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COPY

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF NEW YORK**

11 Commodity Futures Trading Commission,)

12 Plaintiff,)

13 v.)

14 INTERNATIONAL FOREIGN CURRENCY, INC., a)
15 New York corporation; D/B/A INTERNATIONAL)
16 FOREIGN CURRENCY EXCHANGE, and I.F.C.)
17 TRADING, INC.; THOMAS W. QUALLS, an)
18 individual; and MICHAEL KOURMOLIS, an)
19 individual;)

20 Defendants.)

Case No.
(Proposed)
Ex Parte Statutory Restraining
Order, Order Permitting
Expedited Discovery and
Order to Show Cause
Re: Preliminary Injunction

FILED UNDER SEAL

21 *Before this Court*
This matter came on ~~for hearing~~ on July 23, 2003 on the Application without notice

22 of Plaintiff Commodity Futures Trading Commission (the "Commission" or "Plaintiff") for an *ex*
23 *parte*: (1) Statutory Restraining Order; (2) Order Permitting Immediate Expedited Discovery; and
24 (3) Order to Show Cause re: Preliminary Injunction (the "Application"). The Court, having
25 considered the Commission's Complaint, Application, Memorandum of Points and Authorities,
26 Exhibits, other materials, all other evidence presented by Plaintiff filed herein, and having heard the
27 arguments of Plaintiff's counsel, finds that:
28

1 1. This Court has jurisdiction over the parties and over the subject matter of this action
2 pursuant to Section 6c of the Commodity Exchange Act, as amended (the "Act") 7 U.S.C. § 13a-1
3 (2001).

4 2. Venue lies properly within this District pursuant to Sections 6c(e) of the Act, 7
5 U.S.C. § 13a-1(e) (2001). There is good cause to believe that the Defendants have engaged, are
6 engaging and are about to engage in acts and practices constituting violations of the Act, 7 U.S.C.
7 §§ 1, et seq. (2001).

8 3. There is good cause to believe that immediate and irreparable damage to the Court's
9 ability to grant effective final relief for investors in the form of monetary redress will occur from the
10 sale, transfer, assignment, or other disposition by Defendants of assets or records unless Defendants
11 are immediately restrained and enjoined by Order of this Court.

12 4. Good cause exists for the freezing of Defendants' assets and for entry of an order
13 prohibiting Defendants from destroying records and denying agents of the Commission access to
14 inspect and copy records.

15 5. Good cause exists to permit discovery before the early meeting of counsel
16 pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

17 6. Pursuant to Rule 30(a)(2) of the Federal Rules of Civil Procedure, immediate
18 depositions are consistent with the principles of Rule 26(b)(2) of the Federal Rules of Civil
19 Procedure.

20 7. Weighing the equities and considering the Commission's likelihood of success in its
21 claims for relief, the issuance of a statutory restraining order is in the public interest.
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II.

Directives to Financial Institutions and Others

IT IS FURTHER ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset of the Defendants, including those held in the name of International Foreign Currency, Inc, or has held, controlled, or maintained custody of any account or asset of the Defendants at any time since January 1, 1998, shall:

14. Prohibit Defendants and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

15. Deny Defendants and all other persons access to any safe deposit box that is: (a) titled in the name of the Defendants either individually or jointly; or (b) otherwise subject to access by the Defendants;

16. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every such account or asset titled in the name, individually or jointly, of the Defendants, or held on behalf of, or for the benefit, of the Defendants: (b) the balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and (c) the identification of any safe deposit box that is either titled in the name, individually or jointly, of the Defendants or is otherwise subject to access by the Defendants; and

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V.

Inspection and Copying of Books and Records

IT IS FURTHER ORDERED that:

21. Representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the Defendants and their agents including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are on the person of the Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated; and

22. Defendants and their agents, servants, employees, attorneys, and persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including facsimile transmission, shall cooperate fully with the Commission to locate and provide to representatives of the Commission all books and records of the Defendants, wherever such books and records may be situated.

VI.

BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that:

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

VII.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

24. Defendant shall appear before this Court on the 28th day of July, 2002, at 2 P.m., before the Honorable THOMAS C PLATT at the United States

1 Courthouse for the Eastern District of New York, located at 225 Cadman Plaza East, Brooklyn,
2 New York, 11201, to show cause, if there be any, why an Order for Preliminary Injunction should
3 not be granted to prohibit further violations of the Act and why the other relief requested should not
4 be granted pending trial on the merits of this action.
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6 25. Should any party wish to file a memorandum of law or other papers in opposition
7 to Plaintiff's Motion for a Preliminary Injunction, all papers shall be filed on or before 9 AM July
8 28, 2003 and served no later than 5 PM July 25, 2003
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10 **VIII.**

11 ***ORDER PERMITTING EXPEDITED DISCOVERY***

12 **IT IS FURTHER ORDERED** that:

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

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

17 28. The parties may proceed to take the oral deposition of any person upon three
18 calendar days actual notice if the notice is served upon the parties personally or by telecopier to
19 the party's last known business telecopier number.
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21 29. The parties may also commence discovering documents from third parties under
22 normal discovery procedures.
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IX.

Service of Order

IT IS FURTHER ORDERED that:

30. This Order shall be served on Defendants by personal service consistent with Federal Rule of Civil Procedure Rule 4(e). All subsequent pleadings, correspondence, notices required by this Order, and other materials be served consistent with Federal Rule of Civil Procedure Rule 4.

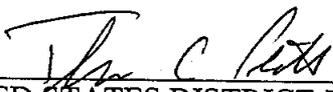
31. The United States Marshal's Service is directed to assist the Commission in the service of the summons, complaint, and this statutory restraining Order on defendants.

X.

Force and Effect

IT IS FURTHER ORDERED that 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.

SO ORDERED, at ^{Central Islip} ~~Brooklyn~~, New York on this 23rd day of July, 2003 at 2:55 P. .m.


UNITED STATES DISTRICT JUDGE

E. Powell, Esq.
THIS ORDER IS TO BE MAILED BY ~~MOVANT~~
TO ALL COUNSEL IMMEDIATELY UPON RECEIPT.