

1 Frank G. Rangoussis, Esq. (Pro Hac Vice)  
2 Richard Glaser, Esq. (Pro Hac Vice)  
3 Bernard John Barrett (Calif. Bar. No. 165869)  
4 1155 21st Street, N.W.  
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6 202-418-5375 (Rangoussis)  
7 202-418-5358 (Glaser)  
8 202-418-5372 (Barrett)  
9 202-418-5538 (fax)

FILED  
CLERK, U.S. DISTRICT COURT  
OCT 15 2003  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

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Attorneys for Plaintiff  
Commodity Futures Trading Commission

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Commodity Futures Trading Commission, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FX First, Inc., Alexey Mironov, )  
18 William Whyte )  
Defendants. )

Case No. SACV 03-1454-JVS  
Consent Order of  
Preliminary Injunction and  
other Equitable Relief  
as to Defendant  
FX First, Inc.

On October 6, 2003, Plaintiff, the Commodity Futures Trading Commission  
("Commission"), filed a complaint for permanent injunction and other equitable  
relief against Defendants FX First, Inc. ("FX First" or "Defendant") for violations  
of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2001) et  
seq., and the Commodity Futures Trading Commission's Regulations promulgated  
thereunder ("Regulations"), 17 C.F.R. §§ 1 et seq. (2002). Defendant, without  
admitting or denying the allegations of the Complaint, for the purpose of this

Proposed Consent Preliminary Injunction Order  
SACV 03-1454-JVS

1 Consent Order of Preliminary Injunction and Other Equitable Relief (“Order”),  
2 except as to jurisdiction and venue, which it admits, consents to the entry of this  
3 Order and states that this consent is entered into voluntarily and that no promise or  
4 threat has been made by the Commission or any member, officer, agent or  
5 representative thereof, to induce them to consent to this Order. Alexey Mironov as  
6 Secretary and Director of FX First, Inc. represents that he is authorized to act on  
7 behalf of the Corporation to enter into this Consent Order for Preliminary  
8 Injunction.  
9  
10  
11

12 **I.**

13 ***Jurisdiction and Venue***

14 **THE PARTIES AGREE AND THE COURT FINDS THAT:**

15  
16 1. This Court has jurisdiction over Defendant and the subject matter of  
17 this action pursuant to Section 6c of the Act, 7 U.S.C. §13a-1(2001), which  
18 authorizes the Commission to seek injunctive relief against any person whenever it  
19 shall appear that such person has engaged, is engaging or is about to engage in any  
20 act or practice constituting a violation of any provision of the Act or any rule,  
21 regulation or order thereunder. The Defendant expressly reserves the right to  
22 challenge Commission jurisdiction at a later date.  
23  
24

25  
26 2. Venue properly lies with this Court pursuant to Section 6c(e) of the  
27 Act, 7 U.S.C. §13a-1(e) (2001), in that Defendant is found, inhabits or transacts  
28

1 business in this district, and the acts and practices in violation of the Act have  
2 occurred, are occurring or are about to occur within this district.  
3

4 **II.**

5 ***Order Of Preliminary Injunction***

6 **IT IS HEREBY ORDERED** that until a final adjudication on the merits  
7  
8 may be had, Defendant is restrained and enjoined from:

9 3. In or in connection with any order to make, or the making of any  
10 contract of sale of any commodity for future delivery, made or to be made, for or  
11 on behalf of any other person if such contract for future delivery is or may be used  
12 for (A) hedging any transaction in interstate commerce in such commodity or the  
13 product or byproduct thereof, or (B) determining the price basis of any transaction  
14 in interstate commerce in such commodity, or (C) delivering any such commodity  
15 sold, shipped, or received in interstate commerce for the fulfillment thereof,  
16

17  
18 (i) cheating or defrauding or attempting to cheat or defraud other  
19 persons; and  
20

21 (iii) willfully deceiving or attempting to deceive other persons  
22 in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§  
23 6b(a)(2)(i) and (iii) (2001);  
24

25 **IT IS FURTHER ORDERED** that until a final adjudication on the merits  
26 may be had, Defendant is restrained and enjoined from:  
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V.

*Force And Effect*

**IT IS FURTHER ORDERED** that

10. This Order shall remain in full force and effect until further order of this Court, and that this Court retains jurisdiction of this matter for all purposes. The *ex parte* Statutory Restraining Order previously ordered by the Court shall remain in full force and effect requiring Defendant's compliance until further order of this Court.

VI.

**Persons Bound By This Order**

**IT IS FURTHER ORDERED** that:

11. This Order shall be binding upon defendant, along with any of its officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with Defendant who receive actual notice of this Order by personal service or otherwise, including service by facsimile transmission.

VII.

**Bond Not Required Of Plaintiff**

**IT IS FURTHER ORDERED** that:



1 Consented to and  
2 Approved for entry by:

3 **Counsel for Defendant:**

4   
5 \_\_\_\_\_  
6 Mark Rabinovich, Esq.  
7 17337 Ventura Boulevard, Suite 202  
8 Encino, California 91316  
9 *Counsel for Defendant*

10   
11 \_\_\_\_\_  
12 Alexey Mironov, Secretary and Director  
13 FX First, Inc.

14   
15 \_\_\_\_\_  
16 Frank G. Rangoussis, Esq. (Pro Hac Vice)  
17 Richard Glaser, Esq. (Pro Hac Vice)  
18 Bernard John Barrett (Calif. Bar. No. 165869)  
19 1155 21st Street, N.W.  
20 Washington, D.C. 20581  
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22 202-418-5358 (Glaser)  
23 202-418-5372 (Barrett)  
24 202-418-5538 (fax)  
25 Attorneys for Plaintiff  
26 Commodity Futures Trading Commission  
27  
28

THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP, RULE 77(d).

Priority 
Send 
Enter 
Closed 
JS-5/JS-6 
JS-2/JS-3 
Scan Only

1 Frank G. Rangoussis, Esq. (Pro Hac Vice)
2 Richard Glaser, Esq. (Pro Hac Vice)
3 Bernard John Barrett (Calif. Bar. No. 165869)
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6 202-418-5375 (Rangoussis)
7 202-418-5358 (Glaser)
8 202-418-5372 (Barrett)
9 202-418-5538 (fax)

ENTERED
OCT 16 2003
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA OFFICE
BY [Signature]

FILED
CLERK, U.S. DISTRICT COURT
OCT 15 2003
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY [Signature]

LODGED
U.S. DISTRICT COURT
OCT 15 2003
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY [Signature]

Attorneys for Plaintiff
Commodity Futures Trading Commission

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

ENTERED ON ICMS
OCT 16 2003
CV [Signature]

13 Commodity Futures Trading Commission, )
14 )
15 Plaintiff, ) Case No. SACV 03-1454-JVS
16 vs. ) Consent Order of
17 ) Preliminary Injunction and
18 FX First, Inc., Alexey Mironov, ) other Equitable Relief
19 William Whyte ) as to defendant
20 Defendants. ) Alexey Mironov

On October 6, 2003, Plaintiff, the Commodity Futures Trading Commission ("Commission"), filed a complaint for permanent injunction and other equitable relief against Defendants Alexey Mironov ("Mironov" or "Defendant") for violations of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2001) et seq., and the Commodity Futures Trading Commission's Regulations promulgated thereunder ("Regulations"), 17 C.F.R. §§ 1 et seq. (2002). Defendant, without admitting or denying the allegations of the Complaint, for the

Consent Preliminary Injunction Order
SACV 03-1454-JVS

(16)

1 purpose of this Consent Order of Preliminary Injunction and Other Equitable  
2 Relief ("Order"), except as to jurisdiction and venue, which they admit, consent to  
3  
4 the entry of this Order and state that this consent is entered into voluntarily and that  
5 no promise or threat has been made by the Commission or any member, officer,  
6  
7 agent or representative thereof, to induce them to consent to this Order.

8 **I.**

9 ***Jurisdiction and Venue***

10  
11 **THE PARTIES AGREE AND THE COURT FINDS THAT:**

12 1. This Court has jurisdiction over Defendant and the subject matter of  
13  
14 this action pursuant to Section 6c of the Act, 7 U.S.C. §13a-1(2001), which  
15 authorizes the Commission to seek injunctive relief against any person whenever it  
16  
17 shall appear that such person has engaged, is engaging or is about to engage in any  
18 act or practice constituting a violation of any provision of the Act or any rule,  
19  
20 regulation or order thereunder. The Defendant expressly reserves the right to  
21  
22 challenge Commission jurisdiction at a later date.

23 2. Venue properly lies with this Court pursuant to Section 6c(e) of the  
24  
25 Act, 7 U.S.C. §13a-1(e) (2001), in that Defendant is found, inhabits or transacts  
26  
27 business in this district, and the acts and practices in violation of the Act have  
28  
29 occurred, are occurring or are about to occur within this district.

30 **II.**

1 ***Order of Preliminary Injunction***

2 **IT IS HEREBY ORDERED** that until a final adjudication on the merits  
3  
4 may be had, Defendant is restrained and enjoined from:

5 3. In or in connection with any order to make, or the making of any  
6  
7 contract of sale of any commodity for future delivery, made or to be made, for or  
8 on behalf of any other person if such contract for future delivery is or may be used  
9  
10 for (A) hedging any transaction in interstate commerce in such commodity or the  
11 product or byproduct thereof, or (B) determining the price basis of any transaction  
12 in interstate commerce in such commodity, or (C) delivering any such commodity  
13  
14 sold, shipped, or received in interstate commerce for the fulfillment thereof,

15 (i) cheating or defrauding or attempting to cheat or defraud other  
16  
17 persons; and

18 (iii) willfully deceiving or attempting to deceive other persons  
19  
20 in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§  
21 6b(a)(2)(i) and (iii) (2001);

22 **IT IS FURTHER ORDERED** that until a final adjudication on the merits  
23 may be had, Defendant is restrained and enjoined from:

24 4. Operating or registering a futures commission merchant or an  
25  
26 introducing broker unless it meets such minimum financial requirements as the  
27 Commission may by regulation prescribe as necessary to insure his meeting his  
28 obligation as a registrant, and shall at all times continue to meet such prescribed

1 minimum financial requirements. Provided, that such minimum financial  
2 requirements will be considered met if the applicant for registration or registrant is  
3  
4 a member of a contract market or derivatives transaction execution facility and  
5 conforms to minimum financial standards and related reporting requirements set by  
6 such contract market or derivatives transaction execution facility in its bylaws,  
7 rules, regulations, or resolutions and approved by the Commission as adequate to  
8 effectuate the purposes of this subsection, in violation of Section 4f(b) of the Act, 7  
9 U.S.C. § 6f(b) and Commission Regulations 1.17(a)(1) and (4), 17 C.F.R. §  
10 1.17(a)(1) and (4).

### 14 III.

#### 15 *Order Permitting Expedited Discovery*

16 **IT IS FURTHER ORDERED** that:

17  
18 5. The prohibition upon discovery before the early meeting of counsel is  
19 removed pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

20  
21 6. The prohibition upon the immediate commencement of depositions is  
22 removed pursuant to Rule 30(a)(2)(C) of the Federal Rules of Civil Procedure.

23  
24 7. The parties may proceed to take the oral deposition of any person  
25 upon three calendar days actual notice if the notice is served upon the parties  
26 personally or by telecopier to the parties' last known business telecopier number.  
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1 8. The parties may also commence discovering documents from third  
2 parties under normal discovery procedures.

3  
4 **IV.**

5 ***Living Expenses and Payment of Legal Fees***

6  
7 **IT IS FURTHER ORDERED that:**

8 With respect to Defendant's living expenses and legal fees after the entry  
9 date of this Order, Defendant may:

10  
11 9. Spend not more than \$1,500.00 per month on ordinary and reasonable  
12 living expenses; and not more than \$5,000.00 in the next ninety-days on reasonable  
13 attorneys fees payable in connection with the defense of Defendants Alexey  
14 Mironov and FX First, Inc. in connection with this action. It is further ordered that  
15 any payment of attorneys fees must be made with the approval of the Commission.  
16  
17 In the event of a dispute over the amount of reasonable attorneys fees, Defendants  
18 Mironov and FX First shall petition the Court for approval before disbursement of  
19 funds. Payment of attorneys fees may be withdrawn from an account in the name  
20 of FX First, Inc. located at the Union Bank in Los Angeles, California. Living  
21 expenses for Defendant Mironov may not be obtained from any account in the  
22 name of FX First, Inc.

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26 10. Defendant may utilize any income in excess of the living expenses  
27 identified above, provided that the Commission must first verify that the assets are  
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1 derived from a source that is independent from the illegal activity alleged in the  
2 Complaint in this matter, and independent from the business operations of FX  
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4 First, Inc.

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V.

*Force and Effect*

**IT IS FURTHER ORDERED** that

11. This Order shall remain in full force and effect until further order of  
this Court, and that this Court retains jurisdiction of this matter for all purposes.  
The *ex parte* Statutory Restraining Order previously ordered by the Court shall  
remain in full force and effect requiring the defendant's compliance until further  
order of this Court.

VI.

Persons Bound By This Order

**IT IS FURTHER ORDERED** that:

12. This Order shall be binding upon defendant, along with any of his  
officers, agents, servants, employees, and attorneys, and upon those persons in  
active concert or participation with them who receive actual notice of this Order by  
personal service or otherwise, including service by facsimile transmission.

VII.

Bond Not Required Of Plaintiff

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**IT IS FURTHER ORDERED** that:

13. Plaintiff Commission is an agency of the United States of America and, accordingly, no bond need be posted by the Commission.

**SO ORDERED**, at Santa Ana, California on this 17<sup>th</sup> day of October 2003 at 2:00 p.m.

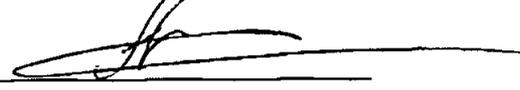
  
United States District Court Judge

1 Consented to and  
2 Approved for entry by:

3 **Counsel for Defendant:**

4 

5 Mark Rabinovich, Esq.  
6 17337 Ventura Boulevard, Suite 202  
7 Encino, California 91316  
8 *Counsel for Defendant*

9 

10 Alexey Mironov  
11 4230 Park Newport #308  
12 Newport Beach, California 92660

13 

14 Frank G. Rangoussis, Esq. (Pro Hac Vice)  
15 Richard Glaser, Esq. (Pro Hac Vice)  
16 Bernard John Barrett (Calif. Bar. No. 165869)  
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23 **Attorneys for Plaintiff**  
24 Commodity Futures Trading Commission

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THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP, RULE 77(d).

Priority	<input checked="" type="checkbox"/>
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JS-2/JS-3	<input type="checkbox"/>
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 9 202-418-5538 (fax)

**ENTERED**  
 OCT 16 2003  
 CLERK, U.S. DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 SANTA ANA OFFICE  
 BY *[Signature]* DEPUTY

FILED  
 CLERK, U.S. DISTRICT COURT  
 OCT 15 2003  
 CENTRAL DISTRICT OF CALIFORNIA  
 BY *[Signature]* DEPUTY

Attorneys for Plaintiff  
 Commodity Futures Trading Commission

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 SOUTHERN DIVISION**

**ENTERED ON ICMS**  
 OCT 16 2003  
 CV *[Signature]*

13 Commodity Futures Trading Commission, )  
 14 )  
 15 Plaintiff, )  
 16 vs. )  
 17 FX First, Inc., Alexey Mironov, )  
 18 William Whyte )  
 19 Defendants. )

Case No. SACV 03-1454-JVS  
 Consent Order of  
 Preliminary Injunction and  
 Other Equitable Relief  
 as to defendant  
 William Whyte

20 On October 6, 2003, Plaintiff, the Commodity Futures Trading Commission  
 21 ("Commission"), filed a complaint for permanent injunction and other equitable  
 22 relief against Defendant William Whyte ("Whyte" or "Defendant") for violations  
 23 of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2001) et  
 24 seq., and the Commodity Futures Trading Commission's Regulations promulgated  
 25 thereunder ("Regulations"), 17 C.F.R. §§ 1 et seq. (2002). Defendant, without  
 26 admitting or denying the allegations of the Complaint, for the purpose of this

Consent Preliminary Injunction Order 1  
 SACV 03-1454-JVS

17

1 Consent Order of Preliminary Injunction and Other Equitable Relief ("Order"),  
2 except as to jurisdiction and venue, which they admit, consent to the entry of this  
3 Order and state that this consent is entered into voluntarily and that no promise or  
4 threat has been made by the Commission or any member, officer, agent or  
5 representative thereof, to induce them to consent to this Order.  
6  
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8 **I.**

9 *Jurisdiction and Venue*

10  
11 **THE PARTIES AGREE AND THE COURT FINDS THAT:**

12 1. For the purposes of this Consent Order for Preliminary Injunction, this  
13 Court has jurisdiction over Defendant and the subject matter of this action pursuant  
14 to Section 6c of the Act, 7 U.S.C. §13a-1(2001), which authorizes the Commission  
15 to seek injunctive relief against any person whenever it shall appear that such  
16 person has engaged, is engaging or is about to engage in any act or practice  
17 constituting a violation of any provision of the Act or any rule, regulation or order  
18 thereunder. The Defendant expressly reserves the right to challenge Commission  
19 jurisdiction at a later date.  
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21

22  
23 2. Venue properly lies with this Court pursuant to Section 6c(e) of the  
24 Act, 7 U.S.C. §13a-1(e) (2001), in that Defendant is found, inhabits or transacts  
25 business in this district, and the acts and practices in violation of the Act have  
26 occurred, are occurring or are about to occur within this district.  
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**II.**

***Order of Preliminary Injunction***

**IT IS HEREBY ORDERED** that until a final adjudication on the merits may be had, Defendant is restrained and enjoined from:

3. In or in connection with any order to make, or the making of any contract of sale of any commodity for future delivery, made or to be made, for or on behalf of any other person if such contract for future delivery is or may be used for (A) hedging any transaction in interstate commerce in such commodity or the product or byproduct 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,

(i) cheating or defrauding or attempting to cheat or defraud other persons; and

(iii) willfully deceiving or attempting to deceive other persons in violation of Section 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2001);

**IT IS FURTHER ORDERED** that until a final adjudication on the merits may be had, Defendant is restrained and enjoined from:

4. Operating or registering a futures commission merchant or an introducing broker unless it meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his

1 obligation as a registrant, and at all times continues to meet such prescribed  
2 minimum financial requirements. Provided, such minimum financial requirements  
3 will be considered met if the applicant for registration or registrant is a member of  
4 a contract market or derivatives transaction execution facility and conforms to  
5 minimum financial standards and related reporting requirements set by such  
6 contract market or derivatives transaction execution facility in its bylaws, rules,  
7 regulations, or resolutions and approved by the Commission as adequate to  
8 effectuate the purposes of this subsection, in violation of Section 4f(b) of the Act, 7  
9 U.S.C. § 6f(b) and Commission Regulations 1.17(a)(1) and (4), 17 C.F.R. §  
10 1.17(a)(1) and (4).

### 15 III.

#### 16 *Order Permitting Expedited Discovery*

17 **IT IS FURTHER ORDERED** that:

18 5. The prohibition upon discovery before the early meeting of counsel is  
19 removed pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

20 6. The prohibition upon the immediate commencement of depositions is  
21 removed pursuant to Rule 30(a)(2)(C) of the Federal Rules of Civil Procedure.

22 7. The parties may proceed to take the oral deposition of any person  
23 upon three calendar days actual notice if the notice is served upon the parties  
24 personally or by telecopier to the parties' last known business telecopier number.  
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1 Complaint in this matter, and independent from the business operations of FX  
2 First, Inc.

3  
4 **V.**

5 ***Force and Effect***

6  
7 **IT IS FURTHER ORDERED** that

8 11. This Order shall remain in full force and effect until further order of  
9 this Court, and that this Court retains jurisdiction of this matter for all purposes.

10 The *ex parte* Statutory Restraining Order previously ordered by the Court shall  
11 remain in full force and effect requiring Defendant's compliance until further order  
12 of this Court.  
13

14  
15 **VI.**

16 **Persons Bound By This Order**

17  
18 **IT IS FURTHER ORDERED** that:

19 12. This Order shall be binding upon Defendant, along with any of his  
20 officers, agents, servants, employees, and attorneys, and upon those persons in  
21 active concert or participation with them who receive actual notice of this Order by  
22 personal service or otherwise, including service by facsimile transmission.  
23

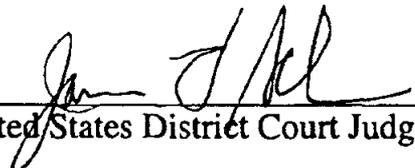
24  
25 **VII.**

26 **Bond Not Required Of Plaintiff**

27  
28 **IT IS FURTHER ORDERED** that:

1           13. Plaintiff Commission is an agency of the United States of America  
 2 and, accordingly, no bond need be posted by the Commission.  
 3

4           **SO ORDERED**, at Santa Ana, California on this 15<sup>th</sup> day of October  
 5 2003 at 2:00 P.m.  
 6

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 8 \_\_\_\_\_  
 9 United States District Court Judge  
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1 Consented to and  
2 Approved for entry by:

3 **Counsel for Defendant:**

4   
5 Frank N. Masine, Esq.  
6 70 Sonora Way  
7 Corte Madera, California 94925  
8 (415) 927-3038

8 *Counsel for Defendant*

9   
10 William Whyte  
11 17181 Marina View Place  
12 Huntington Beach, California 92649

13   
14 Frank G. Rangoussis, Esq. (Pro Hac Vice)  
15 Richard Glaser, Esq. (Pro Hac Vice)  
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21 **Attorneys for Plaintiff**  
22 Commodity Futures Trading Commission

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