.

**G. Evidence of Payment**

22. Within thirty (30) days after the date of this Order, Lemmon shall submit to the Commission and Receiver, and shall file with this Court a sworn statement under penalty of perjury fully documenting that payment of all restitution and disgorgement due has been accomplished according to the terms and conditions of this Order. Lemmon shall include true copies of all appropriate payment documentation including, but not limited to, canceled checks, bank wire transfers, cashier's checks, money orders, sight drafts and/or any other evidence of payment employed to effectuate such restitution, quit claims, and transfers of title.

## **H. Tax Claims**

23. Lemmon shall inform the Monitor if he or any other defendant makes any claim with the Internal Revenue Service or any state tax or revenue authority to recover taxes relating to previously filed income tax returns and shall provide the Monitor with all documentation relating to any such claim. In the event that Emido Dellaciprete obtains any funds from the Internal Revenue Service or any state tax or revenue authority based on a claim as described above, he shall immediately transfer all of those funds to the Monitor for distribution to customers in connection with his restitution obligation. Such funds shall not be included under the provisions of the Payment Plan and shall not be considered income for purposes of calculating the Annual Payment under paragraph F of Part IV of this Order.

## **I. Undistributed Funds**

24. If, at the end of the Payment Period, any Annual Payments, Annual CMP Payments, or funds obtained from the Receiver have not been distributed or remain unclaimed, the Monitor shall either: (1) distribute the remaining funds to investors in accordance with the provisions in paragraphs 10-12 of Part IV of this Order; (2) make a recommendation to the Commission providing for distribution of the funds to any other individual whose funds were solicited, received, or disposed of by any other defendant in this matter; or (3) make a recommendation to the Commission that the funds become a civil monetary payment pursuant to Section 6c(d) of the Act, 7 U.S.C. § 13a-1(d). Any of the undisbursed funds that become a civil monetary payment shall be paid to the Commodity Futures Trading Commission for deposit to the United States Treasury, and addressed to Director, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington D.C. 20581, under cover of a letter that identifies Lemmon and the name and docket number of this proceeding. A copy of the cover

letter and the form of payment shall be simultaneously transmitted to Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington D.C. 20581.

**J. Transfer of Assets**

25. Lemmon shall not transfer, or cause others to transfer, funds or other property to the custody, possession, or control of any members of his family or any other person for the purpose of concealing such funds from this Court, the Commission, the Monitor, or any investor until restitution has been paid in full.

**K. Cooperation**

26. Lemmon shall cooperate fully and expeditiously with the Monitor and the Commission in carrying out all duties with respect to restitution and civil monetary penalty payments. He will cooperate fully with the Monitor and the Commission in explaining his financial income and earnings, status of assets, financial statements, asset transfers and tax returns, and shall provide any information concerning himself as may be required by the Commission and/or the Monitor. Furthermore, Lemmon shall provide such additional information and documents with respect thereto as may be requested by the Commission and/or the Monitor.

**L. Third-Party Beneficiaries**

27. Pursuant to Fed. R. Civ. P. 71, the investors are explicitly made intended third-party beneficiaries of this Order and, after the date the last payment called for by this Order is due, may enforce obedience of this Order to obtain satisfaction of any portion of the restitution obligation which has not been paid by Lemmon, to ensure continued compliance with any provision of this

Order, and to hold Lemmon in default and/or contempt for any past violation of any provision of this Order.

**M. Collateral Agreements**

28. Lemmon shall immediately notify the Commission and the Monitor if he makes or has previously made any agreement with any investor obligating any payments to that investor outside of the plan set forth in this Order. Lemmon also shall provide immediate evidence of any payments made pursuant to such agreement in the manner required by paragraph 2 of Part V of this Order.

**N. Default**

29. Any failure by Lemmon to carry out any of the terms, conditions or obligations under any paragraph of this Order shall constitute an Event of Default. If any Event of Default occurs the Commission (or its designee) shall be entitled to:

- a. an order requiring immediate payment of any unpaid Annual Payments and/or CMP Payments, or, at the Commission's option, the entire unpaid balance, or any unpaid portion, of the restitution amount and/or civil monetary penalty set forth above in paragraphs 1 and 13 of Part IV of this Order; and
- b. move the Court for imposition of all other available remedies, including, but not limited to, an order holding Lemmon in contempt for violation of this Order.

30. Upon the occurrence of an Event of Default based upon a claim or cause of action that Lemmon failed to make any Annual Restitution Payments and/or Annual CMP Payments when due, Lemmon will be barred from asserting any defense, including expiration of any statute of limitations, waiver, estoppel or laches, where such defense is based on the alleged failure of the Commission to pursue such claims or causes of action during the pendency of this civil action, during the negotiation of Lemmon 's consent to this Order or while this Order remains in effect.

The only issue that Lemmon may raise in defense is whether he made the Annual Restitution Payments and/or Annual CMP Payments as directed by the Monitor. Any motion by the Commission for entry of an order pursuant to this paragraph requiring payment of less than the full amount of the restitution and/or civil monetary penalty, set forth in paragraphs 1 and 13 of Part IV of this Order, or any acceptance by the Commission of partial payment of the Annual Payments and/or Annual CMP Payments made by Lemmon shall not be deemed a waiver of the Commission's right to require Lemmon to make further payments pursuant to the Payment Plan set forth above, or, in the event of a further Event of Default, a waiver of the Commission's right to require immediate payment of the entire remaining balance, or any unpaid portion, of the restitution amount and/or civil monetary penalty set forth in paragraphs 1 and 13 of Part IV of this Order.

**V**

**OTHER PROVISIONS**

**IT IS FURTHER ORDERED THAT:**

1. 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.
2. Notices: All notices required by this Order shall be sent by certified mail, return receipt requested, as follows:
  - a. Notice to Commission:  
  
Director, Division of Enforcement  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> St. NW  
Washington, DC 20581

- b. Notice to Monitor:  
  
Vice President, Compliance  
National Futures Association  
200 West Madison Street  
Chicago, IL 60606
  
- c. Notice to defendant Lemmon:  
  
130 E. Mapledale Ave.  
lower apt.  
Akron, OH 44301

Lemmon shall provide the Court, the Monitor and the Commission with written notice of all changes to his residential or business telephone number(s) and/or address(es) within ten (10) calendar days of the change(s).

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

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

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

Upon being served with a copy of this Order after entry by the Court, the Commission shall serve a copy of the Order upon the Monitor within seven (7) calendar days.

6. Invalidation: If any provision, or the application of any provision of this Order 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.

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

Done and Ordered this 30<sup>th</sup> day of April 2002, at Akron,

Ohio.

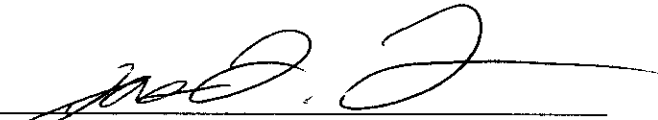


---

**DAN AARON POLSTER**  
**UNITED STATES DISTRICT JUDGE**



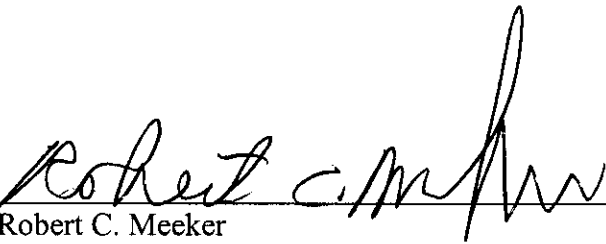
**Order Of Permanent Injunction And Other Equitable Relief Against Defendant Jason Lemmon consented to and approved for entry by:**



---

Jason Lemmon

Dated: March 4, 2002



---

Robert C. Meeker

Darren W. DeHaven

Attorneys for defendant Jason Lemmon

Blakemore, Meeker & Bowler, LLP

19 North High Street

Akron, OH 44308

Dated: March \_\_\_\_\_, 2002



---

Richard P. Foelber

Elizabeth Padgett

Attorneys for Plaintiff Commodity Futures

Trading Commission

Three Lafayette Centre

1155 21st Street, N.W.

Washington, DC 20581

(202) 418-5000

(202) 418-5538 (facsimile)

Dated: ~~March~~ April 26, 2002

**EXHIBIT B – CONSENT ORDER OF PERMANENT INJUNCTION**

<b>PROPERTY</b>	<b>LOCATION (to the best of the Commission's information, knowledge and belief)</b>	<b>IDENTIFICATION</b>
2000 GMC Yukon Denali	223 Yonker Street	VIN # 1GKEK63ROYR175258, purchased
2000 Polaris 400	223 Yonker Street	purchased using customer funds
Bose stereo system	223 Yonker Street	purchased using customer funds
Brunswick Pool Table	223 Yonker Street	purchased on or about 12/30/00
Furniture from Casey's Countryside Furniture	223 Yonker Street	purchased on or about 09/28/00
Furniture from Chez-Del	223 Yonker Street	purchased on or about 12/21/00
Furniture from Sears	223 Yonker Street	purchased on or about 08/16/00; 10/16/00; and 12/27/00
Furniture from Wayside Furniture	223 Yonker Street	purchased on or about 10/25/00
Furniture from Whitman's	223 Yonker Street	purchased on or about 10/16/00
Lamps	223 Yonker Street	purchased for approximately \$600.00
Miscellaneous appliances	223 Yonker Street	purchased using customer funds
Miscellaneous furniture	223 Yonker Street	purchased using customer funds
Refrigerator	223 Yonker Street	purchased for approximately \$1,200.00
Rolex Cilini	223 Yonker Street	purchased using customer funds
Stereo equipment	223 Yonker Street	purchased from Golden Gramophone on or about 03/26/01
Stereo equipment	223 Yonker Street	purchased from Advance Audio Technologies on or about 04/17/01
Vacuum cleaner	223 Yonker Street	purchased for approximately \$235.00
Speakers (2 sets - 1 Center speaker, CD Player, DVD Player, Subwoofer )	223 Yonker Street or 8235 Keplar Avenue	purchased using customer funds
1980 Monte Carlo race car	Shemuga Repair Shop	purchased using customer funds
Real property	223 Yonker Street, Barberton, Ohio	purchased on or about August 24, 2000
Audio/visual equipment	8235 Keplar Avenue	purchased from Advanced Audio Technique on or about June 28, 2001
Audio/visual equipment	8235 Keplar Avenue	purchased from Magnepan Inc. on or about July 12, 2001
Barbeque equipment	8235 Keplar Avenue	purchased from Big John Grills on or about May 8, 2001

Bose stereo system	8235 Keplar Avenue	purchased on or about September 6, 2000
Brading & Young Leather Chair & Ottoman	8235 Keplar Avenue	purchased using customer funds
Brunswick Pool Table	8235 Keplar Avenue	purchased using customer funds
Consumer electronics	8235 Keplar Avenue	purchased from Digital Convergence on or about May 3, 2001
D. Andrew Kates art/furniture	8235 Keplar Avenue	purchased on or about August 30, 2000; December 6, 2000; August 1, 2001
French Chair	8235 Keplar Avenue	purchased using customer funds
Furniture purchased from Arhaus	8235 Keplar Avenue	purchased on or about 11/27/00 and 11/30/00
Furniture purchased from Chez-Del	8235 Keplar Avenue	purchased on or about 12/11/00; 05/31/01
Furniture purchased from Donamarc	8235 Keplar Avenue	purchased on or about 11/08/00
Furniture purchased from JC Penney	8235 Keplar Avenue	purchased on or about 09/17/00
Furniture purchased from Sedlak	8235 Keplar Avenue	purchased on or about 11/20/00
Furniture purchased from Thomasville	8235 Keplar Avenue	purchased on or about 10/06/00
Hawn Office Chair	8235 Keplar Avenue	purchased using customer funds
Home Depot supplies	8235 Keplar Avenue	purchased January 1, 2001; February 1, 2001; April 1, 2001; and May 1, 2001
Jewelry	8235 Keplar Avenue	purchased from JBR Jewelers on or about December 23, 2000; and February 19, 2001
John Deere #645 Tractor & Attachments	8235 Keplar Avenue	purchased on or about 09/04/00; 10/03/00; and 11/03/00
Miscellaneous purchases from Lowe's home improvement	8235 Keplar Avenue	purchased at various times during 2000 and 2001
On-line appliance purchase	8235 Keplar Avenue	purchased on or about December 20, 2000
Pioneer Elite - 64" HDTV	8235 Keplar Avenue	purchased using customer funds
Remote control system	8235 Keplar Avenue	purchased using customer funds
Salton-Maxim household appliance	8235 Keplar Avenue	purchased on or about October 19, 2000
Speakers	8235 Keplar Avenue	purchased using customer funds
Stereo Amp	8235 Keplar Avenue	purchased using customer funds

Tractor purchased from Moore's	8235 Keplar Avenue	purchased on or about 11/22/00
TV Stand	8235 Keplar Avenue	purchased using customer funds
Wedding bands	8235 Keplar Avenue	purchased using customer funds
2000 GMC Denali	8235 Keplar Avenue,	VIN #1GKEK13R1YR165437
Real property	8235 Keplar Avenue, Canal Fulton, Ohio	purchased on or about July 14, 2000
All other real or personal property purchased by defendants using customer funds wherever located		

NOTE: 1999 GMC Envoy VIN # 1GKDT13WXX2954322 is excluded specifically from the property contained in Exhibit B.