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MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

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Date 2/5/03 Time

CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF FLORIDA

UNITED STATES COMMODITY FUTURES TRADING COMMISSION, **Plaintiff,** **v.** **INVESTORS FREEDOM CLUB, L.C., WILLIAM ANTHONY FOLINO and GEORGE BELANGER, D/B/A IFC L.C., INVESTMENT FREEDOM CLUB, VENTURE FREEDOM FUND LTD., and VENTURE FREEDOM FOUNDATION,** **Defendants,** **AND** **TINA NOA FOLINO,** **Relief Defendant.**	**NO. 8:03-CV-54-T-17TGW** **KOVACHEVICH** **CONSENT ORDER OF PRELIMINARY INJUNCTION AND OTHER EQUITABLE RELIEF AGAINST WILLIAM ANTHONY FOLINO**

Upon the consent of defendant William Anthony Folino ("Folino") in this action for a permanent injunction and other relief filed by plaintiff U.S. Commodity Futures Trading Commission ("CFTC" or "Commission"), with no intention of waiving by Folino of his Fifth Amendment privilege against self-incrimination, and without admitting or denying any of the allegations of the Complaint, and solely for the purpose of this Consent Order of Preliminary Injunction and Other Equitable Relief ("Consent Order"), Folino:

1. Admits that he has been served with the Complaint, Summons and *Statutory Restraining Order* in this action, admits the jurisdiction of this Court over himself and over the subject matter of this action, and admits that venue lies properly with this Court;

2. Consents to the entry of this Consent Order, affirms that no promises, coercion, or threat of any kind whatsoever have been made by the Commission, or by any representative of the Commission, and confirms that he enters into this Consent Order freely, knowingly, and willfully;

3. Waives the right to a hearing on the merits of the issues covered in this Order, and appeal from the entry of this Order; and

4. Acknowledges and affirms, without waiving any defense he may have to such action, that the entry of this Consent Order does not in any way limit the rights of the Commission to seek further statutory and equitable relief from the Court as requested in the Commission's Complaint, including, but not limited to, permanent injunctive relief, disgorgement, restitution, the payment of pre-judgment and post-judgment interest, a civil monetary penalty, and the appointment of a receiver.

I.

The Court makes the following findings of fact and conclusions of law:

A. Jurisdiction over the parties and over the subject matter of this complaint is proper pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (1994);

B. Venue lies properly within this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2000).

II.

IT IS HEREBY ORDERED that Folino, his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise (including service by facsimile transmission), are enjoined, restrained and prohibited from directly or indirectly:

A. Cheating or defrauding or attempting to cheat or defraud other persons and willfully deceiving or attempting to deceive other persons by making false, deceptive or misleading representations or material facts, by failing to disclose material facts, and by misappropriating customer funds in or in connection with 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 person in 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); and

B. 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 contract for the purchase or sale of a commodity for future delivery when: (1) such transactions have not been conducted on or subject to the rules of a board of trade which has been designated as a contract market or derivative transaction execution facility by the CFTC for such commodity and (2) such contracts have not been executed or consummated by or through a member of such contract market or derivatives transaction facility in violation of Section 4(a) of the Act, 7 U.S.C. § 6(a).

III.

IT IS FURTHER ORDERED that Folino, his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise (including service by facsimile transmission), are enjoined, restrained and prohibited from directly or indirectly:

A. Soliciting or accepting any funds from any person in connection with the purchase or sale of any commodity futures contract, option on a commodity futures, futures contract on any agreement, contract, or transaction in foreign currency, option on a futures contract on any agreement, contract, or transaction in foreign currency, or option on any agreement, contract, or transaction in foreign currency ("commodity interest contracts");

B. Placing orders, giving advice or price quotations or other information in connection with the purchase or sale of commodity interest contracts for himself or others, introducing customers to any other person engaged in the business of commodity interest contracts trading, issuing statements or reports to others concerning commodity interest contracts, and otherwise engaging in any business activities related to commodity interest contracts;

C. Controlling or directing the trading of any commodity interest contracts account for or on behalf of any other person or entity, whether by power of attorney or otherwise;

D. Trading commodity interest contracts for his own personal accounts; and

E. Seeking registration in any capacity under the Act or acting in any capacity for which registration with the CFTC is required under the Act.

IV.

IT IS FURTHER ORDERED that this Court's January 13, 2003, *Statutory Restraining Order* shall remain in full force and effect pending a final determination of this action, except as expressly modified herein by Part VIII of this Order, which provides for Folino's reasonable and necessary living expenses, or by further order of this Court.

V.

IT IS FURTHER ORDERED that within forty-five (45) days following the service of this Order, Folino shall prepare, sign under oath, and file with this Court, with copy to the Commission, a complete and accurate accounting of all assets, whether located within or outside of the territorial United States, for the period January 1, 2001, to the date of such accounting, which shall be no earlier than the date of this Order. Such accounting shall include, without limitation, the identification of:

A. All funds, securities, commodity interests, assets, and other property currently owned or controlled (legally, equitably, or otherwise) directly or indirectly by Folino, whether individually or jointly;

B. All funds, securities, commodity interests, assets, and other property received directly or indirectly by Folino, whether individually or jointly, describing the source, amount, disposition, and current location of each listed item;

C. All funds, securities, commodity interest contracts, assets, and other property transferred or otherwise disposed of directly or indirectly by Folino in excess of $250, whether held individually or jointly, describing the source, amount, disposition, and current location of each listed item; and

D. The name and last known address of each bailee, debtor, or other person or entity currently holding any funds, securities, commodity interest contracts, assets, or other property owned or controlled (legally, equitably, or otherwise) by Folino, either individually or jointly.

VI.

IT IS FURTHER ORDERED that within fourteen (14) days following the service of this Order, Folino shall provide the Commission access to all records of accounts or assets

of Folino held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

VII.

IT IS FURTHER ORDERED that within forty-five (45) days of the date of this Order, Folino shall prepare, sign under oath, and file with this Court, with copy to the Commission, an accounting of all persons and entities known by Folino to have held accounts with, or for the purpose of investing sent funds to, defendants or any person or entity under their control, ownership, employ, or supervision. With respect to each such person or entity, Folino shall include the following information in the accounting:

A. The amount and date of each transfer of funds by any such person or entity to defendants, and the identity and location of each account into which such funds were deposited and/or transferred;

B. The amount and date of any payments made to such person or entity by defendants;

C. The current value and location of such person or entity's investment;

D. The identity, location, and complete trading record of all trading accounts in which the funds of any such person or entity were deposited and the amount of profit realized or loss sustained in each such account; and

E. Every transaction in which any funds or other assets of any kind, or the interest or accrual on such funds or assets, obtained from such person or entity were transferred, invested, or otherwise disposed of or expended.

VIII.

IT IS FURTHER ORDERED that, subject to the conditions set forth below, Folino

is entitled to reasonable and necessary living expenses in an amount not to exceed $5,000 per month after payment of income taxes, Medicare and Social Security as set forth below. This Court will entertain application for an amendment of this amount. Proper submission requires that Folino file such application under oath with the Clerk of the Court and set forth in detail, fully substantiated by all relevant financial documentation, the amount of funds necessary to pay reasonable and necessary living expenses. The Commission may object or otherwise respond to such application.

Any funds Folino shall utilize to pay for living expenses as provided for herein shall be derived solely from Folino's current income arising out of his employment and/or contract relationship with Health Check USA, of San Antonio, Texas. If the source and/or amount of Folino's current income changes in any material way, Folino shall promptly provide notice and an accounting of such income to the Commission. Folino shall be permitted to continue to effect any current withholdings from his gross pay for income taxes, social security, and Medicare, provided that he shall submit documentation of such withholdings to the Commission. Additionally, Folino shall provide to the Commission representatives on a monthly basis bank account statements and, upon request, other relevant documents detailing his monthly income and expenses.

To the extent that Folino's net monthly income after the above-referenced permitted withholdings exceeds the aggregate amount of $5,000 after payment of income taxes, Medicare and Social Security as set forth above, such excess shall be deposited into an interest-bearing account pending further order of this Court. Folino shall promptly make available to the

Commission representatives upon request account statements and any other relevant documents relating to such account. No withdrawals shall be made from such account except upon leave of Court (or upon agreement of Commission). Any funds for reasonable and necessary living expenses that Folino may wish to draw upon from any other sources other than as provided for expressly herein may only be procured by application to this Court.

IX.

IT IS FURTHER ORDERED that pending resolution of this matter, Folino shall notify the Commission within three (3) days of any changes of his residential or business addresses.

X.

IT IS FURTHER ORDERED that within three (3) days after receipt of this Order, Folino shall file with the Court an affidavit acknowledging receipt of this Order.

XI.

IT IS FURTHER ORDERED that this Order shall remain in effect until further order of this Court, and this Court shall retain jurisdiction over this action to assure compliance with this Order and for all other purposes related to this action.

Consented to:

Date: Feb. 5th 2003

William Anthony Folino, Defendant

Reviewed and approved by:

David C. Levenreich, Esq.
Attorney for Defendant William A. Folino
Date: 2/5/03

Christine M Ryall for
Peter M. Haas, Esq. Christine M. Ryall, Esq (Fla Bar # 0983550)
Attorney for Plaintiff, Commodity Futures Trading Commission
Date: 2/5/03

SO ORDERED, at Tampa, Florida on this 18th day of February 2003.

ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE