

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

05-61903CIV-MARRA (MAGISTRATE JUDGE
SELTZER)

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

CARLOS ALEJANDRO LIBERA SAUME,
ASESORIA INVERTRUST C.A.,
FORINEX INVESTMENT CORP., and
INVERTRUST, INC.,

Defendants.

CASE NO.

FILED UNDER SEAL

COMPLAINT FOR INJUNCTIVE
RELIEF, ANCILLARY EQUITABLE
RELIEF, AND CIVIL MONETARY
PENALTIES FOR VIOLATIONS OF
THE COMMODITY EXCHANGE
ACT, 7 U.S.C. § 1 *ET SEQ.*

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I.

SUMMARY

1. From at least December 21, 2000 to the present, defendants have engaged in a fraudulent scheme to solicit members of the public to send funds to them for the purpose of engaging in illegal off-exchange foreign currency futures transactions.
2. Defendants have fraudulently solicited and accepted more than \$14 million from at least 140 persons by falsely representing to persons that they had made large profits for their customers by trading foreign currency futures contracts. As part of their fraudulent solicitations, defendants have represented to these persons that they would establish individual foreign currency futures trading accounts for each customer at foreign currency trading firms and conduct all trading on behalf of the customer. In fact,

defendants did not establish individual foreign currency futures trading accounts for customers and misappropriated customer funds.

3. Defendants deposited customer funds into bank accounts they controlled and misappropriated those funds. In addition to using customer funds to pay their personal expenses, defendants transferred a portion of customer funds to various foreign currency trading accounts in their names and lost virtually all of those funds as a result of trading losses. Defendants also misappropriated funds by engaging in a "Ponzi" scheme. After obtaining funds from new customers, defendants used those funds to make payments to earlier customers and falsely represented that the payments were trading profits.

4. In order to conceal their fraudulent activities, defendants represented to customers that they were receiving large profits as a result of profitable trading and provided customers with false account statements showing fictitious trading profits. To further hide their wrongdoing, defendants misrepresented to customers requesting a return of their funds that the United States government had frozen customer funds under the provisions of the USA Patriot Act and under an order of the Financial Crimes Enforcement Network.

5. Defendants have engaged, are engaging, or are about to engage in acts and practices that violate the antifraud and contract market provisions of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 1 *et seq.*, and the Regulations of the United States Commodity Futures Trading Commission ("CFTC"), 17 C.F.R. § 1.1 *et seq.*

6. By misappropriating customer funds, providing false written and oral account information to customers and making misrepresentations about the profitability and risks involved in commodity futures trading, defendants have violated the antifraud provisions of Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), and CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b).

7. By offering, selling, entering into, confirming the execution of, and/or conducting a business for the purpose of soliciting, accepting any order for or otherwise dealing in off-exchange foreign currency futures contracts that are not conducted on or subject to the rules of a board of trade designated or registered by the CFTC as a contract market or derivatives transaction facility for such commodity, and executed or consummated by or through a contract market, defendants have violated the designated contract market provisions of Section 4(a) of the Act, 7 U.S.C. § 6(a).

8. Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, plaintiff CFTC brings this action to enjoin defendants' commodity-related unlawful acts and practices, to bar them from engaging in any commodity-related activities, and to compel their compliance with the Act and the CFTC Regulations. In addition, the CFTC seeks civil monetary penalties, an accounting, restitution to investors, disgorgement of defendants' ill-gotten gains, identification and repatriation of assets located outside the United States, the appointment of a temporary and permanent receiver if necessary, and such other relief as this Court may deem necessary or appropriate.

9. Unless restrained and enjoined by this Court, defendants are likely, and will continue, to engage in the acts and practices alleged in this Complaint or in similar acts and practices, as more fully described below.

II.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which provides that whenever it shall appear to the CFTC that any 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 promulgated thereunder, the CFTC may bring an action against such person to enjoin such practice or to enforce compliance with the Act.

11. Pursuant to section 6c(a) of the Act, 7 U.S.C. §13a-1(a), this Court is empowered to grant *ex parte* restraining orders freezing assets, preserving books and records, and appointing temporary receivers to administer the orders, as well as preliminary and permanent injunctive relief for violations of the Act.

12. Pursuant to Section 2(a)(1)(A) of the Act, 7 U.S.C. § 2(a)(1)(A), the CFTC has jurisdiction over transactions involving the offer of contracts of sale of a commodity for future delivery such as the transactions alleged herein. Section 4(a) of the Act, 7 U.S.C. § 6(a), requires that those transactions be conducted on, by, or through a designated contract market or a derivatives transaction execution facility.

13. The CFTC has jurisdiction over the transactions in foreign currency alleged herein. Section 2(c)(2)(B) of the Act, 7 U.S.C. § 2(c)(2)(B), expressly clarifies the jurisdiction of the CFTC over foreign currency futures transactions. The Act is applicable to, and the CFTC “[has] jurisdiction over an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery [so long as the contract] is offered to, or entered into with, a person that is not an eligible contract

participant unless the counterparty” is one of the six regulated entities listed in Section 2(c)(2)(B)(ii) of the Act, 7 U.S.C. § 2. Defendants offered foreign currency futures transactions and/or agreements to persons who were entered not eligible contract participants and represented that they would establishing individual foreign currency futures trading accounts to conduct futures transactions such persons. Contrary to these representations, defendants did not establish individual customer foreign currency futures trading accounts and therefore no proper counterparty existed that could offer and/or enter into foreign currency futures transactions with persons who are not eligible contract participants, i.e., retail customers. A substantial number, if not most, of the customers defendants solicited to establish individual customer foreign currency futures trading accounts were members of the retail investing public and were not eligible contract participants.

14. 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 Southern District of Florida, and the acts and practices in violation of the Act have occurred within this District, among other places.

III.

THE PARTIES

A. Plaintiff

15. Plaintiff **United States Commodity Futures Trading Commission** (“CFTC”) is the independent federal regulatory agency charged with the administration and enforcement of the Act, 7 U.S.C. § 1 *et seq.*, and the Regulations promulgated thereunder, 17 C.F.R. § 1.1 *et seq.*

B. Defendants

16. Defendant **Carlos Alejandro Libera Saume** (“Libera”) lists a residence in Coral Springs, Florida. Libera also lists a residence in Caracas, Venezuela. Libera is a controlling person and principal of defendants Asesoria Invertrust C.A., Forinex Investment Corp., and Invertrust, Inc. Libera has never been registered with the CFTC in any capacity.

17. Defendant **Asesoria Invertrust C.A.** (“Asesoria Invertrust”) is a corporation that has been registered in Venezuela since March 9, 1999. Asesoria Invertrust lists an office in Aventura, Florida. Asesoria Invertrust also lists an address in Caracas, Venezuela. Libera is listed as the President and 90% shareholder of Asesoria Invertrust. Asesoria Invertrust maintained a bank account in Miami, Florida and Libera was the sole signatory on that account. Libera had sole control over trading accounts maintained in the name of Asesoria Invertrust. Libera controls the operations of Asesoria Invertrust. Asesoria Invertrust has never been registered with the CFTC in any capacity.

18. Defendant **Forinex Investment Corp.** (“Forinex”) was incorporated in the British Virgin Islands on July 30, 2001. Libera is listed as the Director/Treasurer of Forinex. Libera had sole control over trading accounts maintained in the name of Forinex. Forinex maintained a bank account in Miami, Florida and Libera was a signatory on that account. Libera controls the operations of Forinex. Forinex has never been registered with the CFTC in any capacity.

19. Defendant **Invertrust, Inc.** (“Invertrust”) was incorporated in Florida on August 20, 2001. Libera is the sole officer and director of Invertrust. Invertrust lists its address on corporate documents in Aventura, Florida. Invertrust written agreements with

customers list Invertrust's address as 500 East Broward Boulevard, Fort Lauderdale, Florida. Invertrust maintained a bank account in Miami, Florida and Libera was a signatory on the account. Libera had sole control over trading accounts maintained in the name of Invertrust. Libera controls the operations of Invertrust. Invertrust has never been registered with the CFTC in any capacity.

IV.

STATUTORY AND REGULATORY REQUIREMENTS

20. Pursuant to Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2), it is unlawful for any person to cheat or defraud or to attempt to cheat or defraud any person, willfully to make or cause to be made any false report or statement, or willfully to deceive or attempt to deceive any person in or in connection with any order to make, or the making of, any contract of sale of a commodity for future delivery.

21. Pursuant to Section 1.1(b) of the CFTC Regulations, 17 C.F.R. § 1.1(b), it is unlawful for any person, directly or indirectly, in or in connection with any account, agreement, contract, or transaction in foreign currency that is subject to the jurisdiction of the CFTC, to cheat or defraud or to attempt to cheat or defraud any person, willfully to make or cause to be made any false report or statement, or willfully to deceive or attempt to deceive any person by any means whatsoever.

22. Pursuant to Section 4(a) of the Act, 7 U.S.C. § 6(a), it is unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business for the purpose of soliciting, or accepting any order for, or otherwise dealing in any transaction in or in connection with a contract for the purchase or sale of a commodity for future delivery, unless such transaction is conducted on or

subject to the rules of a board of trade designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, and executed or consummated by or through a contract market, unless specifically exempted under the Act.

23. Pursuant to Section 2(c)(2)(B) of the Act, 7 U.S.C. § 2(c)(2)(B), an agreement, contract or transaction in foreign currency that is a contract of sale of a commodity for future delivery that is offered to or entered into with a person that is not an eligible contract participant must be conducted on or subject to the rules of a board of trade designated or registered by the CFTC as a contract market or derivatives transaction execution facility for such commodity, and executed or consummated by or through a contract market, unless the counterparty to the transaction with the person is one of the six regulated entities designated under Section 2(c)(2)(B)(ii) of the Act, 7 U.S.C. § 2(c)(2)(B)(ii).

V.

FACTS

A. **Defendants Have Committed Fraud In Connection With Foreign Currency Futures Transactions**

24. From at least December 21, 2000 and continuing through the present, Libera, either directly or through other persons or entities either under his employ, supervision and control or acting in combination or concert with them, has participated in a fraudulent scheme to solicit retail customers throughout the United States, Venezuela, and elsewhere to send funds to bank accounts in the names of Asesoria Invertrust, Forinex, and Invertrust purportedly to open individual customer trading accounts for the purpose of engaging in foreign currency futures transactions.

25. As part of his solicitations, Libera has represented to customers that he would establish individual foreign currency futures trading accounts in the name of the customer at a bank or a trading firm and would conduct all foreign currency futures transactions on behalf of the customer.

26. Libera has solicited customers by representing that he has exceptional investment expertise and has made extraordinary profits for customers by trading in the foreign currency markets. Libera has targeted persons from Venezuela and Miami, Florida and solicited persons in these geographic areas to enter into written agreements with Asesoria Invertrust, Forinex, and Invertrust, promised them unusually high rates of return on their investments, and represented that he would use their funds to trade futures contracts on foreign currencies.

27. Libera has solicited customers by providing them with documents showing profitable returns purportedly achieved by customers of Asesoria Invertrust who established individual foreign currency trading accounts and authorized Libera to conduct the trading in those accounts. Libera has represented to potential customers that they would achieve high returns based on the historically high profitable returns he purportedly made for customers.

28. Libera has represented to customers that he personally conducts all foreign currency futures trading for customers through his companies Asesoria Invertrust, Forinex, and Invertrust. Libera has provided customers with written agreements stating that individual trading accounts would be established for customers and that Asesoria Invertrust, Forinex, or Invertrust would conduct all foreign currency trading on behalf of

customers. The written agreements also represent that the funds of customers would be deposited in individual customer trading accounts at large brokerage firms.

29. After customers executed written agreements with Libera's companies and sent him funds to open individual foreign currency futures trading accounts, Libera provided them with monthly account statements. These statements purported to show that customers had individual trading accounts established in their name, that foreign currency trading was occurring in their accounts, and that the trading had produced profits every month.

30. Libera's oral and written representations to customers were materially false and misleading. Contrary to his representations to customers, Libera did not make profits for his customers because he did not establish individual foreign currency futures trading accounts for customers at any trading firm and did not transfer their funds to such trading accounts. Instead, Libera misappropriated customer funds and provided customers with false account statements showing fictitious trading in non-existent accounts.

31. Libera, individually and as agent and the controlling person of Asesoría Invertrust, Forinex, and Invertrust, misappropriated customer funds by commingling those funds in bank accounts he controlled and transferring a portion of them to his personal trading accounts that he established at commodity futures trading firms in his own name and in the names of Asesoría Invertrust, Forinex, and Invertrust. Libera sustained trading losses totaling over \$2.6 million, representing substantially all the funds he traded during the three-year period in which he maintained these commodity futures trading accounts.

32. Libera also misappropriated customer funds by depositing the majority of funds, either directly or through transfers from foreign currency trading accounts he controlled, into bank accounts in the names of defendants and other entities on which he had signatory authority. Libera misappropriated those funds by using a portion for his personal use, by transferring some funds to persons and entities unrelated to foreign currency trading, and by using a portion of funds from new customers to pay earlier customers fictitious profits in the manner of a Ponzi scheme.

1. Asesoria Invertrust

a. Solicitation Fraud

33. Libera began his fraudulent scheme by soliciting persons to send funds to Asesoria Invertrust and represented that he would use their funds to engage in foreign currency futures transactions. Libera represented to prospective Asesoria Invertrust customers that he would establish individual foreign currency futures trading accounts in each customer's name at Currency Management Corporation, PLC ("CMC"), a foreign currency trading firm located in the United Kingdom. Libera further represented to prospective Asesoria Invertrust customers that he would conduct all foreign currency futures transactions in the account on behalf of the customer.

34. Libera solicited persons to invest funds with Asesoria Invertrust by representing to potential customers that Asesoria Invertrust customers had received trading profits amounting to a 35.31% annual return in 1998 and a 41.10% annual return in 1999. During the second half of 2001, Libera represented to potential and actual customers that Asesoria Invertrust customers had received a 16.76% return in 2000 and an extraordinary 93.17% return in 2001. Libera further represented that Asesoria

Invertrust customers had received profits in every month since 1998 and that customers would receive a minimum return of 2% each month. Libera represented that profits were assured because his trading expertise minimized any risk of loss.

35. Libera provided prospective Asesoria Invertrust customers with brochures reciting the purported trading profits received by Asesoria Invertrust customers from 1998 to 2000. These brochures state that Asesoria Invertrust customers had achieved profits of 35.31% in 1998, 41.10% in 1999, and 16.76% in 2000.

36. Libera also provided prospective Asesoria Invertrust customers with an "Advisory and Management Agreement" ("Asesoria Agreement"). The Asesoria Agreement states that Asesoria Invertrust "will arrange for a bank or an international financial broker to keep a management account for The Client, which shall be in his name and shall be used exclusively for his transactions." The Asesoria Agreement provides that the customer gives Asesoria Invertrust financial and advisory management power to engage in foreign currency transactions through "the Forex activity lines which [Asesoria Invertrust] maintains at Currency Management Corporation PLC ["CMC"]." The Asesoria Agreement further states that Asesoria Invertrust shall receive 10% of the trading profits.

37. Libera explained to prospective customers of Asesoria Invertrust that the Asesoria Agreement provided that Libera would establish an individual foreign currency futures trading account in the name of the customer at CMC and that Libera would handle all the foreign currency futures transactions in the account.

38. Libera also provided some prospective Asesoria Invertrust customers with a one-page document entitled "Investments in the International Foreign Currency

Markets” (“Investment Document”). The Investment Document states that the customer will automatically become involved in the international foreign exchange market upon opening an account with CMC. The Investment Document further states that a customer can access the international foreign currency market by “making a deposit as guarantee (Margin deposit) of [the customer’s] investments that will allow [the customer] to participate actively and continuously in the market.” According to the Investment Document, the profits from the customer’s transactions will be deposited in the customer’s account.

b. Customer Deposits

39. Libera established an account in the name of Asesoria Invertrust at Pinebank, N.A. in Miami, Florida (“Pinebank”) in December 1998. Libera was the sole signatory on the account. The initial transactions in the Asesoria Invertrust account at Pinebank began on March 15, 1999 and financial activity continued in the account until June 30, 2003. Libera closed the Asesoria Invertrust account at Pinebank in July 2003. During this time, Libera instructed Asesoria Invertrust customers to send funds to the Asesoria Invertrust account at Pinebank and represented to them that their funds would be transferred to individual foreign currency futures trading accounts in their names at CMC.

40. During the period December 21, 2000 through June 30, 2003, a total of \$5,939,600 was deposited into the Asesoria Invertrust account at Pinebank. Of the total deposits, \$1,174,044 related to transfers from a foreign currency trading account in the name of Asesoria Invertrust and a foreign currency trading account in the name of Libera at CMC, and \$935,344 related to transfers between bank accounts in the name of Forinex

or Invertrust. Virtually all of the remaining \$3,830,212 in deposits represented initial deposits coming from various individuals and entities that were Asesoria Invertrust customers.

c. Misappropriation of Customer Funds

41. During the period December 21, 2000 through June 30, 2003, a total of \$5,943,757 was disbursed from the Asesoria Invertrust account at Pinebank. Libera misappropriated virtually all these funds. Of the total disbursements, \$1,920,586 were payments made to Libera, \$37,000 were payments made to Libera's wife, \$796,810 were payments made for personal and business expenses and salaries, \$418,260 were transfers to the foreign currency trading accounts controlled by Libera in the names of Asesoria Invertrust and Libera, and \$212,673 were transfers between bank accounts in the name of Forinex or Invertrust. The remaining disbursements of \$2,558,428 were payments made to Asesoria Invertrust customers that Libera falsely represented were from trading profits in their individual foreign currency futures trading accounts at CMC.

42. Instead of establishing individual foreign currency futures trading accounts for Asesoria Invertrust customers at CMC, Libera misappropriated their funds by depositing a portion of those funds in two proprietary foreign currency trading accounts he established at CMC: one in his own name and one in the name of Asesoria Invertrust ("CMC Trading Accounts"). Libera had exclusive authority over all trading and fund management for these accounts. Libera commingled the funds of Asesoria Invertrust customers in bank accounts he controlled and deposited a portion of those funds into the CMC Trading Accounts.

43. From December 21, 2000 through February 2004, Libera conducted trading in the CMC Trading Accounts. Libera made deposits into the CMC Trading Accounts totaling over \$4.4 million that he received from Asesoria Invertrust customers. During that time, Libera used those funds to engage in foreign currency transactions and sustained net trading losses of approximately \$1.9 million. Libera withdrew the remaining funds in the CMC Trading Accounts by making transfers to bank accounts under his control.

44. Libera misappropriated a portion of Asesoria Invertrust customer funds by engaging in a Ponzi scheme. Libera misappropriated customer funds from the CMC Trading Accounts by transferring those funds to banks under his control and using some of those funds to pay customers purported high returns on their Asesoria Invertrust investments. Libera falsely represented to these customers that the payments were from profits on foreign currency futures trading when, in fact, the payments were from the funds of other customers.

45. Libera also misappropriated customer funds that he received from Asesoria Invertrust customers by using them to pay his personal expenses and for purposes unrelated to foreign currency trading. Libera obtained these funds from the CMC Trading Accounts and from bank accounts under his control into which he had deposited funds received from Asesoria Invertrust customers. Between December 21, 2000 and the present, Libera transferred at least \$2 million to himself and his wife and paid approximately \$800,000 for personal expenses and business expenses to promote his fraudulent scheme.

d. False Trading Reports

46. Libera made both oral and written misrepresentations and omissions of material facts about the trading record of Asesoria Invertrust customers. Libera falsely represented to potential and actual customers that he had established individual foreign currency futures trading accounts in their names at CMC and that those accounts were receiving profits as a result of his trading on their behalf.

47. Contrary to his oral and written representations to Asesoria Invertrust customers, at no time did Libera establish individual foreign currency futures trading accounts in the names of customers at CMC. Instead, Libera misappropriated Asesoria Invertrust customer funds and issued false trading reports to those customers showing fictitious trading transactions and profitable returns.

48. After customers executed Asesoria Agreements with Libera and gave him funds to open individual foreign currency futures trading accounts at CMC, Libera provided them with fraudulent monthly account statements. Libera provided customers with individual monthly account statements showing the purported trading in their foreign currency futures accounts and the fictitious trading profits for the month. Each statement identified a trading account in the customer's name and designated an account number. The statements showed that foreign currency transactions had occurred, the date of the transactions, whether the position was "long" or "short," the opening and closing price of the position, and the gain/loss of the trade. All this information was false because defendants never established any individual foreign currency futures trading accounts for their customers. Further, no correlation exists between the purported profits

represented on the fictitious customer account statements and the substantial losses in Libera's personal and proprietary trading accounts at CMC.

49. In addition to disseminating false monthly trading statements, Libera provided potential customers with fraudulent documents showing that his companies had made consistent monthly profits from 1998 through the first half of 2001 amounting to large annual returns. As previously alleged, these documents showed that Asesoria Invertrust customers had received trading profits of 35.31% in 1998, 41.10% in 1999, 16.76% in 2000, and 93.17% during the first half of 2001. These profit percentages are fictitious because no individual foreign currency futures trading accounts were established for Asesoria Invertrust customers. Moreover, to the extent that Libera wrongly used customer funds to engage in foreign currency transactions by depositing those funds into his proprietary trading accounts at CMC, the results of the trading were contrary to the false profit reports he gave to customers. One of those accounts, maintained in the name of Asesoria Invertrust, was not open in 1998 and the account suffered substantial trading losses between 1999 and 2001. The other account, maintained in Libera's name, was not opened until 2000. That account sustained trading losses of at least 100% in 2000 and trading losses of over 98% during the first half of 2001.

2. Forinex

a. Solicitation Fraud

50. In or about July 2001, Libera began to solicit persons to invest funds with Forinex. Libera represented to Asesoria Invertrust customers and potential Forinex customers that Forinex had taken over the operations of Asesoria Invertrust and that

Libera would produce large profits for Forinex customers by using their funds to engage in foreign currency futures trading. Libera represented to potential Forinex customers that he would establish individual foreign currency futures trading accounts in each customer's name at CMC and conduct all foreign currency futures transactions in the account on behalf of the customer. Libera represented to Asesoria customers that he would establish new individual foreign currency futures trading accounts in their name at CMC and transfer their funds from their individual foreign currency futures trading accounts that were established for them by Asesoria Inverturst to their new individual futures trading account established for them by Forinex.

51. Libera solicited persons to send funds to Forinex and represented that he would use their funds to trade futures contracts on foreign currency. Libera solicited persons to invest funds with Forinex by representing to potential customers that Forinex customers had received annual trading profits between about 35% and 50% from 1998 through 2001. Libera further represented that his customers had received profits in every month since 1998 and that customers would receive a minimum return on their investment of 2% each month. Libera represented that profits were assured because his trading expertise minimized any risk of loss.

52. Libera provided some prospective Forinex customers with brochures reciting the purported trading profits received by Forinex customers from 1998 through 2001. These brochures state that Forinex customers had received trading profits of about 36% in 1998, 45% in 1999, 50% in 2000, and 35% in 2001.

53. Libera provided prospective Forinex customers with an "Advisory and Management Agreement ("Forinex Agreement"). The Forinex Agreement states that

Forinex “will arrange for a bank or an international financial broker to keep a management account for The Client, which shall be in his name and shall be used exclusively for his transactions.” The Forinex Agreement provides that the customer gives Forinex financial and advisory management power to engage in foreign currency transactions through “the Forex activity lines which [Forinex] maintains at Currency Management Corporation PLC (“CMC”). The Forinex Agreement further states that Forinex shall receive 10% of the trading profits.

54. Libera explained to prospective customers of Forinex that the Forinex Agreement provided that Libera would establish an individual foreign currency futures trading account in the name of the customer at CMC and that Libera would handle all the foreign currency futures transactions in the account.

b. Customer Deposits

55. In September 2001, Libera established an account in the name of Forinex at Pinebank. Libera was a signatory on the account. All deposit and withdrawal activity in the Forinex account at Pinebank occurred between September 6, 2001 and May 30, 2003. Libera closed the Forinex account at Pinebank in July 2003. During this time, Libera instructed Forinex customers to send funds to the Forinex account at Pinebank and represented to them that their funds would be transferred to individual foreign currency futures trading accounts in their names at CMC.

56. During the period September 6, 2001 through May 30, 2003, a total of \$5,845,491 was deposited into the Forinex account at Pinebank. Of the total deposits, \$167,340 related to transfers between bank accounts in the name of Asesoria or

Invertrust. Virtually all of the remaining deposits of \$5,678,152 represented initial deposits by individuals and entities that were Forinex customers.

c. Misappropriation of Customer Funds

57. During the period September 6, 2001 through May 30, 2003, a total of \$5,820,950 was disbursed from the Forinex account at Pinebank. Libera misappropriated virtually all of these funds. Of the \$5,820,950 total disbursements, \$912,500 were payments made to Libera, \$33,800 were payments made to Libera's wife, \$79,018 were payments made for personal and business expenses and salaries, and \$1,271,926 were transfers between bank accounts in the name of Asesoria or Invertrust. The remaining disbursements of \$3,523,706 represented payments made to Forinex customers. Libera falsely represented to Forinex customers that these payments were from trading profits in their individual foreign currency futures trading accounts at CMC.

58. Contrary to his oral and written representations to Forinex customers, at no time did Libera establish individual foreign currency future trading accounts in the names of customers at CMC. As previously alleged, Libera only maintained a trading account in his name and an account in the name of Asesoria Invertrust at CMC and used those accounts to misappropriate customer funds. No funds were transferred from the Forinex account at Pinebank to CMC.

59. Libera misappropriated customer funds by transferring a small portion of those funds to his proprietary trading accounts at Gain Capital, Inc. ("Gain"), a futures commission merchant registered with the CFTC in Warrenton, N.J. In May 2003, Libera established three foreign currency trading accounts in the name of Forinex at Gain in

May 2003. Libera was the only authorized trader for these accounts and had sole control of the funds in the account.

60. Libera conducted virtually no trading in the Forinex accounts at Gain. Libera conducted trading in the Gain Forinex accounts only during May 2003. Only \$10,000 was deposited in each of the three accounts and the accounts sustained a cumulative trading loss of \$1,656.89. Libera withdrew the remaining funds of \$28,339.60 and transferred them to bank accounts under his control.

61. Libera misappropriated a portion of Forinex customer funds by engaging in a Ponzi scheme. Libera misappropriated these customer funds by transferring them from the Asesoria Invertrust account and his personal account at CMC to banks under his control and using some of those funds to pay Forinex customers purported high returns on their investments. Libera falsely represented to Forinex customers that the payments were from profits on foreign currency trading when, in fact, the payments were from the funds from other customers.

62. Libera also misappropriated customer funds that he received from Forinex customers by using them to pay his personal expenses and for purposes unrelated to foreign currency trading. Libera obtained these funds from his personal and the Asesoria Invertrust CMC trading accounts and from bank accounts under his control into which he had deposited funds received from Forinex customers.

d. False Trading Reports

63. Libera made both oral and written misrepresentations and omissions of material facts about the trading record of Forinex customers. Libera falsely represented to potential and actual customers that he had established individual foreign currency

futures trading accounts in their names at CMC and that those accounts were earning profits as a result of his profitable trading on their behalf.

64. Contrary to his oral and written representations to Forinex customers, at no time did Libera establish individual foreign currency futures trading accounts in the names of customers at CMC. Instead, Libera misappropriated Forinex customer funds and issued false trading reports to those customers showing fictitious trading transactions and profitable returns.

65. After customers executed Forinex Agreements with Libera and gave him funds to open individual foreign currency futures trading accounts at CMC, Libera provided them with fraudulent monthly account statements. Libera provided customers with individual monthly account statements showing the purported trading in their foreign currency futures accounts and the fictitious trading profits for the month. These monthly statements contained virtually the identical information that was contained in the false monthly statements received by Asesoria customers. Each statement identified a trading account in the customer's name and designated an account number. The statements showed that foreign currency transactions had occurred, the date of the transactions, whether the position was "long" or "short," the opening and closing price of the position, and the gain/loss of the trade. All this information was false because defendants never established any individual foreign currency futures trading accounts for their customers. Further, no correlation exists between the purported profits represented on the fictitious customer account statements and the substantial losses in Libera's personal and proprietary trading accounts at CMC.

66. In addition to providing Forinex customers with false monthly trading statements, Libera provided potential Forinex customers with fraudulent documents showing that his companies had made consistent monthly profits from 1998 through 2001 amounting to large annual returns. As previously alleged, these documents showed that Forinex customers had received trading profits of about 36% in 1998, 45% in 1999, 50% in 2000, and 35% in 2001. These profit percentages are fictitious because no individual foreign currency futures trading accounts were ever established for Forinex customers.

67. To the extent that Libera wrongly used customer funds to engage in foreign currency transactions by depositing those funds into his proprietary trading accounts, the results of the trading were contrary to the false reports he gave customers. Libera did not establish any trading accounts in the name of Forinex between 1998 and 2001 and maintained three trading accounts in the name of Forinex for only one month in May 2003 in which he sustained trading losses on a deposit of \$30,000. Libera maintained an account at CMC in the name of Asesoría Invertrust that was not open in 1998 and sustained substantial trading losses between 1999 and 2001. Libera maintained another account at CMC in his own name that was not open in 1998 and 1999 and sustained trading losses of over 130% in 2000. Libera's proprietary trading accounts at CMC each sustained large losses in 2001 and the accounts had a combined trading loss of 141.59% for 2001.

3. Invertrust

a. Solicitation Fraud

68. In or about March 2002, Libera began to fraudulently solicit persons to send funds to Invertrust by falsely representing to potential customers that he had

produced substantial profits for customers of Asesoria Invertrust and Forinex. Libera told potential customers of Invertrust that they would receive substantial returns based on the profits Libera had made from engaging in foreign currency futures transactions for his customers.

69. Libera represented to potential customers that Invertrust was a new foreign currency trading firm that he had established in Miami, Florida. Libera further represented that he would produce large profits for Invertrust customers by establishing individual foreign currency futures trading accounts in their names at Gain and use those funds to trade futures on foreign currency. Libera told customers that he would have full trading authority over their individual foreign currency futures accounts.

70. Libera falsely represented to potential Invertrust customers that his customers had received profits in every month since 1998 and that customers of Invertrust would receive a minimum return on their investment of 2% each month. Libera further represented that profits were assured because his trading expertise minimized any risk of loss.

71. Libera represented to some Invertrust customers that he established Invertrust in the United States and maintained all customer accounts at trading firms located in the United States because the trading accounts of customers of Asesoria Invertrust and Forinex had been frozen. Libera told these customers that these funds were frozen by authorities in the United Kingdom because of problems with one customer and that conducting Invertrust's trading operations solely in the United States would avoid customer funds being frozen. In fact, Libera's representations were false

because no funds of Asesoria Invertrust or Forinex customers were frozen by any government authority at this time.

72. Libera provided some prospective Invertrust customers with a brochure reciting the purported trading profits received by customers of Asesoria Invertrust from 1998 to 2000. These brochures stated that Asesoria Invertrust had achieved profits for its customers of 35.31% in 1998, 41.10% in 1999, and 16.76% in 2000. Libera told Invertrust customers that these profits were the result of his trading futures on foreign currency on behalf of Asesoria Invertrust customers.

73. Libera provided prospective Invertrust customers with an "Advisory Services Agreement" ("Invertrust Agreement"). The Invertrust Agreement stated that Invertrust is engaged in the business of making trading decisions on behalf of investors in the purchase and sale of foreign exchange currencies and related over-the-counter options contracts.

74. The Invertrust Agreement provided that Invertrust would establish and maintain a foreign currency trading account in the customer's name at a futures commission merchant registered with the CFTC. The Invertrust Agreement further provided that Invertrust would have sole authority to execute foreign currency transactions in the trading account.

75. The Invertrust Agreement stated that Invertrust customers would pay Invertrust a monthly incentive fee equal to a percentage of the trading profits in the account. According to the Invertrust Agreement, Invertrust customers agreed to pay Invertrust a fee equal to 20% of the first 2.5% of new trading profits and 80% of profits over 2.5% generated each month.

76. As part of his solicitations, Libera provided prospective Invertrust customers with Invertrust Agreements and told them to sign them. Libera represented to Invertrust customers that he would establish a foreign currency futures trading account in the customer's name at Gain and that the trading account would be used exclusively for the customer's transactions. Libera further represented to customers that he would handle all the trading in the accounts at Gain.

b. Customer Deposits

77. In September 2001, Libera established an account in the name of Invertrust at Intercredit Bank in Miami, Florida. All deposit and withdrawal activity in the Invertrust account at Intercredit Bank occurred between June 28, 2002 and February 26, 2004. Libera closed the Invertrust account at Intercredit Bank in May 2004. During this time, Libera instructed Invertrust customers to send funds to the Invertrust account at Intercredit Bank. Libera represented to customers that their funds would then be transferred to individual foreign currency futures trading accounts in their names at Gain for the purpose of conducting foreign currency futures transactions.

78. During the period June 28, 2002 through February 26, 2004, a total of \$2,062,722.38 was deposited into the Invertrust account at Intercredit Bank. Of that amount, \$532,167 represented transfers between bank accounts in the name of Asesoria Invertrust or Forinex. Virtually all of the remaining \$1,530,555 represented initial deposits by individuals and entities that were Invertrust customers.

c. Misappropriation of Funds

79. During the period June 28, 2002 through February 26, 2004, a total of \$2,062,722 was disbursed from the Invertrust account at Intercredit Bank. Libera

misappropriated virtually all of those funds. Of the \$2,062,722 total disbursements, \$651,049 were payments made to Libera, \$143,000 were payments made to Libera's wife, \$144,725 were payments made for personal items such as automotive and watercraft purchases, \$265,000 were transfers to the foreign currency trading account controlled by Libera at CMC in the name of Asesoria Invertrust, and \$537,505 related to transfers between bank accounts in the name of Asesoria Invertrust or Forinex. The remaining \$321,443 were payments made to Invertrust customers that Libera falsely represented were profits from their individual foreign currency futures trading accounts.

80. Contrary to his oral and written representations to Invertrust customers, Libera did not establish individual foreign currency futures trading accounts at Gain. Instead, Libera misappropriated Invertrust customer funds by transferring a portion of those funds to his proprietary trading accounts at CMC, several accounts at Gain in his name, several accounts in the name of Forinex, and several accounts in the name of Invertrust.

81. Libera transferred \$265,000 from the Invertrust account at Intercredit Bank to his proprietary trading account at CMC in the name of Asesoria Invertrust. As previously alleged, Libera used this account to misappropriate customer funds.

82. Libera also misappropriated Invertrust customer funds by transferring a portion of those funds to his proprietary trading accounts at Gain. Between May and August 2002, Libera established three foreign currency trading accounts in the name of Invertrust at Gain. Libera was the only authorized trader for these accounts.

83. Libera conducted trading in the Gain Invertrust accounts at Gain between May 2002 and November 2002. Libera deposited a total of \$1,027,000 in the three

accounts and incurred total trading losses of \$548,950. During the time the accounts were open, Libera withdrew \$475,000 and transferred those funds to bank accounts under his control.

84. Libera misappropriated a portion of Invertrust customer funds by engaging in a Ponzi scheme. He transferred customer funds from the Invertrust accounts, the Forinex accounts, and his personal trading accounts at Gain to bank accounts under his control and used some of those funds to pay Invertrust customers purported high returns on their investments. Libera falsely represented to Invertrust customers that the payments were from profits on foreign currency futures trading when, in fact, the payments were from other customers' funds.

85. Libera also misappropriated customer funds by transferring a portion of those funds to his personal banking accounts at Washington Mutual Bank in Aventura, Florida ("Washington Mutual") and Citibank Florida FSB in Miami, Florida ("Citibank") and then further transferring those funds to a personal foreign currency trading account in his name at FX Solutions LLC ("FX Solutions"), a trading firm located in Ridgewood, New Jersey.

86. In September 2003, Libera established a foreign currency trading account in his name at FX Solutions. Libera was the only authorized trader for this account and had sole control over the funds in the account.

87. Libera conducted trading in his personal account at FX Solutions between September 2003 and January 2004. Libera deposited a total of \$135,400 of Invertrust customers funds in the account and incurred trading losses of \$70,683. During the time

the account was opened, Libera withdrew \$64,440 and transferred those funds to bank accounts under his control.

88. Libera additionally misappropriated Invertrust customer funds by using them to pay his personal expenses and for purposes unrelated to foreign currency trading. Libera obtained these funds from the trading accounts under his control at Gain and from bank accounts under his control into which he had deposited funds received from Invertrust customers.

c. False Trading Reports

89. Libera made material oral and written misrepresentations to Invertrust customers about profits and risk of loss in their purported individual foreign currency futures trading accounts at Gain. Libera falsely represented to customers of Invertrust that their individual foreign currency futures trading accounts were generating large profits. Libera further misrepresented that his trading expertise minimized any risk of loss.

90. In order to conceal that he had not established individual foreign currency futures trading accounts and had not produced the large trading profits that he had represented to customers, Libera disseminated false account statements to Invertrust customers showing profitable returns. These statements were false because Libera did not establish individual foreign currency trading accounts for Invertrust customers at Gain or at any other trading firm.

91. In addition to disseminating false monthly trading statements, Libera provided potential Invertrust customers with fraudulent documents showing that Asesoría Invertrust customers had received consistent monthly profits from 1998 through 2001.

amounting to large annual returns. As previously alleged, these documents falsely showed that Aseoria Inverturst customers had received trading profits of 35.31% in 1998, 41.10% in 1999, and 16.76% in 2000. These profit percentages are fictitious because no individual foreign currency futures trading accounts were ever established for Aseoria Invertrust customers. Moreover, to the extent that Libera wrongly used customer funds to engage in foreign currency transactions by depositing those funds into his proprietary trading accounts, the results of the trading were contrary to the false reports he gave customers. From May 2002 through November 2002, Libera sustained large trading losses in his proprietary accounts at Gain.

4. Misrepresentations Of Frozen Customer Funds

92. Beginning in early 2003, defendants engaged in further misrepresentations to customers to conceal their misappropriation of customer funds. At this time and continuing to the present, Libera falsely told customers of Aseoria Invertrust, Forinex, and Invertrust that their funds had been frozen by the United States government.

93. Libera misrepresented to some customers that the United States government had frozen all customer funds as a result of a government investigation of Forinex pursuant to the USA Patriot Act. Libera's representations were false because at no time did the United States government freeze customer funds deposited with Aseoria Invertrust, Forinex, or Invertrust for the purpose of establishing individual foreign currency futures trading accounts.

94. Libera provided some customers with a fictitious written decision falsely representing that the Financial Crimes Enforcement Network of the United States

Department of the Treasury had assessed a civil monetary penalty against him. Libera falsely told customers that the decision was the reason that customer funds were frozen.

95. Libera's oral and written representations to customers that their funds were frozen by the United States government were false and were made with the intent to deceive customers about the location of their funds. At the time that Libera falsely made these representations, he had misappropriated and was misappropriating customer funds.

B. Defendants Offered Illegal Off-Exchange Commodity Futures Contracts

96. Defendants solicited persons to enter into agreements for the purchase and sale of illegal off-exchange foreign currency futures contracts.

97. Defendants represented to customers that they traded futures on foreign currency for their customers. Defendants also represented to customers that they would trade futures on foreign currency by establishing trading accounts in the name of customers and executing futures trades on behalf of the customers. Defendants entered into written agreements with customers authorizing defendants to execute foreign currency transactions on behalf of customers and represented to customers that the written agreements provided that defendants would establish individual foreign currency futures trading accounts at large trading firms.

98. In addition to representing to customers that defendants were offering and agreeing to conduct foreign currency futures transactions on behalf of customers, the foreign currency transactions that defendants agreed to execute on behalf of customers were agreements for transactions that contained all the characteristics of futures contracts. Defendants offered customers foreign currency transactions that entailed the purchase or sale of commodities for future delivery at prices or using pricing formulas that were

established at the time the contracts were initiated. Defendants represented to customers that the contracts could be fulfilled through offset, cancellation, cash settlement or other means to avoid delivery. Neither defendants nor their customers had any commercial need for foreign currency. At no time did defendants or their customers anticipate taking or in fact take delivery of foreign currencies. Instead, defendants represented to their customers that they would enter into foreign currency transactions to speculate and profit from anticipated price fluctuations in the markets for these currencies.

99. Defendants did not offer, sell, enter into, confirm the execution of, and/or conduct their business of soliciting, accepting any order for or otherwise dealing in off-exchange foreign currency contracts in connection with foreign currency futures transactions on or subject to the rules of a board of trade that has been designated by the CFTC as a contract market or derivatives transaction facility, nor were any of these transactions executed or consummated by or through a member of such a contract market or derivatives transaction execution facility.

100. Section 2(c)(2)(B)(i) and (ii) of the Act, 7 U.S.C. § 2, provides that the CFTC shall have jurisdiction over an agreement, contract or transaction in foreign currency that is: (i) a contract of sale of a commodity for future delivery or an option; and (ii) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, is a regulated entity as specified in Section 2(c)(2)(B)(ii) of the Act, 7 U.S.C. § 2.

101. Defendants have been offering and/or entering into foreign currency futures transactions and agreements with their customers. At least some, if not all, of

defendants' customers are not eligible contract participants and none of the defendants is a proper counterparty for retail foreign currency futures transactions.

VI

VIOLATIONS OF THE COMMODITY EXCHANGE ACT

COUNT I

FRAUD IN CONNECTION WITH COMMODITY FUTURES TRANSACTIONS

VIOLATIONS OF SECTION 4b(a) OF THE ACT, 7 U.S.C. § 6b(a), AND CFTC REGULATION 1.1(b), 17 C.F.R. § 1.1(b)

102. Paragraphs 1 through 101 are realleged and incorporated herein by reference.

103. From at least December 21, 2000 to the present, defendants violated Section 4b(a) of the Act, 7 U.S.C. § 6b(a), in that they, directly or indirectly, cheated or defrauded or attempted to cheat or defraud other persons by, among other things: (a) misrepresenting the profits and risk of loss in connection with commodity futures transactions; (b) providing false account statements to customers showing fictitious profits; (c) misrepresenting that individual discretionary foreign currency futures trading accounts had been established for customers; (d) misrepresenting returns to customers as profits generated by trading in commodity futures trading accounts; (e) misappropriating investor funds; and (f) misrepresenting that the United States government had frozen customer funds.

104. From at least December 21, 2000 to the present, defendants, directly or indirectly, in or in connection with accounts, agreements, contracts, or transactions that were subject to the CFTC's jurisdiction pursuant to Section 2(c)(2)(B) of the Act, 7

U.S.C. § 2(c)(2)(B), violated CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b), in that they cheated or defrauded or attempted to cheat or defraud other persons by, among other things: (a) misrepresenting the profits and risk of loss in connection with foreign currency futures transactions; (b) providing false account statements to customers showing fictitious profits; (c) misrepresenting that individual discretionary foreign currency futures trading accounts had been established for customers; (d) misrepresenting returns to customers as profits generated by trading in foreign currency futures trading accounts; (e) misappropriating investor funds; and (f) misrepresenting that the United States government had frozen customer funds.

105. The acts and omissions alleged in this Count were made in or in connection with orders to make, or the making of contracts for future delivery, made, or to be made for or on behalf of other persons where such contracts for future delivery were or may have been used for (a) hedging any transaction in interstate commerce in such commodity, or the products or byproducts thereof, (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.

106. From at least December 21, 2000 to the present, Libera directly or indirectly controlled Asesoria Invertrust, Forinex, and Invertrust and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting the violations described in this Count. Pursuant to Section 13(b) of the Act, Libera is therefore liable for the violations of the Act and the CFTC Regulations by Asesoria Invertrust, Forinex, and Invertrust as described in this Count.

107. Defendants Libera, Asesoria Invertrust, Forinex, and Invertrust willfully aided, abetted, counseled, commanded, induced, or procured the commission of violations of the Act and Regulations, or acted in combination or in concert with each other, or willfully caused acts to be done or omitted which when directly performed or omitted constituted violations of the Act described in this Count. Pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a), defendants Libera, Asesoria Invertrust, Forinex, and Invertrust therefore violated Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b), as described in this Count.

108. Defendant Libera engaged in the illegal conduct alleged in this Count within the scope of his office or employment as agent of defendants Asesoria Invertrust, Forinex, and Invertrust. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendants Asesoria Invertrust, Forinex, and Invertrust are therefore liable as principals for the violations of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b), by their agent Libera.

109. Each misrepresentation of material facts, each failure to disclose material facts, each act of issuing false reports, and each act of misappropriating customer funds by defendants including, but not limited to, those specifically alleged herein, is alleged as a separate and distinct violation of Section 4b(a) of the Act, 7 U.S.C. § 6b(a), and CFTC Regulation 1.1(b), 17 C.F.R. § 1.1(b).

COUNT II

OFFER OF ILLEGAL OFF-EXCHANGE FUTURES CONTRACTS

VIOLATIONS OF SECTION 4(a) OF THE ACT, 7 U.S.C. § 6(a)

110. Paragraphs 1 through 109 above are realleged and incorporated herein by reference.

111. From at least December 21, 2000 and continuing through the present, defendants, either directly or through other persons or entities either under their employ, supervision and control or acting in combination or concert with them, 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).

112. From at least December 21, 2000, and continuing through the present, defendant Libera directly or indirectly controlled Asesoria Invertrust, Forinex, and Invertrust and did not act in good faith, or knowingly induced, directly or indirectly, the acts constituting the violations described in this Count. Pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), Libera is therefore liable for the violations of Section 4(a) of the

Act, 7 U.S.C. § 6(a), by defendants Asesoría Invertrust, Forinex, and Invertrust as described in this Court.

113. Defendant Libera engaged in the illegal conduct alleged in this Court within the scope of his office or employment as an agent of defendants Asesoría Invertrust, Forinex, and Invertrust. Pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), defendants Asesoría Invertrust, Forinex, and Invertrust are therefore liable as principals for the violations of Section 4(a) of the Act, 7 U.S.C. § 6(a), by their agent Libera.

114. Each foreign currency futures transaction not conducted on a designated contract market or derivatives transaction execution facility made by defendants 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.

VII.

RELIEF REQUESTED

WHEREFORE, plaintiff CFTC respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to the Court's own equitable powers:

A. Enter orders of preliminary and permanent injunction enjoining defendants and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendants, and all persons insofar as they are acting in active concert or participation with defendants, from directly or indirectly engaging in conduct violative of the provisions of the Act and the CFTC Regulations alleged herein;

B. Enter an order prohibiting defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendants, and all persons insofar as they are acting in active concert or participation with defendants, who receive actual notice of the order, by personal service or otherwise, from directly or indirectly:

1. Destroying, mutilating, concealing, altering or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records, or other property of defendant, wherever situated, including, but not limited to, all such records concerning defendant's business and banking operations; and
2. Refusing to permit authorized representatives of the CFTC to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of defendants, whenever located, including all such records concerning defendants' business operations;

C. Enter an order prohibiting defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendants, and all persons insofar as they are acting in active concert or participation with defendants who receive actual notice of the Order by personal service or otherwise, from directly or indirectly:

1. Soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity interest contract;

2. Placing orders or giving advice or price quotations or other information in connection with the purchase or sale of commodity interest contracts for themselves and others;
3. Introducing customers to any other person engaged in the business of commodity interest trading;
4. Issuing statements or reports to others concerning commodity interest trading; and
5. Engaging in any business activities related to commodity interest trading;

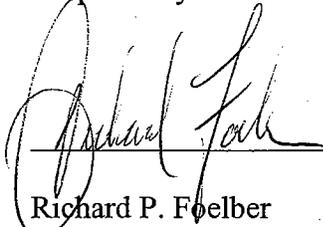
D. Enter an order directing defendants to make an accounting to the Court of all assets and liabilities, together with all funds received from and paid to investors and other persons in connection with the acts and practices alleged in this Complaint, and all disbursements for any purpose whatsoever of funds received from customers of defendants and other commodity or security interest investors, including salaries, commissions, fees, loans and other disbursements of money and property of any kind;

E. Enter an order directing defendants immediately to identify and provide an accounting for all assets and financial accounts they currently maintain or control, either directly or indirectly, outside the United States, and to repatriate all such assets and funds by paying them to the Registry of the Court or as otherwise ordered by the Court;

F. Enter an order requiring defendants to disgorge to any officer appointed and directed by the Court all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from the unlawful acts and practices as described herein, including pre-judgment and post-judgment interest;

- G.** Enter an order requiring defendants to make restitution for harm caused by violations of the provisions of the Act and the CFTC Regulations as described herein, including pre-judgment and post-judgment interest;
- H.** Enter an order requiring defendants to pay civil monetary penalties under Section 6c of the Act, 7 U.S.C. § 13a-1, in amounts not more than the higher of \$110,000 for each violation (or \$120,000 for each violation occurring after October 23, 2001), or triple the monetary gain to defendants for each violation of the Act;
- I.** Enter an order directing defendants to cooperate fully with the CFTC to locate all assets, books, and records of defendants and to make an accounting of all assets and liabilities of defendants from December 21, 2000 to the date of such accounting; and
- J.** Such other equitable relief as the Court may deem necessary or appropriate under the circumstances.

Respectfully submitted by,



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