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MAR 27 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LUTHER D. THOMAS
Deputy Clerk

COMMODITY FUTURES TRADING)	CIVIL ACTION NO.
COMMISSION,)	
)	1:01-CV-1107-CAP
Plaintiff,)	
)	
v.)	
)	
INFINITE TRADING GROUP,)	
L.L.C., SHAWN CHRISTIE,)	
EDWARD CAMERON LINDSEY and)	
ANTHONY GARCIA,)	
)	
Defendants.)	

(PROPOSED) ORDER OF DEFAULT JUDGMENT
FOR PERMANENT INJUNCTION
AND OTHER ANCILLARY RELIEF AGAINST
DEFENDANTS INFINITE TRADING
GROUP, L.L.C. AND ANTHONY GARCIA

Plaintiff, Commodity Futures Trading Commission ("CFTC" or "Commission") on April 30, 2001, filed a Complaint against the defendants, Infinite Trading Group, L.L.C. ("ITG"), Shawn Christie ("Christie"), Edward Cameron Lindsey ("Lindsey") and Anthony Garcia ("Garcia") seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act (the "Act"), as amended by the Commodity Futures Modernization Act of 2000 (the "CFMA"), Appendix E of Pub. L. No. 106-554 (2000), 7 U.S.C. §§ 1 et seq. (1994), and the Commission

Regulations promulgated thereunder (the "Regulations"), 17 C.F.R. §§ 1 et seq. (2001). The Court entered a Statutory *Ex Parte* Restraining Order on April 30, 2001, freezing the defendants' assets and prohibiting the defendants from destroying any documents. This Court continued the freezing of the defendants' assets and prohibition of the defendants destruction of documents by its May 14, 2001 order of preliminary injunction. To date, ITG and Garcia have not pled or otherwise defended as to the complaint within the time permitted by the Federal Rules of Civil Procedure. The Commission moved for a default judgment and a permanent injunction and other ancillary relief against ITG and Garcia.

This Court has considered the Complaint, declarations, exhibits, brief in support of the motion for entry of default judgment against ITG and Garcia and other papers filed herein, and being fully advised in the premises;

THE COURT FINDS:

1. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(1994), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any

provision of the Act or any rule, regulation or order thereunder.

2. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(e) (1994), in that ITG and Garcia 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.

3. On May 8, 2001, ITG was duly served with a copy of the Summons and Complaint and with a copy of an *Ex Parte* Statutory Restraining Order entered by the Court on April 30, 2001. However, ITG failed to plead or otherwise defend as to the Complaint within the time permitted by Rule 12(a)(1) of the Federal Rule of Civil Procedure. On March 12, 2002, ITG's default was entered by the Clerk of the Court pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

4. On May 14, 2001, Garcia was duly served with a copy of the Summons and Complaint and with a copy of an *Ex Parte* Statutory Restraining Order entered by the Court on April 30, 2001. However, Garcia failed to plead or otherwise defend as to the Complaint within the time permitted by Rule 12(a)(1) of the Federal Rule of Civil Procedure. On March 12, 2002, Garcia's default was entered by the Clerk of the Court

pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

5. ITG and Garcia have received adequate notice of the plaintiff's application for this Order.

6. The allegations of the Complaint are well-pleaded and hereby taken as true. This Order is supported by the following facts.

The Parties

7. Plaintiff Commission is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Act and the Regulations.

8. ITG is a Georgia limited liability company organized on January 21, 1999. ITG was located at 2000 Monroe Place NE, Atlanta, Georgia 30324 until enjoined by this Court. ITG purported to conduct its business from a mail drop located at 6050 Peachtree Parkway, Suite 240-160, Norcross, Georgia 30092-3336. ITG has never been registered with the Commission in any capacity.

9. Garcia provided the Court with his residential address of 48 West Orange Street, Apopka, Florida 32703. On separate occasions, Garcia has represented himself to be the President of ITG and "Senior Commercial Account Director" of ITG.

Garcia is not and has never been registered with the Commission.

The Defendants Illegal Scheme

10. From at least November 1, 2000 to April 30, 2001 (the "relevant period"), ITG and Garcia solicited investors to trade foreign currency options.

11. ITG and Garcia reached potential customers through advertisements, telephone calls, and mass mailings.

12. On or about February 1, 2001, Garcia signed an agreement, as "President" of ITG, with USA Today for the purpose of placing advertisements for ITG in USA Today between February 5, 2001 and May 6, 2001.

13. ITG and Garcia used high-pressure sales tactics to obtain customer funds by exaggerating the profit potential of investing in foreign currency options.

14. ITG and Garcia failed to adequately discuss the risks associated with foreign currency option investments with potential customers.

15. Even though ITG furnished customers with a "Foreign Currency Options Risk Disclosure" ("Risk Disclosure Document") which contained warnings regarding the risk of speculating in foreign currencies, this document did not disclose, among other things, a brief description of the commodity option transaction being offered, its duration, the total quantity

and quality of the commodities that might have been purchased or sold upon exercise of the options being offered or which underlie the contracts of sale for future delivery which might have been purchased or sold upon exercise of such commodity options, a listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees, and other charges, the method by which the premium is established, the services to be provided for the separate elements comprising the purchase price, the method by which the strike price is established, a description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise) and all similar fees and charges which may be incurred.

16. The Risk Disclosure Document distributed by ITG and Garcia did not contain the specific boldfaced statements on the first page of the summary disclosure statement as required by Commission Regulation 32.5(a)(5), 17 C.F.R. § 32.5(a)(5)(2002).

17. The Risk Disclosure Document did not disclose that ITG and Garcia would use customers' money for personal and

business expenses or that ITG and Garcia would refuse to honor customers' investment instructions.

18. ITG and Garcia informed prospective customers verbally and through written documentation that their funds would be used to purchase foreign currency options contracts on the Interbank market through an international clearing firm.

19. Prior to the entry of a commodity option transaction, ITG and Garcia did not inform each option customer or prospective option customer of the actual amount of the premium, markups on the premium, costs, fees and other charges comprising the purchase price or the strike price and all costs to be incurred by the option customer if the commodity option is exercised.

20. ITG and Garcia did not furnish (by mail or other generally accepted means of communication, not more than twenty-four hours after the execution of a commodity option transaction) each option customer with a written confirmation statement containing the actual amount of the purchase price, the strike price, the total quantity and quality of the commodity which may be purchased or sold, the final trading date on such contract or the date the commodity option was executed.

21. During the relevant period no ITG customer funds were either transferred to Ammnero. Ltd. ("Ammnero"), ITG's and Garcia's purported offshore clearing firm in Nassau, Bahamas, or used to purchase foreign currency options.

22. ITG and Garcia gave ITG customers verbal confirmation of the execution of purported foreign currency option orders made by ITG on the customers' behalf. Customers who made several demands for written confirmations received statements on Ammnero letterhead indicating only the purported cost of the option purchased and the commissions and fees charged. None of the statements disclosed the market price at which each transaction was purportedly executed.

23. For the period of November 1, 2000 to April 30, 2001, ITG has had at least eighteen investors with investments totaling at least \$219,2500.

24. As of April 30, 2001, at least approximately \$219,250 is owed to investors.

Violations of the Commodity Exchange Act and Regulations

25. During the relevant period, ITG and Garcia violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b)(1994) and Regulation 32.9, 17 C.F.R. § 32.9 (2002), in that they cheated or defrauded or attempted to cheat or defraud other persons in connection with their offer to enter into, or the confirmation of the execution of, commodity option transactions, by making false, deceptive, or misleading representations of material facts and by failing to disclose material facts, in soliciting customers or potential customers, including, but not limited to:

- (a) failing to disclose that ITG and Garcia would fail to apply customer funds for the purchase of foreign currency options;
- (b) failing to disclose that ITG and Garcia would use customers' money for personal expenses;
- (c) making false representations that investment in foreign currency options involved little or no risk which could be controlled; and
- (d) making false representations that customers would reap substantial profits in a short period.

26. During the relevant period, ITG and Garcia violated Regulation 32.5, 17 C.F.R. § 32.5 (2002), in that they did not directly or indirectly furnish to customers or prospective customers prior to the entry of a commodity option transaction information about the actual amount of the premium, markups on

the premium, costs, fees, and other charges comprising the purchase price, the strike price, and all costs to be incurred by the option customer if the option is exercised.

27. During the relevant period, ITG and Garcia violated Regulation 32.5, 17 C.F.R. § 32.5 (2002), in that they failed to furnish by mail or other generally accepted means of communication not more than twenty-four hours after the execution of a commodity option transaction, each option customer with a written confirmation statement containing the actual amount of the purchase price, the strike price, the total quantity and quality of the commodity which may be purchased or sold, the final trading date on such contract, and the date the commodity option was executed.

28. During the relevant period, ITG and Garcia violated Regulation 32.5, 17 C.F.R. § 32.5 (2002) because they failed to furnish customers with adequate disclosure statements and written confirmations.

29. During the relevant period, ITG and Garcia violated Regulations 32.11 and 33.3(a), 17 C.F.R. §§ 32.11 and 33.3(a) (2002) in that they offered to enter into, entered into, executed, confirmed the execution of, or conducted 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 have not been 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 have not been executed or consummated by or through a member of such contract market.

30. During the relevant period, ITG and Garcia violated Regulation 32.8(c), 17 C.F.R. § 32.8 (2002) in that they unreasonably failed to secure prompt execution of customer commodity options orders after receipt of the orders.

Need for Permanent Injunctive and Other Ancillary Equitable Relief

31. The plaintiff has made a showing that ITG and Garcia have engaged, are engaging, and are about to engage in acts and practices which violate Sections 4c(b) of the Act, and Regulations 32.9, 32.5, 32.11, 33.3(a) and 32.8(c). The totality of the circumstances establish that, unless restrained and enjoined by this Court, there is a reasonable likelihood that ITG and Garcia will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the Act and Regulations. The imposition of other ancillary equitable relief is required to comply with the basic objectives of the Act. Furthermore, the gravity of ITG's and Garcia's violations and the need to deter others from committing similar violations of the Act and

Regulations warrants the imposition of a civil monetary penalty against both ITG and Garcia.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment shall be and hereby is entered in favor of plaintiff Commission and against defendants ITG and Garcia as follows:

A. ITG and Garcia are hereby permanently enjoined from directly or indirectly:

1. Cheating or defrauding or attempting to cheat or defraud other persons, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery (or any option on such a transaction or option on a commodity), made, or to be made, for or on behalf of any other person if the transaction is or may be used for (a) hedging any transaction in interstate commerce in the commodity or the products or byproducts thereof, or (b) determining the price basis of any transaction in interstate commerce in such commodity, or (c) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b)(1994) and Regulation Section 32.9, 17 C.F.R § 32.9 (2002);
2. Failing to make proper disclosures in their solicitation and acceptance of orders for commodity option transactions. Proper disclosures would include, in any statements issued by ITG and/or Garcia, a brief description of the transaction (including the duration of the options offered and a list of elements comprising the purchase price), a description of all costs that may be incurred by the customer if the options is exercised, an explanation concerning the necessary rise or fall in the price of the contract underlying the option in order for the customer to profit, and a specific, boldfaced statement concerning the risk of loss in violation of Regulation 32.5, 17 C.F.R. § 32.5 (2002);

3. Failing, in the solicitation or acceptance of an order for an options transaction, to inform the customer or prospective customer, prior to the entry into a commodity option transaction, of the actual amount of the premium, markups on the premium, costs, fees, and other charges comprising the purchase price, the strike price, and all costs to be incurred by the option customer if the option is exercised in violation of Regulation 32.5, 17 C.F.R. § 32.5 (2002);
 4. Failing, in the solicitation or acceptance of an order for an options transaction, to furnish by mail or other generally accepted means of communication not more than twenty-four hours after the execution of a commodity option transaction, each option customer with a written confirmation statement containing the actual amount of the purchase price, the strike price, the total quantity and quality of the commodity which may be purchased or sold, the final trading date on such contract, and the date the commodity option was executed in violation of Regulation 32.5, 17 C.F.R. § 32.5 (2002);
 5. 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 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 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)(1994), and the Regulations 32.11 and 33.3(a), 17 C.F.R. §§ 32.11 and 33.3(a) (2002);
 6. Failing to secure the prompt execution of an order for a commodity option transaction once such order is received in violation of Regulation 32.8(c), 17 C.F.R. § 32.8(c) (2002);
- B. ITG and Garcia are hereby permanently enjoined from directly or indirectly:

1. Soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity futures or options contract, placing orders, giving advice or price quotations or other information in connection with the purchase or sale of commodity futures or options contracts for themselves or others, introducing customers to any other person engaged in the business of commodity futures or options trading, issuing statements or reports to others concerning commodity futures or options trading, and otherwise engaging in any business activities related to commodity futures or options trading;
2. Controlling or directing the trading for any commodity futures or options account for or on behalf of any other person or entity, whether by power of attorney or otherwise; and
3. Acting in any capacity for which registration with the Commission is required under the Act.

C. The injunctive provisions of this Order shall be binding on ITG and Garcia, upon any person insofar as he or she is acting in the capacity of agent, servant, employee, successor, assign, or attorney of ITG and Garcia, and upon any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in active concert or participation with ITG and Garcia.

D. Within thirty days of the date of this Order, ITG and Garcia shall make restitution in the total amount of \$219,250.00 (two hundred nineteen thousand two hundred fifty dollars and no cents) ("Restitution Amount") to make whole all persons whose funds were received or disposed of by ITG and Garcia in violation of the statutory and other provisions

identified in this Order. In addition, ITG and Garcia shall pay prejudgment interest upon the Restitution Amount from the dates these persons invested with ITG and Garcia until the date of this Order, at a rate established quarterly by the Internal Revenue Service pursuant to 26 U.S.C. § 6621(a)(2); and ITG and Garcia shall pay postjudgment interest at the Treasury bill rate prevailing on the date the Order is entered, pursuant to 28 U.S.C. § 1961(a). The persons to whom restitution shall be paid and the principal amounts of restitution they shall be paid are identified in Appendix A, which is attached hereto and incorporated herein by reference.

E. Within thirty days of the date of this Order, ITG and Garcia shall pay to the Commission a civil monetary penalty of \$660,000, which penalty represents a \$110,000 penalty for each of the six violations of the Act and Regulations alleged in the Complaint.

F. ITG and Garcia shall prepare and file with the Court, within thirty (30) days of the date of this Order, an accounting for the period November 1, 2000 to the date of such accounting. The accounting shall include the following:

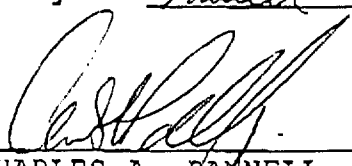
- (1) all of ITG and Garcia's assets and liabilities, identifying their value, nature and location, including but not limited to all real and personal property, and all bank, credit union, checking, commodity or security accounts, either

directly or indirectly under the possession or control of defendant, wherever situated; (2) transfers of real and personal property; and (3) all salaries, commissions, fees, loans, and customer funds received and disbursed by or on behalf of ITG and Garcia in connection with all commodity futures or options transactions, purported commodity futures or options transactions. The accounting shall include a detailed explanation of the circumstances under which any documentary evidence (including computer data) that would support the foregoing accounting has been destroyed, lost, misplaced or otherwise become unavailable. The accounting shall be made under oath attesting to a full and complete accounting and shall be signed by an officer of ITG and Garcia. A copy of the accounting shall be provided to the plaintiff.

G. ITG and Garcia shall not transfer or cause others to transfer funds or other property to the custody, possession or control of any other person for the purpose of concealing such funds or property from the Court, the Commission, or any officer that may be appointed by the Court.

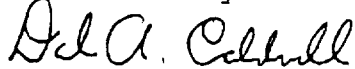
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action.

IT IS SO ORDERED this 26 day of March, 2003.



CHARLES A. PANNELL, JR.
UNITED STATES DISTRICT JUDGE

Presented by:



DANIEL A. CALDWELL
ASSISTANT U.S. ATTORNEY
Georgia Bar No. 102510
Counsel for Plaintiff
U.S. Commodity Futures Trading Commission

APPENDIX A

Identity of Persons Whose Funds Were Received or Disposed of By ITG and Garcia in Violation of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 1 et seq. (1994), or the Commission Regulations Promulgated Thereunder, 17 C.F.R. §§ 1 et seq. (2002), the Principal Amount of Restitution to Be Paid Them by ITG and Garcia, the Amounts and Dates of Investments Made With ITG and Garcia, and a Formula for the Calculation of Prejudgment Interest at the Interest Rate Recommended by Plaintiff.²

<u>Investor</u> <u>(Name and Address)</u>	<u>Principal</u> <u>Amount of</u> <u>Restitu-</u> <u>tion Owed</u>	<u>Amounts and Dates</u> <u>of Investments</u>	<u>Calculation of</u> <u>Prejudgment</u> <u>Interest Using</u> <u>IRS</u> <u>Underpayment</u> <u>Rate of</u> <u>Interest</u>
Mary Lee Becker 6512 Pine Trail Ln. #1 Tinley, IL 60477	\$20,000	\$20,000 11/01/00	\$2,973.73
Virginia F. & Ken M. Cox 41023 W. 88 th Street Richmond, MO 64085	\$27,000	\$10,000 02/20/01 \$5,000 03/09/01 \$7,000 03/15/01 \$5,000 04/06/01	\$1,234.10 \$616.90 \$864.05 \$538.80
Robert Grasso 403 Gulf Way #201 St. Petersburg, FL 33701	\$2,000	\$2,000 12/28/01	\$280.27
Joseph and Wilda Hollan	\$7,000	\$5,000 02/16/01 \$2,000 03/22/01	\$863.87 \$278.60
John Howland 5749 Ackerman Avenue	\$5,000	\$3,000 03/06/01 \$2,000 04/02/01	\$398.00 \$219.83

² The Court hereby imposes prejudgment interest at the interest rates established quarterly by the Internal Revenue Service ("IRS") for money owed to the United States Treasury pursuant to 26 U.S.C. § 6621(a)(2) also known as the IRS underpayment rate.

Bartlett, TN 38134

JoAnn Mallory	\$13,000	\$2,000	04/05/01	\$198.94
5406 Villa Marco		\$3,000	04/30/01	\$323.28
San Antonio, TX		\$3,000	01/17/02	\$434.43
78233		\$1,000	02/05/02	\$133.29
		\$3,000	03/08/02	\$398.00
		\$1,000	03/21/02	\$159.20

Max & Judy Moore	\$30,000	\$10,000	11/13/00	\$1,553.78
1414 Collins Drive,		\$15,000	11/24/00	\$2,289.78
#B2		\$5,000	12/18/00	\$700.68
Burlington, NC				
27215				

Grant Morrison	\$10,000	\$5,000	02/01/01	\$666.42
56 Shady Oak Circle		\$5,000	03/05/01	\$636.80

Tijeras, NM 87059

Vittie L. Peterson	\$3,250	\$3,250	03/07/01	\$398.00
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Joe W. & Edra	\$18,000	\$5,000	02/02/01	\$666.42
Quails		\$6,000	03/01/01	\$756.20
48 W. Orange Street		\$7,000	03/27/01	\$875.60
Apopka, FL 32703				

Odis Ray	\$8,000	\$5,000	11/22/00	\$736.00
2812 Sandlin Road		\$3,000	01/08/01	\$434.43
Decatur, AL 35603				

Real Estate	\$10,000	\$5,000	11/29/00	\$736.00
Solutions		\$5,000	01/03/01	\$738.52
26 Holiday Loop				
Tijeras, NM 87059				

Helen Skelton	\$8,000	\$5,000	12/11/00	\$700.68
1131 University		\$3,000	12/21/00	\$420.41
Blvd. W. #510				
Silver Spring, MD				
20902				

David Suvak	\$10,000	\$5,000	12/08/00	\$700.68
147 Stillwater Lane		\$5,000	01/02/01	\$738.52
Kalispell, MT 59901				

Strait View Credit Union	\$4,000	\$4,000	02/12/01	\$533.14
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220 South Lincoln
P O Box 339
Port Angeles, WA 98362

Daniel K. Lassiter	\$35,000	\$15,000	01/24/01	\$2,128.67
1322 Northside		\$20,000	02/15/01	\$2,465.74
Road, Elizabeth				
City, NC 27909				

Orrin A. Wallersson	\$4,000	\$4,000	02/12/01	\$533.14
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Restitution	\$219,250.
Amount	00