

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF NEW YORK

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COMMODITY FUTURES TRADING

COMMISSION,

Plaintiff,

v.

RUSSELL TAMBIEV, a/k/a Rouslan or Russlan  
Tambiev and Russell Tamb,

and

TAMB INTERNATIONAL, INC.

Defendants.

DEARIE, J.

POLLAK, M.J.  
CIVIL NO.

COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF PURSUANT TO  
THE COMMODITY  
EXCHANGE ACT, AS  
AMENDED, 7 U.S.C. §§ 1-25

I. SUMMARY

1. Between at least December 21, 2000 and October 2002, Russell Tambiev ("Tambiev") (a/k/a Rouslan or Russlan Tambiev, and Russell Tamb) ("Tambiev"), and his company, Tamb International, Inc. ("Tamb International") (together, "defendants"), fraudulently solicited and accepted funds from retail investors for the purpose of engaging in speculative trading of illegal foreign currency futures contracts. Because these transactions were not conducted on or subject to the rules of a board of trade designated or registered by the Commodity Futures Trading Commission ("Commission") as a contract market or derivatives transaction execution facility for such commodity, or executed or consummated by or through a contract market, the defendants violated Section 4(a) of the Commodity Exchange Act, as amended, 7 U.S.C. §6(a) (2001).

2. Defendants also made material misrepresentations through their websites and e-mails, including falsely representing that they placed customer funds in segregated accounts that were FDIC insured, that the business had merged with a U.S. bank, that the business was a Swiss or Montenegrin bank, and/or that the business had an alliance with a Canadian bank. Through these misrepresentations, defendants violated Section 4b(a)(2) of the Act, 7 U.S.C. §6b(a)(2) (2001) and Commission Regulation §1.1(b), 17 C.F.R. §1.1(b) (2002).

3. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2001), the Commission brings this action to enjoin the unlawful acts and practices of defendants and to bar them from engaging in any commodity-related activity, including soliciting new customers or customers' funds. In addition, the Commission seeks civil monetary penalties in the amount of not more than the higher of \$120,000 or triple the monetary gain to defendants for each violation of the Act, disgorgement of defendants' ill-gotten gains, restitution to customers, prejudgment interest and such other relief as this Court may deem necessary or appropriate.

4. Unless enjoined by this Court, defendants are likely to continue to engage in the unlawful acts and practices alleged in this Complaint, as more fully described below in interstate commerce on the Internet, and regarding the nature of the market and the conditions for trading through their internet websites.

## II. JURISDICTION AND VENUE

5. Section 2(c)(2)(B)(i) and (ii) of the Act, 7 U.S.C. § 2 (2001), grants the Commission, jurisdiction over certain transactions in foreign currency that are contracts for the sale of a commodity for future delivery, including the transactions alleged in this Complaint. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1

(2001), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

6. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because defendants are found in, inhabit, or transact business in the District and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District, among other places.

### III. THE PARTIES

#### A. Plaintiff

7. The Commodity Futures Trading Commission (the "Commission") is an independent federal regulatory agency charged by Congress with the administration and enforcement of the Act, 7 U.S.C. §§ 1-25, and the regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2001).

#### B. Defendants

8. Russell Tambiev ("Tambiev"), at least until recently, resided at 31-63 36th Street, Suite 3R, Astoria, New York 11106. Tambiev appears to be the sole owner, officer and director of defendant Tamb International, Inc. and also personally solicited customers to trade foreign currency futures through the guise of various entities and on certain websites. Tambiev has never been registered with the Commission in any capacity.

9. Tamb International, Inc. ("Tamb International") designates, in its certificate of incorporation, its principal place of business as 31-64 36th St., Astoria, New York 11106, which also is Tamb's home address. Until September 11, 2001, Tamb International claimed to operate

from One World Trade Center, Suite 7967, New York, New York 10048. Tamb International has never been registered with the Commission in any capacity.

#### IV. FACTUAL BACKGROUND

10. Beginning no later than December 22, 2000 and continuing until approximately October 2002, defendants Tambiev and Tamb International solicited retail customers to trade illegal foreign currency futures through two websites, [www.Tamb-Forex.com](http://www.Tamb-Forex.com) and [www.RBCAllianceBank.com](http://www.RBCAllianceBank.com).

11. These websites offered retail customers the opportunity to open foreign currency trading accounts as small as \$500-\$1,000 to trade standard-sized currency contracts on margin in highly leveraged, speculative transactions.

12. The defendants neither delivered currencies to customers, nor had the facilities to make or take delivery of currencies. Further, they did not inquire whether their customers had the ability to make or take delivery of currencies.

13. The [Tamb-Forex.com](http://www.Tamb-Forex.com) website at times promised that all customer funds would be held in segregated accounts "used only for trading purposes." In fact, however, defendants commingled customer funds with other funds they maintained in an account at Chase Manhattan Bank under the name "Tamb International" between 2000 through October 2002.

14. After executing account opening forms for [Tamb-Forex.com](http://www.Tamb-Forex.com), customers were instructed to wire trading funds directly to the Tamb International bank account, or send checks which were later deposited into the Tamb International bank account. Customers' accounts at Tamb International were "credited" with the amount deposited to the Tamb International bank account. Customers were then allowed to enter trades on the [Tamb-Forex.com](http://www.Tamb-Forex.com) website using the

amounts of funds they deposited. Customers were never told where the trades were executed, and received all available information about their accounts online.

15. Defendants maintained only one foreign currency trading account, which was at Forex Capital Markets, LLC ("FXCM") in the name of Tamb International alone. Defendants only rarely deposited customer funds to that account or used it for trading purposes. FXCM closed the Tamb International trading account in June 2002, although the RBCAllianceBank.com website continued to solicit customers and accept customer funds until October 2002.

16. In April 2002, Tambiev and Tamb International, through the www.tamb-forex.com website and through e-mails Tambiev sent, announced to customers or prospective customers that their forex business had "merged" into a commercial bank in Massachusetts. They advised that customers' forex trading funds therefore were covered by FDIC insurance, and placed the FDIC logo on the Tamb-Forex.com website. In fact, no such merger was contemplated, or ever occurred. Instead, defendants participated in a short-lived joint venture with independent contractors who operated Commerce Bank's foreign exchange department. Customer funds invested in the joint venture were not FDIC insured.

17. In May 2002, Tambiev registered the URL www.RBCAllianceBank.com and transferred the Tamb-Forex.com website account to the new URL. Through the new website, the defendants continued to solicit retail customers to trade foreign currency futures. At various times, the www.RBCAllianceBank.com website claimed that the business was either a Swiss bank or a Montenegrin bank with headquarters in Switzerland. The new URL also suggested an affiliation or alliance with the Royal Bank of Canada, whose own URL is www.RBC.com.

18. In fact, however, the defendants' foreign currency futures business was not associated with any legitimate foreign bank or regulatory system. At no time were defendants a

Swiss Bank or affiliated with the Royal Bank of Canada. A purported Montenegrin banking registration in the name of "RBC Alliance Bank" -- which does not appear to be a legal entity -- expired on July 31, 2002, and the www.RBCAllianceBank.com website's touting of that registration after that date was false. Further, defendants never took the necessary steps to do business legally in Switzerland as a foreign bank.

19. Indeed, at least between December 21, 2000 and October 2002, the defendants' foreign currency futures business appears to have been conducted principally, if not solely, from residences and/or offices in New York City, using trading software that operated through U.S. registered websites and a bank account in the name of Tamb International located at Chase Manhattan, a New York bank. The defendants' business was conducted using the means and instrumentalities of interstate commerce, and at least some of the defendants' customers were U.S. citizens.

**V. VIOLATIONS OF THE COMMODITY EXCHANGE ACT AND  
COMMISSION REGULATIONS**

**COUNT I**

**VIOLATIONS OF SECTION 4(a) OF THE ACT, 7 U.S.C. § 6(a):  
OFFER AND SALE OF COMMODITY FUTURES CONTRACTS NOT  
CONDUCTED ON A BOARD OF TRADE WHICH HAS BEEN DESIGNATED  
BY THE COMMISSION AS A CONTRACT MARKET OR A DERIVATIVES  
TRADING FACILITY**

20. Paragraphs 1 through 19 are re-alleged and incorporated herein.
21. Since at least December 21, 2000, and continuing to the present, defendants Tambiev and Tamb International have offered to enter into, entered into, executed, confirmed the execution of, or conducted an office or business in the United States for the purpose of soliciting, accepting any order for, or otherwise dealing in transactions in, or in connection with, a contract for the purchase or sale of a commodity for future delivery when: (a) such transactions have not

been conducted on or subject to the rules of a board of trade which has been designated or registered by the Commission as a contract market or derivatives transaction execution facility for such commodity, and (b) such contracts have not been executed or consummated by or through a member of such contract market, in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2001).

22. Each foreign currency futures transaction not conducted on a designated or registered contract market or derivatives transaction execution facility made during the relevant time period, including but not limited to those conducted by the defendants as specifically alleged herein, is alleged as a separate and distinct violation of Section 4(a) of the Act, 7 U.S.C. § 6(a) (2001).

## COUNT II

### **VIOLATIONS OF SECTION 4b(a) OF THE ACT, 7 U.S.C. § 6b(a)(2): SOLICITATION FRAUD**

23. Paragraphs 1 through 22 are re-alleged and incorporated herein.

24. By engaging in the foregoing fraudulent conduct, from at least December 21, 2000 and October 2002, defendants Tambiev and Tamb International, in or in connection with the orders to make, or the making of, contracts of sale of commodities for future delivery, made or to be made, for or on behalf of any other persons, where such contracts for future delivery were or could be used for the purposes set forth in Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2) (2001), cheated or defrauded or attempted to cheat or defraud investors or prospective investors and willfully deceived or attempted to deceive investors or prospective investors by, among other things, making material misrepresentations through their websites and e-mails, including misrepresenting that customer funds were segregated and FDIC insured, that the

business had merged with a U.S. bank, and/or that the business was a Swiss or Montenegrin bank or had an alliance with the Royal Bank of Canada.

25. Each misrepresentation, omission and willful deception made since December 21, 2000, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a)(2), 7 U.S.C. §6b(a)(2) (2001).

## VI. RELIEF

Wherefore, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1(2001), and pursuant to its own equitable powers, enter:

- a. a permanent injunction prohibiting the defendants and any other person or entity associated with them, or any successor thereof, from engaging in conduct violative of the provisions of the Act as alleged in this Complaint, and from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts;
- b. an order directing the defendants and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;

- c. an order directing the defendants to pay a civil monetary penalty in the amount of not more than the higher of \$120,000 or triple the monetary gain to each defendant for each violation of the Act of regulations; and
- d. ancillary remedial relief, including, but not limited to, an accounting and restitution, prejudgment interest and all other and further equitable relief which under the circumstances the Court may deem appropriate.

Date: January 6, 2002

Respectfully Submitted,

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